

Community Care

Your legal rights



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community
legal advice

If you or someone you know or look after finds it difficult to manage day-to-day living, you may be able to get help in the form of community care. This leaflet explains how to find out what help you may be able to get, and whether you will have to pay for it.

● Where do I start if I think I need help?	3
● What kind of help is there?	3
● Can I get help if I look after someone?	5
● Who pays if I get care in my home?	9
● What if I have to go into hospital?	11
● What if I need to move into a care home?	13
● What if I need ongoing nursing care?	13
● Will I have to sell my home?	15
● Can I claim any benefits if I am in residential care?	16
● What choice of care home do I have?	17
● What if I want to move to a care home that costs more than the council will pay?	17
● What if my move into a care home is temporary?	18
● What rights do I have when I am in a care home?	19
● What if I have difficulty getting the care I need?	19
● Further help	22

The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 22 for sources of information and advice.

Many of us will need a helping hand with everyday tasks at some point in our lives. You may have an impairment or illness, or you may look after a child or adult who cannot look after themselves. This may be someone who has a physical or learning disability, or someone who is elderly. Whoever they are, they may be able to get 'community care' – help that can include anything from meals on wheels to a temporary or permanent stay in a care home.

Where do I start if I think I need help?

To get help, you must have an assessment of your needs. In most cases, you should contact your local authority's (council's) social services department and tell them about your situation, and ask for an assessment. You can also contact them if a relative or neighbour needs help.

If the help you need is only to do with your health, contact your GP. They can get in touch with other people who provide NHS healthcare and who can meet your particular needs, such as a health visitor or physiotherapist.

Some areas have 'care trusts', which deliver both health and social care services. If there is a care trust in your area, your social services department will put you in touch with it.

Whoever you contact, you should only have to give your details once, even if more than one service is involved in deciding on or arranging care. For older people, your local primary care trust (in England) or local health board (in Wales), which are part of the NHS, should work with your council so that you have a 'single assessment' (called a 'unified assessment' in Wales) that will look at all your care needs together.

What kind of help is there?

There are basically two types of care:

- community care' (also called 'social care'); and
- healthcare.

Community care for people who are older, ill or disabled is the responsibility of your council's social services department. It can include, for example:

- help with personal care: for example, getting up and dressed, bathing and laundry;
- meals on wheels;
- aids and adaptations to your home to make basic tasks easier and safer;
- a community alarm, so you can call for help if you need it;
- a place at a day centre; or
- a place in a care home.

Healthcare is the responsibility of your local primary care trust (in England) or local health board (in Wales), which are part of the NHS. It includes:

- medical care from your GP;
- visits from other community health providers, such as a district nurse; and
- services such as continence advice and equipment, chiropody, occupational therapy, physiotherapy, and medical equipment such as wheelchairs.

Broadly speaking, care arranged by social services is means-tested, which means you may have to pay for some or all of it, depending on your income and savings. Care arranged by the NHS is free.

Many people need both health and community care services. The healthcare part will be provided free by the NHS. You may have to pay for some or all of the community care part, depending on how much money you have. But if your need for the community care services is mostly due to your health problems, then the NHS should also pay for these (see 'What if I need care mostly because of health problems?' on page 7).

What if I need care for just a short time?

If you need help only temporarily – for example, if you are recovering after an accident or short illness or a stay in hospital – then you may be eligible for 'intermediate care'. This is normally provided for up to six weeks, so that you don't have to go into hospital, or stay there, when you don't really need to. It can be provided in your home or in a care home and can involve both health and social services. You do not pay for intermediate care.

Do I have a right to be assessed?

You have a right to be assessed by social services if:

- you are disabled, frail, elderly or ill;
- you appear to your local council to be in need of community care services; or
- you care for someone regularly (see 'Can I get help if I look after someone?' on page 5).

If you are entitled to an assessment for one of the above reasons, then social services should assess you no matter how much money you have.

What if the council refuses to assess me?

Your council's social services department may refuse to assess you if it does not believe that you 'appear' to be in need of community care services. If you disagree and think you should be assessed, you should complain to the council (see 'What if I have difficulty getting the care I need?' on page 19).

Can I get help if I look after someone?

