Research report

Challenging and monitoring adult social care decisions

February 2023

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First published February 2023

ISBN: 978-1-84206-867-0

Research report number 142

**Equality and Human Rights Commission Research Report Series**

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# Acknowledgements

We would like to thank all the local authorities that, despite facing pressures brought on by the coronavirus (COVID-19) pandemic, took time to share their processes and procedures to help us create this report. In many cases, multiple team members in a local authority contributed to the survey response so we would like to thank all that were involved, including those who facilitated the organisation of the inputs.

# Executive summary

In July 2021, the Equality and Human Rights Commission (EHRC) launched an inquiry in England and Wales into how older and disabled adults and unpaid carers can challenge local authority decisions about their social care and support.

This report sets out findings from an online survey of local authorities in England and Wales to inform this inquiry.

## Key findings

More than nine in 10 local authorities in England and Wales reported that they make information about adult social care and / or support available in formats such as Easy Read (93%), large print (97%), British Sign Language (93%), the main languages spoken in the local authority area (97%) or other languages (93%) to ensure that information is accessible to all groups with protected characteristics. However, few local authorities make these formats available publicly without the need to request them. For example, 72% of local authorities only make this information available in large print on request.

The majority of local authorities in England, and all local authorities in Wales in this sample, reported that they make information on how to challenge adult social care decisions (by informal or formal complaint or appeal), and the right to challenge decisions in this way, available both to individuals and adult carers seeking care and / or support. Around nine in 10 local authorities make information about the right to challenge a social care decision and the process for doing so available in accessible formats. However, similar to information about adult social care and / or support, these formats are more likely to be available on request than publicly available.

Nearly nine in 10 (88%) local authorities allow individuals or adult carers to raise a concern about a decision outside the formal complaints system, increasing to all metropolitan local authorities in England. However, 29% collect and analyse data on these concerns.

From this sample, we know that at least 52 local authorities in England and Wales report that they have a dedicated appeals process that is separate from their complaints process (32% of local authorities), increasing to half of English metropolitan local authorities (50%, n=16). Therefore, at least 101 local authorities do not have an appeals process, and of these local authorities just 6% stated that they plan to create one by April 2024 (10 years on from the introduction of the Care Act 2014 and the Social Services and Well-being (Wales) Act 2014).

The majority of local authorities in this sample in England with an appeals process will allow multiple decision types to be appealed, such as how and where a person’s care need will be met, and a change to a care and / or support package on review. Over nine in 10 (93%) will allow an individual to appeal a decision about the amount they must contribute to their care and / or support following a financial assessment, making it the decision type that is allowed to be appealed in the most local authorities in England. In Wales, local authorities appear more likely to allow a range of decision types to be appealed, with all nine local authorities that have an appeals process stating that they will allow all nine listed decision types to be appealed, aside from one local authority that was unable to answer on one decision type. Lack of knowledge of time limits among some local authority respondents for lodging an appeal could suggest that there is not a clear process for appeals that is communicated across the local authority and to individuals seeking care and / or support. Further, 42% of local authorities reported that they do not have a time limit for lodging an appeal. Therefore, this could be an area where more uniformity would be beneficial.

When a complaint or appeal is in the process of the outcome being decided, nearly all local authorities (96%) report that they will maintain the existing care package in at least some cases. Further research into the types of case where packages are not maintained would provide more insight into the impact of challenging decisions.

On average, for each of the protected characteristics, just over half of all local authorities involved in the study in England and Wales were not collecting or analysing data on the protected characteristics of a complainant, either for formal complaints (56%) or informal complaints (67%) or appealing a decision (57%). It appears from local authority responses that this is an area that some are reviewing and improving. Data on protected characteristics of complainants was more likely to be collected and analysed for formal complaints than for informal complaints and appeals.

Nearly nine in 10 (88%) local authorities in England and Wales provide legal training for frontline decision-makers on local authority duties and service user rights under the Equality Act 2010 (88%) and the Human Rights Act 1998 (82%). Local authorities are significantly less likely to carry out training on the United Nations Convention on the Rights of Persons with Disabilities (42%). Supervision of social workers fortnightly is the most common approach in both England and Wales for ensuring that adult social care decisions are compliant with equality and human rights legislation. This is also the approach taken with frontline workers to ensure that individuals or adult carers are given written records of their decisions in a timely manner.

Very few local authorities (6%) reported that they had to partially or fully suspend their adult social care complaints system as a result of the COVID-19 pandemic. Around a quarter (24%) operated with reduced capacity or delays, but nearly three in five (58%) operated as usual. Of the 52 local authorities that reported having an appeals process, around two-thirds (63%, n=33) did not have to suspend their system and operated as usual.

# 1. Background

## 1.1 Inquiry context

Decisions about the care and / or support that individuals and unpaid carers receive from their local authority can have a huge impact on their lives, as well as those of their unpaid carer or wider family (Abdi et al., 2019). Therefore, the right to challenge decisions about the type and extent of care provided (or not provided) is fundamental if individuals feel they are not receiving the right care or support (Independent Age, 2019).

While the process for challenging decisions through local authority complaints processes followed by the relevant ombudsman may appear relatively clear, it has been reported by people accessing support that the complaints system is often inadequate, with effective challenges to decisions or outcomes seen as a major barrier to appropriate care (Hudson, 2021).

In July 2021, the Equality and Human Rights Commission (EHRC) launched an inquiry in England and Wales on how older and disabled adults and unpaid carers[[1]](#footnote-2) could challenge local authority decisions about their social care and support. Our research informs that inquiry. This report sets out our findings from an online survey of local authorities in England and Wales with responsibility for adult social care. The research aims to provide evidence about:

* how older and disabled adults and unpaid carers trying to access or receiving social care can question or challenge decisions about their care or support
* how accessible the systems and processes for challenging decisions are
* to what extent advocacy support is available for people who wish to challenge decisions
* how lessons are learned and decision-making is improved in response to challenges, and
* what accountability systems and processes are in place to oversee and monitor key decisions.

