

## Challenging Reductions in Care Services

Councils must meet the 'assessed' 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, 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 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 a consideration of personal budgets see - <http://www.lukeclements.co.uk/whatsnew/index.php> and click on the article '*Social Care Law Developments* listed in the 2011 section ).

In *Community Care and the Law* (2007 – 4<sup>th</sup> edition) the authors Luke Clements & Pauline Thompson give examples of the approach taken by the court – including (at para 3.217) the case of *R v Birmingham CC ex p Killigrew* which concerned an applicant with severe disabilities whose condition (multiple sclerosis) was deteriorating. Despite this, after a reassessment the council proposed to reduce her day care support drastically. The judge held that no such 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 her previous care was no longer required and (2) up-to-date medical evidence – which the local authority had failed to obtain.

If you want to challenge a reduction, you should generally use the complaints process – (a precedent complaints letter is at [www.lukeclements.co.uk/resources/](http://www.lukeclements.co.uk/resources/)) and 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 at [legaladviserfinder.justice.gov.uk](http://legaladviserfinder.justice.gov.uk) (and then use the 'Find a Legal Adviser' facility – ticking the box 'community care' etc.).