You have the legal right to an assessment, called a carer's assessment, if you provide a lot of care for someone and are not paid for it. A carer's assessment will look at whether the person you care for is getting the right support and services, and also at:

- your needs;
- whether you have a choice over the type of caring tasks you do and how long you spend doing them; and
- whether your work, education, training and leisure needs are met.

If you're a carer and you need support or advice, contact Carers UK or visit the government website www.direct.gov.uk/carers (see 'Further help' on page 22).

What is the assessment for?

The aim of an assessment is to:

- find out what sort of support you need;
- decide which services you are eligible for; and
- look at your finances to decide how much you should pay towards the cost of those services.

As part of the assessment you may be asked about:

- the tasks you can and can't do;
- the tasks you find difficult some of the time;
- whether you have to follow a special diet; and
- whether you have special needs (because of your religious or ethnic group, for example).

You (and anyone who cares for you) should be fully involved in the assessment, and you should get the chance to say what you feel you need. If you need an interpreter or advocate to help you, the council should provide one.

How is the assessment done?

Each council has its own way of working out what help you may be able to get. You can find out about your council's policies in its:

- long-term care charter, 'Better Care, Higher Standards'; and
- Children and Young Persons Plan.

You should be able to get these from the social services department. You may also find them in your GP's surgery, or local citizens advice bureau or library.

The assessment will normally be done in your home, but it could also take place at a social services centre, a day centre or your GP's surgery.

Social services should tell you how long the process is likely to take. In the case of older people, an assessment should be completed within 28 days of you asking for it, although complicated cases often take longer.

Who does the assessment?

The person assessing you will normally be from social services, though they may be from the NHS, and other relevant professionals may also be involved. For example, an occupational therapist may give advice on making your home easier for you to live in (for example, by fitting stair or grab rails, bath seats or special taps). Social services may also ask the council's housing department for its views on your accommodation, for example whether you need to move to sheltered housing.

What happens after an assessment?

Once the care assessment has been completed, the council has to decide whether it will provide or arrange care services for you. It does this by comparing your needs with its 'eligibility criteria' for community care services. Each council is allowed to decide how severe a person's need has to be before it will provide support – so whether you get this kind of help depends on where you live.

Government guidance says that in deciding who can get care, councils should take into account how far people would be at risk if they did not get help. But councils are allowed to 'ration' their services by limiting the number of people who can get them. They often do this by deciding that only those people who need a service most can have it. For example, you may need help with household cleaning, but you might not qualify to get it from the council if the council says it will usually only give that kind of help to people who also need help with washing and dressing.

If the council decides that you meet its eligibility criteria, it should then draw up a care plan (see 'What is a care plan?' on page 7).

If the council decides that you do not meet its eligibility criteria, and will not provide help, it should tell you why in writing. If you don't agree with the council's decision, you can challenge it (see 'What if I have difficulty getting the care I need?' on page 19). And even if you're not eligible for help, the council should still give you information and advice about getting care services.

What is a care plan?

A care plan should set out what you need, what you should get, who will provide it, what you might have to pay for it, and when the plan will be reviewed. If you have a carer, your plan should also show what help your carer has agreed to give you. You should be given a copy of your care plan.

Once your care plan has been drawn up, you should start getting that care promptly. Councils should not delay providing you with care, once they have assessed you as needing it, on the grounds that they lack financial resources. Councils are not normally allowed to have waiting lists for services, but if you do have to wait for a service you need (for example, because there is a shortage of suitably trained care assistants), then the council should make other arrangements for you in the meantime. If you are not getting the

care that is set out in your care plan, see 'What if I have difficulty getting the care I need?' on page 19.

The council should look at your care plan from time to time, normally within three months of first providing the help and then at least once a year after that. But if your circumstances change at any point, you can ask to be assessed again. And if the council wants to take away or reduce what you get, it must reassess you first. It cannot take away services just because it is short of money, and it cannot take them away if that would leave you at 'severe physical risk'.

What if I need care mostly because of health problems?

If you need care because of ongoing health problems, you may be entitled to have the NHS arrange and pay for it. Your local primary care trust (in England) or local health board (in Wales) should arrange for an assessment to see if you are eligible for 'NHS continuing healthcare', which is a package of care that may include both health and personal care.