This research asked local authorities about a range of mechanisms for challenging decisions about adult social care and support, including informal and formal complaints mechanisms and appeals processes at local authority level and recourse to the Local Government and Social Care Ombudsman (LGSCO) and Public Services Ombudsman for Wales.

# 2. Methodology

### 2.1 The sample

All 174 local authorities with responsibility for adult social care were invited to complete an online survey; 152 in England and 22 in Wales. In total, 153 local authorities responded ‒ 133 in England and 20 in Wales ‒ representing a response rate of 88%.

In England, this sample covers 20 county councils, 30 London boroughs, 32 metropolitan and 51 unitary local authorities. In Wales, this sample covers 20 unitary authorities.

### 2.2 Survey design

The survey consisted of open and closed questions. It covered: the ways in which people were informed about their rights; how challenges could be raised and addressed; provision of advocacy; organisational learning from data collection on challenges; and monitoring and accountability mechanisms.

The types of social care decision in scope for this research were:

* decisions in relation to assessment of care or support needs, including which needs, if any, are accepted as requiring local authority-resourced care or support and whether and how needs are assessed (for example, by telephone, on paper or in person)
* decisions about how and where social care or support needs will be met, including the type and adequacy of care or support offered and decisions about direct payments
* decisions that result in a change in the needs that the local authority accepts require care or support, or a change of care or support package upon review, and
* decisions about financial assessments and charging for care and support.

The survey did not cover complaints about poor service delivery, challenges to decisions about healthcare, disputes about which local authority is responsible for an individual’s social care, safeguarding investigations or challenges over whether a person has the capacity to make decisions about care and / or support.

### 2.3 Fieldwork approach and dates

The survey ran between December 2021 and April 2022. A pilot of the survey was conducted prior to launch with a sample of randomly selected local authorities in both England and Wales to ensure that local authorities understood the questions and that they were designed in a way to create insightful responses.

Invitations to complete the survey were sent by post and email, and several reminders to complete the survey were distributed to non-responders between January and April 2022 by post, email and telephone.

### 2.4 Data analysis

Quantitative data has been tested for statistical significance at the 95% confidence interval. Only statistically significant comparisons have been reported unless otherwise stated. Where noted, these state a difference between the significant group and all other groups, for example unitary local authorities compared with metropolitan, county and London borough councils in England.

Although a census of local authorities was carried out, the response rate means that the data is subject to sampling error. Statistically we can be 95% confident that, for a survey finding of 50% based on all local authorities, the ‘true’ value (if all local authorities in England and Wales had answered rather than a sample of 153) lies within a ±7.92% range of this figure (that is, 42.08% to 57.92%). A survey finding at 10% / 90% level lies within a ±4.75% range.

Results based on a subset of local authorities are subject to a wider margin of error. For example, for local authorities in England we can be confident that for a survey finding of 50% the sampling error is ±8.50%. A survey finding at 10% / 90% level lies within a ±5.10% range.

Sampling error for different subsets based on survey findings at different levels can be found in Appendix 1. Sampling error should be taken into account when interpreting the findings.

When questions were open-ended, a qualitative approach to analysis was adopted, with themes pulled out where these were evident.

Due to the small number of respondents in Wales, any reporting on the individual nation of Wales will be shown in actual number of responses rather than percentages or proportions.

# 3. Findings

## 3.1 Adult social care and challenges: Information availability and accessibility

### 3.1.1 Accessible information about adult social care and support

Over nine in 10 local authorities in England and Wales reported that they make information about adult social care and / or support available in formats such as Easy Read (93%), large print (97%), British Sign Language (93%), the main languages spoken in the local authority area (97%) or other languages (93%) (see Table 1) to ensure that information is accessible to all groups with protected characteristics. However, depending on the format, less than half of local authorities report that they make information in these formats publicly available without needing to request them, meaning that in the majority of cases such formats need to be requested. For example, 72% of local authorities only make this information available in large print on request. It is publicly available in only 25% of local authorities.

Easy Read (43%) and information provided in the main languages spoken in the local area (41%) are most likely to be publicly available without having to request them, as well as website accessibility features (where information is online, such as the ability to change the text size or colour) (54%) among those local authorities that additionally specified this format.

A small number of local authorities said that information about social care and / or support in formats such as Easy Read (3%), British Sign Language (3%) and large print (1%) was not available (neither publicly nor on request).

It is worth noting that Table 1 is separated into the format types that were prompted by the question and the unprompted format types that were coded from open-text responses. After a respondent selected or inputted the format type in open text, they were then asked to determine if this format type is publicly available or only on request. Some stated that they did not know or were unable to answer whether it is publicly available or not.

Table 1: Ways in which information about adult social care and / or support is made accessible to all groups with protected characteristics (England and Wales)

|  | Publicly available without requesting (%) | Available on request (%) | This is not available (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- | --- |
| Easy Read | 43 | 50 | 3 | 3 |
| Main languages spoken in local authority area | 41 | 56 | 1 | 2 |
| Large print | 25 | 72 | 1 | 1 |
| Other alternative languages | 16 | 77 | 3 | 5 |
| British Sign Language | 9 | 84 | 3 | 4 |

| Other formats (open text) | Publicly available without requesting (%) | Available on request (%) | Not mentioned[[2]](#footnote-3) (%) | Don’t know / unable to answer[[3]](#footnote-4) (%) |
| --- | --- | --- | --- | --- |
| Website accessibility features[[4]](#footnote-5) | 54 | 23 | 20 | 3 |
| Accessible formats (e.g. Braille) | 34 | 16 | 50 | 1 |
| Through third parties (e.g. advocates, forums) | 25 | 12 | 62 | 1 |
| Online resources (e.g. videos, webpages) | 18 | 12 | 70 | 1 |
| Material resources (e.g. booklets, leaflets) | 10 | 5 | 84 | 1 |

Question 1: How does your local authority ensure that that information about adult social care and / or support is accessible to all groups with protected characteristics under the Equality Act 2010? (Multiple options including open text).

