

Appeals Process

Adult Social Care

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Adult Social Care Appeals Practice Guidance

Directorate:	Social Care, Health, and Housing (SCHH)		
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1. Introduction

- 1.1. This document sets out the process for appealing certain decisions taken by the council in relation to a person's care and support arrangements.
- 1.2. Any adult who is receiving social care support or their representative e.g. carer, relative or advocate, or a person who the council have a duty to provide support to, can make an appeal.
- 1.3. An adult social care appeal is a request for a review of a decision(s) taken by the council about:
 - a Care Act assessment of need,
 - a personal budget funding allocation
 - the person's support plan

1.4. Financial Assessments:

The council has a separate policy that addresses any complaints or appeals regarding a person's charging and financial assessment. (See [Central Bedfordshire Council Charging Policy](#)).

1.5. Mental Capacity:

The council should always assume an adult has the mental capacity to make decisions, including those related to care and support, unless the contrary is established. The test for mental capacity is specific to each decision. A person can have mental capacity to make some decisions and not others. (See [Central Bedfordshire Council Mental Capacity Act Policy](#)).

1.6. Advocacy:

The council acknowledges that some people may need support throughout the appeals process. There are various types of [independent advocacy services](#) available, depending on the person's needs. The involved social worker/care manager will support the person to access advocacy if required.

Definitions:

- A **complaint** is a statement in which a person can express their dissatisfaction with a particular situation.

A complaint cannot overturn a decision, it can only look at whether the correct procedure has been followed. If, following investigation, the correct procedure has not been followed, then the complaint procedure could *recommend* the decision be reconsidered. (See [Central Bedfordshire Council Complaint Policy](#))
- An **appeal** is to formally request that a legal or official decision be changed.

An appeals process is usually the mechanism used when someone is simply unhappy with a decision and wants it to be reconsidered. This process can offer a simple way for

people to request a review of a decision rather than having to go through the complaint procedure which may take longer to progress.

- A **Stage 1 Appeal** is an appeal that can usually be looked into quite quickly via a telephone conversation or meeting to address any concerns and determine prompt resolution.
- A **Stage 2 Appeal/Complex Appeal** is an appeal that requires further investigation before a decision has been made, this may include a manager that has not had previous involvement in the case. This may also include a review of assessments and documents and any additional information or evidence provided by the person making an appeal that may not have been previously considered.

2. Legislation and Regulatory Framework

2.1. Relevant legislation:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- The Care Act 2014 – section 1
- Care and Support Statutory Guidance.
- Department of Health care and Support (Charging and Assessment Resources) regulations 2014.
- Equality Act 2010
- Mental Capacity Act 2005
- Data Protection Act 2018
- General Data Protection Regulations

3. Appeals Process

- 3.1. If a person or their representative does not agree with a decision about their care and support arrangements, they can appeal this decision in writing to their social worker/care manager or by completing the appeals form. The person can also call the Contact Centre who can help complete the form if required.
- 3.2. The appeal request should be made within 3 months of the date the person receives their assessment and should include:
 - What decision / assessment the person is appealing
 - The reason for the appeal
 - Any additional information to support the appeal e.g. documents, needs not considered etc
- 3.3. The council will aim to acknowledge receipt of the appeal within 5 working days either in writing or by telephone.

- 3.4. Wherever practicable and reasonable the officer responsible for the appeal will contact the person at the earliest opportunity to discuss the appeal.
- 3.5. The council will aim to resolve any appeal as early as possible. Each appeal will be assessed, and a decision made on the most appropriate and proportionate option for resolution. This will be via:
- **Stage 1:** Early resolution, where the council will aim to resolve any appeal via discussion with the person making the appeal, with the aim of achieving a prompt resolution.
 - **Stage 2:** Review/Complex Appeal, where the council will review the original decision and any additional information received and make a final decision.