In England, you will first be 'screened', using a checklist, to see if your main need appears to be health-related. If it is, then you will be referred for a full 'multi-disciplinary' assessment, involving all relevant health and community care professionals. If the

screening doesn't show that your main need is health-related, you can still ask your primary care trust to give you a full assessment. (In Wales there is, for now, no screening stage – you go straight to the assessment stage.) For more about this process, see the Department of Health leaflet 'NHS continuing healthcare and NHS-funded nursing care' – see 'Further help' on page 22 for how to get it.

The primary care trust should normally tell you whether you are eligible for NHS-funded continuing care within two weeks of being referred for an assessment.

If you are assessed as needing NHS continuing healthcare, this might be in your home with social services' support, or in a care home. In either case, the NHS should pay for all care related to your health.

What if I'm not eligible for NHS continuing healthcare?

If the primary care trust or local health board decides that you're not eligible for NHS continuing healthcare, you will still be entitled to free NHS medical care, whether you're at home or in a care home, but you may have to pay for the non-medical parts of your care. How much, if anything, you may have to pay is explained on the

following pages. The NHS will also pay for the nursing-care element of care if you need to go into a nursing home (see 'What if I need ongoing nursing care?' on page 13).

What if I'm unhappy with the decision about my eligibility?

If you're unhappy with how the primary care trust or local health board decided that you were not eligible, you can complain to the trust or board. If you need advice, or help with preparing a complaint, contact the Patient Advice and Liaison Service (PALS) (in England) or your local Community Health Council (in Wales) – see 'Further help' on page 22.

If you are unhappy with the trust's or board's response to your complaint, you may have a 'right to a review' by an independent panel of people (an independent review or IR). This is arranged by:

- your strategic health authority if you are in England; or
- the local health board if you are in Wales.

If you're unhappy with the IR's findings, you can complain to the Healthcare Commission (in England) or the Independent Complaints Secretariat (in Wales). If you are still unhappy, you can complain to the Parliamentary and Health Service Ombudsman (in England) or the Public Services Ombudsman (in Wales).

If you think the eligibility rules themselves are unfair, rather than how the trust or board has applied them, you can complain using the NHS complaints procedure (see 'What if I have a problem with NHS care?' on page 21). You can also do this if you're not happy with the package of care you are offered.

Who pays if I get care in my home?

If you are eligible for NHS continuing healthcare at home, the NHS pays for your care. If you are not eligible, you may have to pay for that part of your care provided or arranged by social services.

Councils can charge for services they provide. But in some cases they should pay for some or all of the costs of care in your home:

- If you suffer from CJD (Creutzfeldt Jacob Disease), you shouldn't pay anything.

- If you have been kept in hospital because of a mental illness or disorder and you need care when you come out ('aftercare'), you may not have to pay for that care.
- Any help you get as part of 'intermediate care' should be free.

Otherwise, you may have to contribute. However, you may be able to get financial assistance from the council, depending on your savings and income.

Councils must not take account of your financial circumstances when deciding what you will get, only when deciding what they will charge you for it. And your friends or family cannot be made to pay for your care – only the person getting the care can be charged.

Can I get any benefits to help pay for care?

You may be entitled to certain benefits related to your need for care, such as Attendance Allowance and Disability Living Allowance, or Carer's Allowance if you are caring for someone. Your social worker may be able to help you with information on benefits, and you can ask your local Age Concern office or Citizens Advice Bureau to do a benefits check for you.

You can also get information about claiming benefits from:

- your local social security office, Jobcentre or, if you are a pensioner, the Pensions Service;
- the Department for Work and Pensions website (www.dwp.gov.uk);
- the Community Legal Advice leaflet, 'Welfare Benefits'.

How much will I have to pay?

When working out how much to charge you for care at home, councils should take into account:

- how much the service costs; and
- how much you could reasonably be expected to pay. To work this out, they are allowed to ask you how much income you get and what savings you have.

They should also follow government guidelines on charging. These aim to ensure that councils are consistent and fair and do not leave people struggling to pay. If you feel you cannot pay, you can ask social services to review the charge. You should always do this if you think they haven't taken into account any extra things you have to pay for because of a disability or other problem.

The council can't stop your services if you don't pay, but it can try to get you to pay what you owe.

Is there a limit on what the council will pay?

