



## FACTSHEET 13

### Appeals Policy Proposals

The Local Government Association argued that the failure to address issues relating to the ways in which people might seek redress “is an omission”. Similarly, Hull City Council noted that “there appears to be a lack of potential dispute resolution within the prescribed legislation” and suggested that this can lead to “costly challenges.” (Law Commission consultation on Care and Support, March 2011)

*This factsheet describes how our appeals policy proposals set out the process of appealing certain decisions taken by local authorities in relation to an individual under Part 1 of the Care Act 2014.*

#### **Why have an appeals system?**

The lack of a formalised appeal structure within care and support was highlighted in consultation responses as well as in debates when the Care Act 2014 progressed through Parliament.

The Government acted and amended the Care Act to include powers to introduce an appeals system under which decisions taken by a local authority under Part 1 of the Care Act 2014 might be challenged.

Care and Support decisions have a large impact on people’s quality of life. It is therefore important that where people feel an incorrect decision may have been made in relation to their care and support they have an effective means to have the decision reviewed.

#### **What is the aim?**

Good communication can help prevent misunderstandings on both sides. By talking through the issues, the local authority can understand if they’ve missed anything and the

person can also understand why a decision was reached rather than just simply what the outcome decision is.

The proposals aim to promote good communication between people seeking to make an appeal and the local authority to resolve any disputes that emerge as efficiently as possible. They promote the principles of early resolution, good communication, fairness, equality, independence, accessibility and proportionality.

The appeals process has been designed with the aim of resolving disputes in a less costly and time consuming manner compared with legal routes of challenging decisions.

#### **What is the process?**

The proposals put forward a three stage process, with the emphasis on early resolution, wherever possible. Firstly, there’s the early resolution stage, where the local authority facilitates open and constructive dialogue with the person making the appeal with the aim of achieving a prompt resolution.

If early resolution is not reached, the appeal progresses to the second stage. This is the independent review stage; where the local authority appoints an Independent Reviewer to review their original decision and make a recommendation as to whether they view the

local authority's decision was correct. The third and final stage of the process is the authority decision; this is where the local authority makes a decision considering the Independent Reviewer's recommendation.

### ***What are the timescales?***

The broad framework sets out that the early resolution and the independent review stage should take approximately up to 30 working days each to complete. However, this time period can be extended where the person's involvement is delayed for ill health or the appeal is complex.

The process intends that people can lodge an appeal up to 12 months from the local authority's original decision. However, local authorities have the discretion, if they wish to do so, to consider an appeal beyond the 12 month time limit.

### ***Who can lodge an appeal?***

An appeal may be made by the person with or without support; or the appeal may be made on an individual's behalf by someone else: a family member, a friend, or anyone who has the consent of the person (if they have capacity to consent), or who are doing so in their interest (if they lack capacity).

An appeal may also be made by an independent advocate appointed under section 67 of the Care Act 2014 for people who have substantial difficulty in being involved with assessments, care planning or care reviews; it may be an independent advocate appointed under the Mental Capacity Act, or any other independent advocate.

#### **How do I comment on the proposals?**

We have published policy proposals for an appeals system as described in this factsheet.

More information is available at:  
[www.careact2016.dh.gov.uk](http://www.careact2016.dh.gov.uk)