Base: All local authorities (n=153).

Percentages may not add up to 100% due to rounding.

### 3.1.2 Providing relevant information to individuals

Local authorities were asked if they have procedures in place to make different types of information, such as the right to a needs assessment, available to individuals and adult carers seeking to access adult social care and / or support. Most local authorities in both England and Wales reported that they have procedures in place to make available each type of information asked about in the survey to individuals and adult carers (see Figures 1 and 2 or Appendices 2 and 3 for tables). In both nations, the information that is least likely to be provided to both individuals and adult carers is:

* the process and timescale for determining and receiving a care or support package (England 53%, Wales 11 of 20)
* who is responsible for deciding whether an assessed need requiring ongoing council-funded support will have a ‘significant impact’ on well-being and therefore become eligible (England 56%, Wales 10 of 20), and
* the council’s likely response to meeting any assessed needs deemed ineligible but which the council has a discretion to meet (England 57%, Wales 10 of 20).

**Figure 1: Percentage of local authorities in England that have procedures in place to provide individuals and adult carers seeking care and / or support with the following types of information**

Question 2: Does your local authority have procedures in place, such as a written document distributed to relevant members of staff, to ensure that people seeking to access adult social care or support (and / or someone acting on their behalf) are provided with information about the following?

Base: All local authorities in England (n=133).

Percentages may not add up to 100% due to rounding.

**Figure 2: Number of local authorities in Wales that have procedures in place to provide individuals and adult carers seeking care and / or support with the following types of information**

Question 3: Does your local authority have procedures in place, such as a written document distributed to relevant members of staff, to ensure that people seeking to access adult social care and / or support (and / or someone acting on their behalf) are provided with the following information?

Base: All local authorities in Wales (n=20).

### 3.1.3 Accessible information about the right to challenge a decision

Around nine in 10 local authorities in England and Wales reported that they make information about the right to challenge a social care decision and the process for doing so accessible through formats such as Easy Read, large print and British Sign Language and in alternative languages (see Table 2). However, depending on the format, less than three in 10 local authorities reported that they make information in these formats publicly available without needing to request them, meaning that in the majority of cases such formats need to be requested. For example, 76% of local authorities only make this information available in large print on request; it is publicly available in only 20% of local authorities.

Easy Read is the format most likely to be publicly available without needing to request it. However, only 29% of local authorities do this. Among those that specified it as an additional option, 41% of local authorities reported that website accessibility features (where information is online, such as the ability to change the text size or colour) are publicly available.

A small number of local authorities said that information about the right to challenge a social care decision and the process for doing so in formats such as Easy Read (5%), British Sign Language (4%) and large print (2%) was not available (neither publicly nor on request).

Table 2: Ways in which information about the right to challenge an adult social care decision and the process for doing so is made accessible to all with protected characteristics (England and Wales) – Closed responses

|  | Publicly available without requesting (%) | Available on request (%) | This is not available (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- | --- |
| Easy Read | 29 | 63 | 5 | 3 |
| Large print | 20 | 76 | 2 | 2 |
| Alternative languages | 13 | 80 | 3 | 4 |
| British Sign Language | 3 | 86 | 4 | 7 |

| Other formats (open text) | Publicly available without requesting (%) | Available on request (%) | Not mentioned (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- | --- |
| Website accessibility features | 41 | 16 | 40 | 3 |
| Accessible formats | 22 | 14 | 63 | 1 |
| Through third parties | 18 | 5 | 75 | 1 |
| Online resources | 7 | 3 | 90 | 0 |
| Material resources | 5 | 1 | 94 | 0 |

Question 4: How does your local authority ensure that information about the right to challenge a social care decision and the process for doing so is accessible to all groups with protected characteristics under the Equality Act 2010? (Multiple options including open text)

Base: All local authorities (n=153).

### 3.1.4 Signposting individuals who wish to challenge a decision to advice or support

Should someone wish to challenge a decision, 90% of local authorities in England and Wales reported that they would, in at least some cases, signpost an individual or adult carer to advice or support that is independent of the local authority. Of these, 42% reported that they do this in every case, though significantly fewer unitary local authorities in England will do so (27%) compared with other local authorities[[5]](#footnote-6) in England (40%). A smaller number (18%) of local authorities in England and Wales do this in most cases, and 29% in some cases. A minority (6%) do not do this.

In cases where a local authority does not signpost individuals to independent sources of advice or support, in this sample 41% reported that doing so depended on a case-by-case basis, 20% aimed to answer all questions internally and 13% said it was because they did not identify a need for advice or support.

‘Some cases are straightforward and do not require any further resources to the complainant. Some individuals are able to articulate their rights and understand the process.’

‘For those cases where the challenge comes via any formal process, then they are advised that they can approach the Local Government and Social Care Ombudsman for a review. Some cases are advised of advocacy services or the local Healthwatch group, if they wish to have independent support. If a case is not presented through a formal process, then this signposting may not occur ‒ but they would be informed about the formal complaints process.’

‘Would be on a case-by-case basis and depend on the person's ability to represent themselves and seek their own advice / support, whether they were supported by others to do so, whether there was a need for advocacy, whether other local resolutions were being explored etc.’

## 3.2 Raising and addressing challenges to adult social care and support decisions: Informal and formal processes

### 3.2.1 Informal complaints

In 88% of local authorities in England and Wales an individual or an adult carer seeking care and / or support can seek to resolve a concern about an adult social care decision without making a formal complaint. A further 8% of local authorities will allow an individual to do so but not an adult carer. All metropolitan local authorities in England will allow both an individual and an adult carer to do so.