The council is entitled to provide care as cost-effectively as possible. So, for example, the council may want to move you into a care home because it believes this would better meet your needs and because it would cost much less than giving you the care you need in your own home. You would have the right to say you didn't want to move into a care home. But if you chose to stay in your own home, you might not get all the help you needed.

For example, the council might have to pay £500 a week towards the cost of a place in a care home, and might believe that the care home would better meet your needs, but you would prefer to stay at home. The council might argue that it should give you care at home worth only £500, even if that wouldn't be enough for your needs. In this situation the council would have to consider all your needs, including your psychological needs and your human rights, before it decided that it would not fund a full care package at home.

If you are unhappy with what the council has decided for you, you may be able to challenge its decision.

What are direct payments and how can I use them?

The council can provide the services in your care plan itself (or with, for example, voluntary organisations) but it must also offer you the option of 'direct payments' to buy your own care (if you meet certain conditions). If you are a carer, you may also be able to get direct payments.

Direct payments may give you more choice about who cares for you and how. You can use the funds to pay for almost any care you need. For example, if you can't do your shopping alone, you could use a direct payment to help you do it yourself – for example, by paying for a taxi or a home delivery – or to pay someone to do it for you. Or you could pay for some care while your carer has a break.

You can't normally use direct payments to pay for care provided for you by your husband, wife, civil partner or other partner, or a close relative who lives with you. And you can't use direct payments to pay for a permanent place in a care home or to buy care from the council.

If you use direct payments, it may mean you have to become an employer. This involves having to sort out contracts and deduct tax and national insurance from the money you pay people. Your council should give you advice and help to deal with these things. The Department of Health also produces a guide to direct payments (see 'Further help' on page 22).

You can decide at any time that you don't want to get direct payments any more, and would rather have services arranged for you.

The council can stop direct payments if it thinks that:

- your needs are no longer being met;
- you can't manage your payments; or
- you aren't spending the money properly.

However, it should warn you and give you the chance to discuss the matter and put right any problems you are having before this happens.

What if I have to go into hospital?

You are entitled to an assessment to decide what help you may need on leaving hospital. In England, the hospital must tell your local social

services department if you are likely to need care services after leaving hospital. Also, if you are coming out of a hospital where you are receiving 'acute care' (for example, after an operation or treatment following an accident), your council should (in England) carry out a care assessment within strict time limits and put together a care plan so that it is safe for you to leave hospital. If you have a carer, the care plan must consider their needs.

Your assessment should decide whether you:

- can go home, perhaps with social services support, and get any healthcare you need as an outpatient, in your own home, or at a local centre; or
- need a period of intermediate care (see 'What if I need care for just a short time?' on page 4); or
- need to go into a care home (with or without some nursing care).

If you have ongoing health needs, you should get a multi-disciplinary assessment before you are discharged, to see what care you need and if you are eligible for NHS continuing healthcare (see 'What if I need care mostly because of health problems?' on page 7).

After you've been assessed you should be given written details of:

- which parts of your care will be arranged and paid for by the NHS;
- how much you are likely to have to pay for care after you leave hospital; and
- any benefits you may be able to get.

If you are assessed as needing only social services support, social services must check that any support they have arranged is enough for you within 14 days of you arriving home from hospital, and at least once a year after that.

If you are unhappy about plans for you to leave hospital, you can use the NHS and social services complaints procedures (see 'What if I have difficulty getting the care I need?' on page 19 and 'What if I have a problem with NHS care?' on page 21). You may also be able to have an independent review of a decision on whether you are eligible for continuing healthcare, and you should not have to leave NHS care while this is taking place.

You can refuse to go into a care home if the NHS will not pay for your care. However, if you are currently waiting to leave an NHS hospital, you can't generally stay there for an unlimited time. In this situation, all

the organisations involved should try to find suitable alternatives. This could be, for example, a package of services that mean you could go back to your own home. You can ask to be reassessed if your situation changes and you think you may now meet the rules for NHS continuing healthcare.

What if I need to move into a care home?

Your council should provide residential care for people whose needs mean they can't reasonably be expected to live at home or in supported accommodation (for example, a warden-assisted home).

In some cases, residential care is free, no matter how much money you have. This includes where you are:

- eligible for NHS continuing healthcare;
- getting intermediate (temporary) care; or
- going into residential care after being held in hospital under certain parts of the Mental Health Act.