Care & Support provision during the appeal:

- 3.6. The care and support arrangement will be maintained at the level provided at the point of the appeal unless there is clear risk to the persons health and wellbeing i.e. where people or significant others are disputing support that has been assessed as required and the person is appealing or not in agreement with the decision.
- 3.7. Each scenario, risk will be considered and assessed on a case-by-case basis.
- 3.8. Where risks are identified, a risk assessment will be completed and uploaded within the persons care and support records.

Stage 1 – Early Resolution

- 3.9. The council will aim to resolve any appeal as early as possible. Wherever practicable and reasonable the officer responsible for the appeal will contact the person at the earliest opportunity to discuss the appeal.
- 3.10. The officer responsible will facilitate an open discussion with the person to resolve any issues. If this involves a face-to-face meeting with the person, this will take place within a reasonable timescale.
- 3.11. If resolution is made through discussion, a summary of the meeting/discussion, including any agreed actions, will be sent to the person as a record of the appeal outcome.
- 3.12. If early resolution is not reached, the appeal progresses to the second stage

Stage 2 – (Complex Appeal)

- Where an appeal moves to stage 2, the appeal and other relevant information will be considered:
- If the person has disagreed with the assessment, the involved care manager and their operations manager will be involved in the review and the following decision may be made:
 - a. The original assessment was correct
 - b. The assessment needs to be updated based on the additional information

- If the person has disagreed with their support plan or personal budget, a manager who has not been involved with the case so far may be involved in the review and the following decision may be made:

- a. The original decision was correct
- b. Accept the appeal and agree to change the plan / allocation
- c. Arrange a meeting with the person to discuss this further (this can happen if the issue is about risk either to the person or others)

- 3.13. If the operations manager has been involved in any initial care and support planning, the appeal may be referred to the Head of Service or Assistant Director.
- 3.14. Best practice recommends the senior manager will aim to write to the person to provide notification of the full decision within 28 working days from the date the appeal is acknowledged.
- 3.15. If it is anticipated there may be any delay in this process i.e. the case is complex, the council will write to the person to inform them of this.
- 3.16. Complex case reviews may take up to 30 additional working days.
- 3.17. There is no further stage to appeal to adult services following the final decision.
- 3.18. Operational guidance information is contained within the Appeals Practice Guidance (for Practitioners).

4. The Local Government and Social Care Ombudsman (LGSCO):

- 4.1. If at the conclusion of the appeals process the person is not satisfied with the outcome, they may refer the appeal to the Local Government Ombudsman.
- 4.2. The appeals process does not affect the persons rights to contact the Local Government and Social Care Ombudsman at any time. However, they will only usually investigate after the Local Authority has had the opportunity to review the circumstances first.
- 4.3. The Local Government Ombudsman contact details:
Website: www.lgo.org.uk
Telephone: 0300 061 0614
Their opening hours are Monday to Friday: 10am to 4pm (except public holidays).

5. Equality and Diversity

- 5.1. All SCHH policies are accompanied by an EIA (where applicable) and an implementation plan that sets out monitoring and reporting arrangements available in relation to this document if required.
- 5.2. The council should be proactive about putting in place arrangements to ensure that they do not unfairly discriminate against individuals on the grounds of their protected characteristics. Equality should be integral to the way in which any support is prioritised and delivered.

6. Related Policies

- ASC Appeals Practice Guidance
- Complaints Policy
- First Contact & Identifying Needs
- Charging Policy
- Mental Capacity Act Policy
- Care and support planning (including personal budgets) guidance in the Assessment Framework

7. Monitoring and Reporting Arrangements

- 7.1. Head of Community Assessment Service and Head of Safeguarding & Quality Improvement will receive reporting data each month.
- 7.2. The Quality Improvement team will monitor appeals received and report on themes or learning points for practitioner.
- 7.3. This information will be reported to Practice Governance and influence the Quality Improvement Plan.

8. Evaluation and Review

- 8.1. This document will be reviewed every 2 years, unless statutory guidance changes where a review will take place sooner.