In around half of local authorities in England and Wales, individuals and adult carers can resolve a concern without making a formal complaint by raising it with a senior person such as a team manager or head of service (53% with regard to individuals, 47% with regard to adult carers). A smaller proportion of local authorities say that individuals and carers can do this by raising a concern with the assessor or social worker (39% with regard to individuals, 35% with regard to adult carers) or with the adult social care service, for example by phoning or emailing the complaints department (16% with regard to individuals, 23% with regard to adult carers).

‘We resolve concerns at the team manager or head of service level prior to using a formal process, to enable a resolution for the service user or their carer. This can [for] example include review by the relevant head of service or another head of service from a different area, where advice on proportionality or the outcome of decisions can be reflected on and challenged.’

‘Individuals can raise concerns with the staff member who has been involved with their support, or with their team manager (or via the Complaints Team initially, if they prefer). As long as individuals are happy to proceed on an informal basis to try and resolve matters, this approach is actively encouraged and engaged.’

‘Most complaints are resolved in this way. This can be done often with a discussion with a manager or Head of service. Often it is resolved with a discussion with the Social Worker directly.’

Improvements in documenting and reviewing informal complaints could be needed as just 29% of local authorities report that they collate and analyse data on concerns raised outside the official complaints process. This is largely similar in England (29%) and Wales (five of 20); however, London borough local authorities are significantly less likely than other local authorities in England to do so, with just 13% collecting and analysing this type of data.

### 3.2.2 Formal complaints

#### Support to make a formal complaint

In terms of having procedures in place to arrange or refer individuals to sources of support to enable them to access and navigate the formal complaints process, local authorities in England and Wales are most likely to have procedures in place to arrange, or refer individuals to, a translator (82%) or a sign language interpreter (80%) should they need one to navigate the formal complaints process (see Table 3). Metropolitan local authorities in England are significantly more likely to report that they have procedures in place to refer individuals or carers to an Independent Advocate under the Care Act, or any other type of statutory advocate, compared with other English local authorities, with 91% having such procedures compared with 75% of other English local authorities.

One in five (22%) local authorities report that they have procedures in place to refer to other types of support (not listed in this survey), including:

* information on their website or intranet
* local care centres
* Healthwatch
* friend or family member to act on their behalf, and
* a carer support service.

**Table 3: Types of support where procedures are in place to arrange or refer individuals to them to access and navigate the formal complaints process (England and Wales)**

|  | England and Wales (%) |
| --- | --- |
| A translator | 82 |
| A sign language interpreter | 80 |
| England only: An Independent Advocate under the Care Act, or any other type of statutory advocate | 86 |
| England only: A non-statutory / community advocate | 62 |
| Brokerage support | 42 |
| A care navigator | 24 |
| Wales only: An Independent Professional Advocate under the Social Services and Well-being (Wales) Act, or any other type of advocate that is legally required | 90 |
| Wales only: An advocate not required by statute | 55 |
| Other | 22 |
| Don’t know / unable to answer | 4 |

Question 9: Does your local authority have procedures in place (such as a written document distributed to relevant members of staff) to arrange / refer people to the following types of support if they might need it to access and navigate the formal complaints process (if that support is not already in place)? (Multiple options)

Base: All local authorities (n=153).

#### Determining formal complaints

There is a variation in who is responsible for determining formal complaints made to English local authorities about an adult social care decision (see Table 4). In response to who determines formal complaints, almost two in five local authorities answered that ‘It depends’ (38%), which suggests that individuals across England do not receive a uniform approach even within their local authority area. Around a third (34%) stated that a separate team from the one in which the decision was made would determine the complaint and 7% stated that the original decision-maker determines formal complaints. Examples from local authorities that stated ‘It depends’ included:

‘Generally speaking, the determination of the complaint will go to the Team Manager of the specific team to which the decision relates to as they are close to the decision being made [and] know the service as well as the staff member to which it relates. However, there are occasions where it won’t be appropriate for that TM to investigate, especially if that TM was directly involved in that decision making.’

‘Depends on the complaint, e.g., if the complaint was about the conduct of an individual then it may not be appropriate for another individual within that team to review the complaint.’

‘Depends on the circumstances of the complaint; by default, complaints are dealt with by a manager who has not been involved in the decision but from the same service.’

Compared to other English local authorities, significantly fewer metropolitan local authorities reported that another individual from the team that made the original decision will determine the formal complaint (9% vs 23% of other English local authorities).

**Table 4: Person(s) responsible for determining formal complaints made to a local authority about an adult social care decision in England**

|  | England (%) |
| --- | --- |
| The same individual that made the original decision | 7 |
| Another individual from the team that made the original  decision, but not the original decision-maker | 23 |
| Another team, separate from the one in which the original decision was made | 34 |
| It depends | 38 |
| Other | 16 |
| Don't know / Unable to answer | 1 |

Question 10: Who determines formal complaints made to your local authority about adult social care decisions? (Multiple options)

Base: All local authorities in England (n=133).

Further research into the reasons or situations in which the responsibility differs could be beneficial to ensure that all individuals seeking to challenge an adult social care decision are receiving equal treatment.

‘All formal complaints made in relation to Social Services are directed to the Corporate Manager of the relevant Service area. This usually means that the matter is escalated beyond the level at which the decision was made. However, if the Corporate Manager has been directly involved in the decision-making process prior to receiving the complaint, the Complaints Service will liaise with the Corporate Lead Officer in order to identify the most appropriate senior manager who will review the position objectively.’

‘This would include for example peer review methods of e.g., from other team manager, inviting an objective view from other staff in the service area / inviting an independent assessor for a view if a service user / carer is not happy with the outcome of a decision, then escalate throughout complaints process (separate team) and through the ombudsman or commissioning independent consultant when needed. We are open as practitioners and the [local authority] will bring in external independent opinion if requested, and we will always consider what people say within the process. We would also incorporate learning and evidence from independent reviews into service delivery plans and this can trace through in current procedures.’