In most cases, though, you will have to pay at least some of the fees for accommodation and personal care. Any care you receive from the NHS when you are in residential care, such as visits from your GP or community nursing, will still be free.

The council will look at your circumstances to decide whether you could arrange and pay for residential care yourself, or whether it must help pay your fees (see 'What do I have to pay for care-home accommodation?' on page 14).

If you qualify for help, social services usually pay the fees. You will then have to repay some of this amount, depending on how much money you have.

What if I need ongoing nursing care?

If you're assessed as needing a care home that provides nursing care, and you're eligible for NHS continuing healthcare, then the NHS may pay for all your care. If you're not eligible for NHS continuing healthcare, then the NHS must still pay for the part of your care you need a registered nurse for, however much income or savings you have. You may have to pay some or all of the accommodation and personal care costs of the home.

If you're assessed as not needing a care home with nursing facilities but you decide to pay to go into one anyway, you won't be entitled to get the NHS to pay for the nursing-care part of your care. But if your needs change, your case can be reviewed.

Your care plan should set out the services that the council will provide, for which you may have to pay, and the care that the NHS will pay for. Once you're in the home, if you think the home is trying to charge you for parts of your care that are already paid for by the NHS, you should speak to the home manager.

What do I have to pay for care-home accommodation?

You may fall into one of the categories of people for whom residential care is free. If not, then how much you pay depends on a set of rules that take into account:

- how much 'capital' you have, meaning savings, stocks and shares, and property you own; and
- your income, including money you earn and any benefits you receive.

The council should always tell you how it has worked out the amount you will pay, and you can ask for this in writing.

The rules are complicated and we have set out only the main points here. Organisations such as Age Concern, Help the Aged, and Counsel and Care can give you more information (see 'Further help' on page 22 for details).

The council looks only at your own income and savings when deciding how much you pay – it cannot normally take account of money or income that belongs to your husband or wife or family.

If you have more than a certain amount of capital (currently £21,500 if you live in England or £22,000 in Wales), then you will normally have to pay all the fees, whatever your income. You will also normally have to find a care home yourself. If you can't find one yourself, and you have no-one willing to do it for you, then the council must help you (but you still have to pay the full fees).

If you have less than a certain amount (currently £22,000) or if your savings drop to this level, the council will look at how much you could afford to pay. All your income (except certain items that aren't counted) will have to go towards paying your care costs, though you must be left with a small amount as a 'personal expenses allowance'. If your income falls, you should pay less and the council should pick up more of the bill.

When your capital falls to a certain level (currently £13,500 in England and in Wales) it will no longer be taken into account at all, and your financial assessment will only look at your income.

Will I have to sell my home?

For some people, the value of their home alone will take them over the capital limits and they will have to pay care-home fees. If this is the case for you, you may need to sell your home to pay those fees, if you can't pay them from your savings or other money.

But there are circumstances when the council cannot take the value of your home into account, in particular if someone close to you lives in it.

This includes:

- your husband, wife, civil partner or other partner (or, in some cases, your former partner);
- a relative who is 60 or over;
- a relative under 60 who is 'incapacitated' (for example, someone who is receiving a sickness or disability benefit); or
- a child or step-child of yours under 16 who you support.

The council may choose to ignore the value of your house if someone who doesn't fit into these categories lives there – for example, a carer who is under 60.

If you own your home jointly with someone who does not fit into any of the categories above (for example, a relative under 60 or a friend), your

share has to be valued. But if the person who owns your home with you won't or can't buy your share from you, so you could not turn your share into cash, the value of your share in cash terms may be low. If this is the case, taking the value of your share into account won't mean you have to contribute a lot more to your care-home fees.

The council will ignore the value of your home if you are going into a care home for a temporary stay.

Even if it takes the value of your home into account in the long term, the council won't include it in any calculations for the first 12 weeks after you take up a permanent place in a care home.

If you need to sell your home to pay for care, you may not have to do this straight away if you can agree a 'deferred payment' arrangement with the council. In this case, the council puts off collecting your contribution, and puts a 'legal charge' on your property instead. This means it will then reclaim the money you owe when the property is eventually sold (or when the value of your estate is sorted out after you die). Your local social services department will be able to give you more information about this.

