

Challenging Reductions in Care Services

Councils must meet the eligible social care needs of disabled and / or elderly people. If, as a result of a reassessment the support package is reduced or changed in a way that materially harms the disabled or elderly person – or any carers, then the law requires that the council provides a detailed and convincing explanation as to why this is happening (for example because the person's condition has improved substantially).

The fact that a local authority has financial problems and/or has moved to 'personal budgets' using a Resource Allocation System (a 'RAS') is not a satisfactory reason – indeed it is irrelevant – the 'assessed' needs must be met and the support cannot be cut unless there is convincing evidence and detailed reasons (for an article that looks at personal budgets [click here](#)).

[Community Care and the Law](#) (2011 – 5th edition) gives examples of the approach taken by the court – for example paragraph 3.228 cites a case (*R v Birmingham CC ex p Killigrew* (2000) 3 CCLR 109) where the judge held that no reduction could occur without compliance with relevant and detailed Department of Health guidance which in his view required (1) detailed and convincing reasons as to why the previous support was no longer required and (2) up-to-date evidence – which the local authority had failed to obtain.

In similar vein, *R (Clarke) v Sutton London Borough Council* (2015)¹ a local authority's decision to make major changes to care package that had been in place for over 4 years was struck down. The disabled person's condition had not improved and there was expert evidence that that the proposed care package would not meet his needs. Although the court considered that the 'burden on the applicant to establish that an assessment was unlawful was heavy' – the authority had:

failed to give appropriate weight to obviously relevant material and relied excessively on the non-expert view of a social worker in a face of a wealth of evidence to the contrary from appropriately qualified and experienced experts (para 28)

The Local Government Ombudsman takes a similar approach. A 2013 complaint against [Thurrock Council](#) concerned a need of 10½ hours support for a disabled parent which was reduced by a 'resource panel' to 6 hours 'based on other cases and the funding provided by Children's Services'. The Ombudsman found this to be maladministration as there was no evidence / reasons for the reduction.

In a 2012 complaint against [Lambeth Council](#) the Ombudsman held that where a council is providing care services (such as respite care), then the presumption is that it should continue to provide this level of care, until such time as it undertakes a new assessment and provides a revised care plan indicating that a different / less care support is required. In the absence of such action any reduction in support by the council may constitute maladministration.

¹ [2015] EWHC 1081 (Admin).

If you want to challenge a reduction, you should generally use the complaints process – for a precedent complaints letter – [click here](#). If you need legal advice it is best to rely on personal recommendations in this field – but details of all the firms who have a legal aid franchise can be found legaladviserfinder.justice.gov.uk (then enter your address / postcode and click the box 'Categories of law' and then 'community care').