When a complaint involves an individual challenging a change to their existing care and / or support package, 42% of local authorities report that they will maintain the existing package pending the outcome of the complaint ‘in every case’, 40% report they will do this ‘in most cases’ and 14% report they will do this ‘in some cases’. Over two in five (44%) local authorities in England will do this in every case while slightly fewer will in Wales (six of 20). Further, 2% of local authorities in England do not maintain the existing package, compared with none (of 20) in Wales.

Should a complaint involve an individual or adult carer disagreeing with the judgement or assessment of a social worker, assessor or panel, 93% of local authorities in England and Wales report that they will invite the individual to submit additional evidence from a medical or other professional (see Table 5). More than three-quarters of local authorities report that they will ensure a different social worker or assessor carries out a fresh assessment (77%), will consider whether a fresh assessment needs to be carried out in a different format (84%) or will undertake a paper review by a different social worker (79%). Other reported actions (37%) include: review by an independent manager or social worker; asking for opinions from general practitioners and occupational therapists; and raising with senior social care managers or colleagues in other departments of the local authority.

**Table 5: Actions taken when a complaint disagrees with the judgement or assessment of a social worker, assessor or panel (England and Wales)**

|  | Yes (%) | No (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- |
| Invite individuals to submit additional evidence from medical or other professionals | 93 | 3 | 4 |
| Ensure a different social worker or assessor carries out a fresh assessment | 77 | 14 | 8 |
| Consider whether a fresh assessment needs  to be carried out in a different format from the original | 84 | 7 | 8 |
| Paper review of the assessment or decision  by a different social worker | 79 | 14 | 7 |
| Other | 37 | 49 | 14 |

Question 14: When dealing with a complaint that disagrees with the judgement or assessment of a social worker / assessor or a panel, does your local authority do any of the following? (Multiple options)

Base: All local authorities (n=153).

## 3.3 The appeals process

In this sample, 32% of local authorities (n=43) in England reported that they have a dedicated appeals process for at least some adult social care decisions that is distinct from their complaints procedure, and slightly more do in Wales (45%, n=9). Metropolitan local authorities in England are also significantly more likely than other English local authorities (32%) to have an appeals process, with half having one in place (50%).

Therefore, from this sample, we know that at least 52 local authorities in England and Wales have an appeals process and that 101 local authorities do not. It is possible that a number of local authorities not included in this sample may have an appeals process too.

When the local authorities that have a dedicated appeals process were asked to describe the differences between that and their formal complaints procedure, differences included: that an appeal is usually challenging the process or outcome specifically; that the appeals process is more informal; that the appeals process is specifically around financial decisions; or that the appeals process only applies to decisions made by certain panels (such as extra care[[6]](#footnote-7)). What is clear is that the distinctions are not uniform across the local authorities in England and Wales, and that appeals processes are used for varying reasons.

‘The appeals process only applies to decisions made by the following Adult Care Panels ‒ Extra Care, Supported Housing and Debt Management Panel.’

‘The appeals process relates only to a person’s financial contributions to their care and / or support costs following a financial assessment. It is intended [to] act as a mechanism for seeking further information, providing additional advice and finding resolutions for people without the need to progress to a formal complaint.’

‘Less about formal procedure / process more about information.’

‘An appeal differs from a complaint as it is the outcome or process specifically that is usually being challenged. An appeal will look at due process and the decision reached and may result in a different outcome on reflection of the case in question.’

Of the 101 local authorities in England and Wales in this sample that do not have an appeals process, 6% reported that they plan to introduce one by April 2024 (10 years on from the introduction of the Care Act 2014 and the Social Services and Well-being (Wales) Act 2014), though 39% were undecided and 28% did not know or were unable to say.

The figures reported in this section should be interpreted with caution due to the low base size.

#### 3.3.1 Decisions that can be appealed

The majority of local authorities in England with an appeals process in this sample will allow all of the decision types listed in Table 6 to be appealed. The decision type that can most commonly be appealed is the amount someone must contribute to their care and / or support following a financial assessment (93% of local authorities allow this). However, around a fifth of local authorities do not allow individuals to appeal the remaining eight types of decision asked about. For example, 19% of local authorities do not allow individuals to appeal decisions about how and where their care and / or support needs will be met. Therefore, individuals across England do not have equal access to an appeals system based on decision type.

Looking specifically at Welsh local authorities, all of the listed decision types in Table 7 can be appealed in all local authorities in this sample that have an appeals process, with the exception of one decision type in one local authority. One local authority did not know or could not answer if an individual can appeal a decision about how much resource the local authority will make available to meet the care and / or support needs it has decided to meet.

Where local authorities specified that they also allow other types of decision to be appealed, most examples were around appealing the decision on the person(s) assigned to do the assessment or simply stated that the list of decision types that are allowed to be appealed is not exhaustive.

**Table 6: Types of adult social care decision that can be appealed (England)**

| England | Yes (%) | No (%) | Don’t know /  unable to  answer (%) |
| --- | --- | --- | --- |
| Whether there is a particular need and which care  and / or support needs are eligible for local authority- resourced social care and / or support | 77 | 19 | 5 |
| How much resource the local authority will make  available to meet the care and / or support needs  it has decided to meet | 77 | 19 | 5 |
| How care and / or support needs will be met | 77 | 19 | 5 |
| Where care and / or support needs will be met | 79 | 19 | 2 |
| To change a care and / or support package on review | 79 | 19 | 2 |
| Whether or not an individual can receive a direct payment | 77 | 21 | 2 |
| The amount of a personal budget | 77 | 19 | 5 |
| The amount someone must contribute to their care and / or support costs following a financial  assessment | 93 | 5 | 2 |
| Whether a statutory advocate should be provided | 72 | 23 | 5 |
| Other | 28 | 58 | 14 |

Question 19: Which types of adult social care decisions can be appealed?