Can I be forced to sell my home?

Only a court can force you to sell your home. But if you don't sell, and you end up owing fees to the council, it can put a 'legal charge' on your property without your permission. The legal charge means that when your home is eventually sold, the council will be able to collect the fees you owe it.

If you do have to sell your home, you may be able to get benefits to help you pay care fees until the sale goes through (see 'Can I claim any benefits if I am in residential care?' below). And if your property takes some time to sell, the council may put off collecting any fees from you until you have sold it.

Can I claim any benefits if I am in residential care?

If you are moving permanently into residential care, and the council or NHS is paying your fees, some of the benefits you are already receiving may stop after a time.

If you are paying the fees yourself, you may find that you are entitled to more help than when you were living at home. For example:

- The rules are different on the levels of savings you can have – the limits are higher if you are

in residential care, so you can keep more of your savings before you have to start paying fees out of them.

- If you are paying for yourself, you may be entitled to Attendance Allowance and Disability Living Allowance.
- If you have a property to sell, but have a low income, you may be able to get Income Support for a time to help you pay your fees while you're waiting to sell.
- If you are married or in a civil partnership and your partner remains living at home, the council will take account of your share of joint savings in deciding whether you are eligible for benefits. But it won't take account of other things you own jointly (such as your home).

You can get more information about claiming benefits from:

- your local social security office, Jobcentre or, if you are a pensioner, the Pensions Service;
- the Department for Work and Pensions website (www.dwp.gov.uk); or
- the Community Legal Advice leaflet 'Welfare Benefits'.

What choice of care home do I have?

If the NHS is paying for you to go into residential care as part of continuing healthcare, then the NHS decides where you will go to get the medical care you need (but it should take your wishes into account as far as possible).

If the council is paying for some or all of your care, then you can, within certain limits, choose the home you want, provided it has places available.

The council should give you a list of homes in the area that are within its price range or 'usual cost' (the price it would normally expect to pay for a home that meets your needs) and which have vacancies. However, you can choose any home (including one outside your council area, for example if you want to be near your children), as long as it:

- has a place available;
- can meet your needs as they have been assessed; and
- is willing to accept the council's terms and conditions (including, in general, the price).

The council's price range should be realistic, in line with what suitable homes charge. If you cannot find a home that meets your needs within the price range, the council should

increase its limit. If it won't, you may need to challenge its decision.

What if I want to move to a care home that costs more than the council will pay?

You can choose a home that costs more than the council's 'usual cost', but you will need to get someone to pay the difference between what the council will pay and the home's fees (a 'top-up' or 'third-party contribution'). This could be a friend, charity or relative. You can't normally top up the fees yourself, except in a few specific circumstances – ask social services for details if you think you may want to do this.

If you do have someone to pay the extra, but after some time they can't carry on doing this, you may have to move to a cheaper home. But this can happen only if the cheaper home can meet your needs.

When you make and pay for your own arrangements for care, you can choose whichever home you like. But remember that you may at some point in the future have to get some help with fees (if your savings run down, for example). If this happens and you are living in a home that costs more than the council normally pays for someone with your needs, you may have to move.

You should have to find someone to pay a top-up only if there is a vacancy in more than one care home that can meet your needs, and you choose the more expensive one. If you are asked to find someone to top up your fees in any other circumstances, you will be able to challenge this.

What if my move into a care home is temporary?

You may need to go into a home temporarily, for example:

- for a short-term break ('respite care');
- while you get over an illness;
- while you're waiting for a place in sheltered housing; or
- for a trial period to see if residential care is right for you.

Your assessment should show whether your stay will be temporary or permanent.

You should not be charged anything for a short-term stay that is part of 'intermediate care'. There may be charges for other temporary stays, but the rules for working out how much you pay towards them allow for the fact that you will still have your own home to keep up. Any charge must be 'reasonable'.

If you are going to be in the home for only a short time, the council can apply a 'means test' (a test to see if you are able to get financial help) straight away. Or for the first eight weeks it can ask you to pay a reasonable contribution, and then it must apply the means test.