Base: All local authorities with an appeals process (n=43).

**Table 7: Types of adult social care decision that can be appealed (Wales)**

| Wales | Yes | No | Don’t know /  unable to answer |
| --- | --- | --- | --- |
| Whether there is a particular need and which care and / or support needs are eligible for local authority-resourced social care and / or support | 9 | 0 | 0 |
| How much resource the local authority will make available to meet the care and / or support needs it has decided to meet | 8 | 0 | 1 |
| How care and / or support needs will be met | 9 | 0 | 0 |
| Where care and / or support needs will be met | 9 | 0 | 0 |
| To change a care and / or support package on review | 9 | 0 | 0 |
| Whether or not an individual can receive a direct payment | 9 | 0 | 0 |
| The hourly rate and the total amount of a direct payment | 9 | 0 | 0 |
| The amount someone must contribute to their care and / or support costs following a financial assessment | 9 | 0 | 0 |
| Whether an Independent Professional Advocate should be provided | 9 | 0 | 0 |
| Other | 2 | 6 | 1 |

Question 19: Which types of adult social care decisions can be appealed?

Base: All local authorities with an appeals process (n=9).

In situations where an appeal disagrees with the judgement or assessment of a social worker, assessor or panel (see Table 8), over four in five local authorities in England and Wales in this sample report that they will invite individuals to submit additional evidence from medical or other professionals (81%) and will consider whether a fresh assessment in a different format from the original needs to be carried out (85%). Similar to the approach to determining formal complaints, local authorities report that they take a number of actions, with all actions reported to be carried out by at least seven in 10 local authorities. A third of local authorities stated that they take ‘other’ actions, with most additions being about having a discussion with a director or head of service. For example:

‘Case discussions with the assistant director take place to review and reach a decision.’

‘The Head of Service would consider the detail of each case on its individual merits and circumstance.’

‘[The social worker] can seek support to review work / decision from a colleague or their manager – who can ask for support from a worker or manager in a different team.’

**Table 8: Actions taken when an appeal disagrees with the judgement or assessment of a social worker, assessor or panel (England and Wales)**

|  | Yes (%) | No (%) | Don’t know /  unable to answer (%) |
| --- | --- | --- | --- |
| Invite individuals to submit additional evidence from medical or other professionals | 81 | 6 | 13 |
| Ensure a different social worker or assessor carries out a fresh assessment | 73 | 17 | 10 |
| Consider whether a fresh assessment needs to be carried out in a different format from the original | 85 | 8 | 8 |
| Paper review of the assessment or decision by a different social worker | 69 | 21 | 10 |
| Other | 33 | 54 | 13 |

Question 20: When dealing with an appeal that disagrees with the judgement or assessment of a social worker / assessor or a panel, does your local authority do any of the following? (Multiple options)

Base: All local authorities with an appeals process (n=52).

#### 3.3.2 Who reviews appeals

Similar to formal complaints, in this sample the responsibility for reviewing appeals varies between local authorities, with an almost even distribution: another individual from the team that made the original decision, but not the original decision-maker (27%); another team, separate from the team that made the original decision (27%); the responsibility differing depending on certain factors (29%); and other persons not included in the list (23%) (see Table 9). Examples of other persons included the head or director of service, an independent person from outside the local authority or a senior manager. In 6% of local authorities, the same individual that made the original decision reviews appeals.

Where the responsibility differed depending on certain factors, examples of such factors included the complexity of the appeal, the nature of the appeal (with examples of responsible stakeholders in these situations being the peer forum, team manager, service manager, head of service or strategic director), or incorporating the opinion of the service user to decide who should review the appeal.

**Table 9: Person(s) responsible for reviewing appeals (England and Wales)**

|  | England and  Wales (%) |
| --- | --- |
| The same individual that made the original decision | 6 |
| Another individual from the team that made the original  decision, but not the original decision-maker | 27 |
| Another team, separate from the one in which the original decision was made | 27 |
| It depends | 29 |
| Other | 23 |
| Don't know / Unable to answer | 4 |

Question 18: Who reviews these appeals? (Multiple options)

Base: All local authorities with an appeals process (n=52).

#### 3.3.3 Time limits for lodging an appeal

Over four in 10 local authorities (42%) in England and Wales in this sample that have an appeals process reported that they do not have a time limit by which an appeal must be lodged. One in five (22%) have a time limit of less than 40 days, a further 16% have a time limit over nine months and a further 21% did not know or were unable to answer (see Table 10). This means that individuals across England and Wales do not have equal access to an appeals system based on time limits.

**Table 10: Time limits for lodging an appeal (England and Wales)**

|  | England and  Wales (%) |
| --- | --- |
| Less than 10 days | 6 |
| Less than 20 days | 8 |
| Less than 30 days | 4 |
| Less than 40 days | 4 |
| Less than 50 days | 0 |
| Less than 6 months | 0 |
| 6 to 9 months | 0 |
| 9 to 12 months | 12 |
| More than 12 months | 4 |
| There is no time limit | 42 |
| Don't know / unable to answer | 21 |

Question 17: What are your local authority's time limits for lodging an appeal?

Base: All local authorities with an appeals process (n=52).

#### 3.3.4 Support to lodge an appeal

Of the local authorities in England and Wales in this sample that have an appeals process, seven in 10 reported that they have procedures in place to provide a translator (72%) or a sign language interpreter (71%) to enable those that need one to access the appeals process (see Table 11). Six in 10 (62%) local authorities in England have procedures in place to provide an Independent Advocate under The Care Act, and eight out of nine Welsh local authorities with an appeals process have procedures in place to provide an Independent Professional Advocate under the Social Services and Well-being (Wales) Act. Those that responded ‘other’ (21%) mostly stated that they do not have a written procedure included in their guidance on accessing the appeals process and instead the relevant support is provided on a needs basis. For example:

‘There is access to BSL [British Sign Language] and translator support [a commissioned service] but not a written procedure.’

‘While it is not included in the procedure the Council would provide translators and advocates as appropriate.’

‘People can access provision – i.e. translator, but we do not have a written procedure.’

Further, some stated that the individual or adult carer would be given the opportunity to nominate a person or service themselves to be able to access the appeals process:

‘It could be a person or service nominated by the customer themselves.’

**Table 11: Types of support where procedures are in place to ensure individuals or their carers can access the appeals process – England and Wales combined**

|  | England and Wales (%) |
| --- | --- |
| A translator | 73 |
| A sign language interpreter | 71 |
| Brokerage support | 50 |
| A care navigator | 23 |
| England only: An Independent Advocate under the Care Act, or any other type of statutory advocate | 74 |
| England only: A non-statutory / community advocate | 51 |
| Wales only: An Independent Professional Advocate under the Social Services and Well-being (Wales) Act, or any other type of advocate that is legally required | 89 |
| Wales only: An advocate not required by statute | 33 |
| Other | 21 |
| Don’t know / unable to answer | 10 |

Question 21: Which of the following, if any, are included in your local authority's procedure for arranging support to enable those who need it to access the appeals process? (Multiple options)

Base: All local authorities with an appeals process (n=52).

#### 3.3.5 Maintaining care and / or support while an appeal is pending

When an individual appeals a decision in England, 47% of local authorities in this sample report that they will maintain the existing care and / or support package pending the outcome of an appeal in every case, 42% in most cases and 7% in some cases, while 2% do not maintain it.

In Wales, of those in this sample that have an appeals process, five of nine local authorities maintain the existing package in every case and four of nine in most cases. Some further insight into the types of case where packages are not maintained could be beneficial.

## 3.4 Advocacy services to support participation in decisions, complaints and appeals

#### 3.4.1 Monitoring the sufficiency and quality of advocacy support for participating in decisions

Local authorities were asked how they monitor whether there is sufficient advocacy support available both to meet statutory requirements and go beyond these to support people to participate in decisions about their care and support. As can be seen in Table 12, almost all (98%) local authorities gave an example of how they monitor advocacy services to meet statutory requirements and 74% gave an example of how they monitor this support for advocacy that is beyond statutory requirements.

**Table 12: Monitoring sufficiency of advocacy support (England and Wales)**

|  | Provided example (%) | Do not monitor this (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- |
| Advocacy to meet statutory requirements | 97 | 0 | 3 |
| Advocacy beyond statutory requirement | 74 | 16 | 10 |

Question 24: How, if at all, does your local authority monitor whether there is sufficient advocacy support available for this purpose in the local area? A. for advocacy that is provided to meet statutory requirements ([IF LA=ENGLAND: independent advocacy as per Section 67 of the Care Act (2014)] [IF LA=WALES: independent professional advocacy as per Part 10 Code of Practice issued under the Social Services and Well-being (Wales) Act 2014]). B. for advocacy that is provided beyond statutory requirements. (Open-ended)

Base: All local authorities (n=153).

To monitor whether there is sufficient advocacy support to meet statutory requirements, local authority processes include: creating quarterly key performance indicators against targets; monitoring advocacy quarterly, for example wait times in advocacy services; contract review meetings; and regular meetings with providers.

‘We have a contract which is monitored regularly and we also spot purchase advocacy when needed. We have recently increased our advocacy contract to meet increased demand and our provider is excellent going above and beyond statutory requirements. They are actively involved in all our service developments and transformation work.’

‘Quarterly monitoring meetings are held with all advocacy providers which review referral activity, delivery hours and demand management. Awareness raising and feedback meetings are held with referring teams to ensure understanding of eligibility and changes impacting on demand. Overall adult social care activity data has been analysed against advocacy activity to understand the pattern of expected demand for advocacy.’

When asked how these processes differ for advocacy support outside statutory requirements, most local authorities stated that the process is aligned with that of statutory requirements, though some also added that they will signpost to other agencies or independent organisations, or use grants for projects that provide further support.

‘Independent organisations which support our local user voices representing different user groups.’

‘Three grant funded projects have been approved: a) to support unpaid carers in a hospital discharge project on mental health wards; b) to support cared for with advocacy prior to discharge and after discharge; c) we are now funding an Equality & Inclusion Officer to enhance engagement with individuals with protected characteristics and those from black and minority ethnic groups. This enables the involvement of an advocate during care planning for the ‘cared for’ and for the carer.’

‘We have a contract with a local provider to ensure a good advocacy service. This is monitored through our outcomes framework.’

‘We use our Voluntary & Community Sector grant to commission a [voluntary sector organisation] that provides general advocacy, amongst other things. The [organisation] reports quarterly and we meet with them regularly to monitor activity, issues etc. We are currently reviewing what we should [be] commissioning [in] the next grant round in 2022/23.’

It is important to highlight that although three-quarters of local authorities do monitor whether there is sufficient advocacy support beyond statutory requirements, this leaves 16% that do not monitor this, and a further 10% that did not know or were unable to answer. Similarly, 18% stated that they do not monitor the quality of advocacy beyond statutory requirements and 13% did not know or were unable to answer, as can be seen in Table 13. Further research could be beneficial into whether this is because those local authorities do not provide advocacy that is beyond statutory requirements or whether they do but without monitoring it, and why this may be.

The most commonly mentioned approach for monitoring the quality of advocacy for statutory requirements was through quarterly meetings that include the monitoring of equality information and information on protected characteristics. Some stated that the process is exactly the same as for monitoring the sufficiency of advocacy support.

‘Equalities monitoring is submitted with the annual report and discussed at the annual contract review meetings with the advocacy provider.’

‘Quarterly monitoring reports on Equality and Diversity implications for service access, training and accreditation compliance for staff, and compliments and complaints.’

‘Quarterly monitoring meeting by the commissioning team take place to monitor the quality of the advocacy support and the outcomes for the people. The demography of the population accessing the support is also monitored for protected characteristics.’