The means test for a temporary stay looks at your income and savings in the same way as if you are staying permanently, but it cannot take into account the value of your home if you will be going back there or are planning to sell it to buy somewhere more suitable. The council must also take account of any bills you're still having to pay for your home, and must not take into account any benefits you get towards housing costs.

You may be able to get Income Support (if you are under 60) or Pension Credit (if you are over 60) to help you pay any fees while you are temporarily in a home. In deciding whether you are eligible, the Department for Work and Pensions will treat you as if you were still living at home. So, for example, it will not count the value of your home but it will count any capital or income you own yourself or jointly with a partner.

What rights do I have when I am in a care home?

All care homes have to meet certain standards before they can be registered with the Commission for Social Care Inspection (in England) or the Care and Social Services Inspectorate Wales. The government and Welsh Assembly lay down national standards setting out what you can expect from a home. These apply to any home, no matter who is paying for your care.

Your home must produce a service user's guide or brochure with details of its facilities and fees, and a contract that sets out, for example:

- the room you will live in;
- the care and services you will get;
- things not included in your fees; and
- the notice period you must give if you want to leave.

Homes must tell you when and why they are going to increase fees. They must also tell you whether the fees you would pay are different from those a council would pay.

If you arranged the care yourself, the contract is between you and the home, and you should be given a copy of the contract. If the council or the NHS arranged your care, then the contract is with them, but you still have legal rights

and you should be given a statement of the terms and conditions (which may be part of your care plan).

All registered homes must have a complaints procedure and should be able to give you information about how to complain. If you can't sort out the matter with the home, you can contact the Commission for Social Care Inspection (in England) or the Care and Social Services Inspectorate Wales.

You can also use the council and NHS complaints procedures to complain about the parts of care in the home that they arrange or pay for. For more about the complaints procedures, see below.

What if I have difficulty getting the care I need?

You can use your council's complaints system if you are unhappy about any aspect of the council's care, including your assessment. So you can complain if, for example:

- the council refuses to assess you or leaves you waiting a long time to be assessed;
- you are not happy with how the assessment was done;
- you think you are not getting the services you need;

- you think you are being asked to pay too much for the services you use; or
- you have problems with the services themselves.

If a care trust did your assessment, you should complain to the trust in the first place, but you could also complain to the council, as it provides the services.

By law, social services departments must have a complaints procedure and must be able to give you information about:

- how to make a complaint;
- how quickly they should deal with it; and
- where you can get help with making a complaint.

Normally, councils will try to deal with complaints informally, perhaps by seeing if you and the social services officer you usually deal with can sort out things between you. If this 'informal stage' doesn't solve your problem, you may want (or be asked) to go on to a more 'formal' stage. This is usually an investigation, by either:

- someone who is not involved in the local service; or
- the Complaints Manager (in England) or Complaints Officer (in Wales), or someone they appoint.

If you're unhappy with the result of the formal stage, you can ask for your complaint to be examined by an independent panel (in Wales) or a review panel (in England). These panels will include at least two people who are separate from the council. You can go to the panel meeting and you can have someone there to speak for you if you want.

If you are still unhappy, you should contact the Local Government Ombudsman (England) or the Public Services Ombudsman (Wales) – see 'Further help' on page 22.

If you think your council has broken the law (for example, if it won't pay for your residential care when you think the law says it should), you can ask the council's 'monitoring officer' to look at your case. Your local councillor or Member of Parliament may also be able to help. If these steps don't sort out your problem, you can take your case to the Secretary of State for Health (in England) or the Welsh Assembly (in Wales). However, you will need to get legal advice before you do this.

Another possibility is to use (or threaten to use) the courts to sue the council or get a judge to rule on whether its actions were legal and reasonable. In either case, you will need to get legal advice. If you

cannot afford to pay for a solicitor, and you meet other conditions, you may be able to get public funding (legal aid). See 'The Community Legal Service' on page 23 for how to find out more about this.

What if I have a problem with NHS care?

You can complain about any area of healthcare provided by the NHS (See 'What if I'm unhappy with the decision about my eligibility?' on page 8 if you want to complain about your assessment for NHS continuing healthcare). Your local Patient Advice and Liaison Service (PALS) (in England) or Community Health Council (in Wales) should have information about the NHS complaints system and about independent help (complaints advocacy) in your area (see 'Further help' on page 22 for details).

The government is currently planning changes to the NHS complaints system. For now, if you have a problem, you must first contact the hospital, Foundation Trust, surgery or clinic involved. It should have a leaflet telling you how to make your complaint. You can also get help to make a complaint from a local independent complaints advocate in England (through the

Independent Complaints Advocacy Service) or your Community Health Council in Wales.

If you can't resolve things at this stage:

- in England, you can ask the independent Healthcare Commission to review your complaint; or
- in Wales, you can ask the Independent Complaints Secretariat for your area to review your complaint.

If you are still unhappy with the result of your complaint, you may be able to take it to the Parliamentary and Health Service Ombudsman (in England) or the Public Services Ombudsman (in Wales).

What if my complaint covers health and social care?

The government has set out plans to move towards a unified system for complaints about health and adult social care. Before this comes into effect, health and local authorities should be working together so that if your complaint involves both, you only need to complain to one service and you should get a joint response. So if your complaint involves NHS services, the council can pass it on to the NHS (or the other way around) if you wish.

Further help

Community Legal Advice

Provides free information direct to the public on a range of common legal problems.

Call 0845 345 4 345

If you qualify for legal aid, get free advice from a specialist legal adviser about benefits and tax credits, debt, education, employment or housing. Also find a high quality local legal adviser or solicitor.

Click www.communitylegaladvice.org.uk

Find a high quality local legal adviser or solicitor, link to other online information and see if you qualify for legal aid using our calculator.

Advice Guide

www.adviceguide.org.uk

This website from the Citizens Advice Bureau contains information on benefits.

Department of Health

The Department produces a range of publications including 'A guide to receiving direct payments from your local council: a route to independent living' and 'NHS continuing healthcare and NHS-funded nursing care'.

phone: 0870 155 5455

www.dh.gov.uk/publications

Patient Advice and Liaison Service (PALS)

For people in England, PALS offers information, support and advice if you have a problem with healthcare. To contact your local PALS, phone your local hospital, clinic, GP surgery or health centre, or phone NHS Direct on 0845 46 47.

Independent Complaints Advocacy Service (ICAS)

ICAS provides advice and support to people who want to complain about the NHS.

Phone NHS Direct 0845 46 47 or contact your local Citizens Advice Bureau, which is listed in the phone book.

Community Health Councils (CHCs)

In Wales, CHCs can offer free confidential advice and independent help on making a complaint about an NHS service. Contact the Board of Welsh CHCs for details of your nearest CHC.

phone: 0845 644 7814

www.patienthelp.wales.nhs.uk

The Parliamentary and Health Service Ombudsman (England)

phone: 0845 015 4033

www.ombudsman.org.uk

Local Government Ombudsman (England)

phone: 0845 602 1983

www.lgo.org.uk

Public Services Ombudsman (Wales)

phone: 01656 641150

www.ombudsman-wales.org

Age Concern

phone: 0800 009966 (England)

029 2043 1555 (Wales)

www.ageconcern.org.uk

Help the Aged

phone: 020 7278 1114

SeniorLine: 0808 800 6565

www.helptheaged.org.uk

Alzheimer's Society

Helpline: 0845 300 0336

www.alzheimers.org.uk

Counsel and Care

phone: 0845 300 7585

Monday to Friday 10am to 12pm, and 2pm to 4pm Monday, Tuesday, Thursday and Friday

www.counselandcare.org.uk

Department for Work and Pensions

For information about claiming benefits

www.dwp.gov.uk

Benefit enquiry line: 0800 88 22 00

Carers UK

Carersline: 0808 808 7777 (Wednesday and Thursday only, 10am to 12 noon and 2pm to 4pm).

www.carersuk.org.uk

Commission for Social Care Inspection

phone: 0845 015 0120

www.csci.org.uk

Care and Social Services Inspectorate Wales

phone: 01443 848450

www.cssiw.org.uk/

Healthcare Commission

phone: 0845 601 3012

www.healthcarecommission.org.uk

The Community Legal Service

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high-street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC leaflet line on 0845 3000 343. You can also use a Legal Aid eligibility calculator on the website: www.communitylegaladvice.org.uk

*Community
Legal Service*



The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website at www.legalservices.gov.uk or find the details for your local Legal Services Commission office in the phone book.

legal services
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