‘Quarterly monitoring reports are prepared by the provider, and these include reporting on protected characteristics groups under the Equality Act 2010. These are reviewed quarterly by the contract manager and would be discussed, if necessary, at quarterly contract meetings.’

As was seen with monitoring of sufficiency of advocacy support, the majority of local authorities stated that they have the same processes for monitoring the quality of advocacy for statutory requirements as beyond statutory requirements.

**Table 13: Monitoring quality of advocacy support (England and Wales)**

|  | Provided example (%) | Do not monitor this (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- |
| Advocacy to meet statutory requirements | 93 | 1 | 5 |
| Advocacy beyond statutory requirement | 69 | 18 | 13 |

Question 25: How, if at all, does your local authority monitor the quality of advocacy support available for this purpose in the local area, including whether it is meeting the needs of different protected characteristic groups under the Equality Act 2010? A. for advocacy that is provided to meet statutory requirements ([IF LA=ENGLAND: independent advocacy as per Section 67 of the Care Act (2014)] [IF LA=WALES: independent professional advocacy as per Part 10 Code of Practice issued under the Social Services and Well-being (Wales) Act 2014]). B. for advocacy that is provided beyond statutory requirements. (Open-ended)

Base: All local authorities (n=153).

#### 3.4.2 Monitoring whether referrals for participation in decisions are at the level expected

To ensure that the level of referrals made to advocacy support to meet statutory requirements is in line with expectations for the local authority (based on the local demographic), four out of five reported that they will audit the number of referrals regularly (84%) and receive quarterly reports from advocates (80%). In fewer than one in 10 (8%) local authorities, social care user and unpaid carer records are audited formally by an external organisation to assess if an advocate should have been appointed, though 41% will audit the records within the local authority (see Table 14).

Over one in 10 (14%) local authorities added further ways in which they ensure that the level of referrals made to advocacy support is in line with expectations, including comparing data with that of other regions, building case studies and monitoring being undertaken by organisations that commission the support.

‘[Due to the fact that] our independent advocacy provider works across other regional local authorities we have some regional comparator data.’

‘Advocacy support is monitored by the organisations that commission the hub (e.g., NHS). This includes considering demand, lack of demand, and trends year on year … the Commissioning Service meets with the front line managers regularly to review the performance of the current contracts and whether these are sufficient to meet the needs of their teams.’

**Table 14: Actions taken to monitor the number of referrals made to advocacy support to meet statutory requirements in line with the local demographic (England and Wales)**

|  | Yes (%) | No (%) | Don’t know /  unable to answer (%) |
| --- | --- | --- | --- |
| The numbers of referrals to advocacy support are  audited regularly by our local authority | 84 | 8 | 8 |
| The numbers of referrals to advocacy support are  formally audited by an external organisation | 13 | 72 | 16 |
| Regular reviews are held to understand if referrals to advocacy provision reflects the numbers of  client / user and unpaid carers supported | 63 | 23 | 14 |
| Regular (quarterly) reports are received from advocates | 80 | 7 | 14 |
| Advocacy referrals are audited alongside client /  user and unpaid carer records to assess if advocacy  referrals are appropriate | 37 | 41 | 22 |
| Client / user and unpaid carer records are audited by our local authority to assess if an advocate should have been appointed | 41 | 35 | 24 |
| Client / user and unpaid carer records are audited  formally by an external organisation to assess if  an advocate should have been appointed | 8 | 75 | 17 |
| Anything else | 12 | 69 | 20 |

Question 26: How, if at all, does your local authority monitor whether the number of referrals made to advocacy support for this purpose are at the level expected given the local demographic? This refers only to advocacy referrals provided to meet statutory requirements. (Multiple options)

Base: All local authorities (n=153).

#### 3.4.3 Advocacy for challenging decisions

Two-thirds (65%) of local authorities reported that they commission an advocacy service that can be accessed by both any individual and any adult carer who wishes to challenge an adult social care decision, regardless of whether they meet the 'substantial difficulty' threshold for an advocacy referral under the Care Act 2014 or the barriers to participation set out in Part 10 of the Code of Practice to the Social Services and Well-being (Wales) Act 2014. A further 20% do not do this for individuals and carers, 8% do it for individuals only and 1% do it for carers only. A further 6% did not know or were unable to answer.

To ensure that these advocacy services feel free to support or make challenges to adult social care decisions made by the local authority, some will discuss support arrangements or raise concerns as part of regular contract monitoring or provide a clear specification to the advocate. The most prevalent response given was that this is part of the advocacy provider’s contract as an independent professional, so it is automatically assumed by both parties that advocates will feel free to challenge decisions. To ensure that this contractual aspect works in reality, some local authorities will ensure that the provider’s advocates are trained to understand the legislation that empowers them to support and make challenges.

‘This is covered as part of our service specifications for the advocacy service.’

‘Built into [the] contract ‒ the specification allows flexibility for providers to work in a person-centred way.’

‘Informally – [advocates' support or challenges] can be raised via contract monitoring and would be picked up with practice.”

“The service is commissioned to act independently of the local authority and to support individuals to make challenges.’

‘We ensure that our advocacy service is independent and aware of its statutory responsibilities under legislation, including advocates being able and free to make challenges to adult social care decisions made by the local authority. We ensure that all of the provider’s advocates are trained and understand legislation that empowers advocates to support or make challenges to adult social care decisions made by the local authority.’

‘We commissioned a service that is structurally independent from statutory organisations and maintain good dialogue through regular contract performance meetings about service quality and any issues that arise. The advocacy service was recently assessed for renewal of the Advocacy Quality Performance Mark by the NDTi [National Development Team for Inclusion]. As part of the process, the local authority’s Contract and Quality Assurance Officer was interviewed as a stakeholder about how the service operates and how it ensures independence from the local authority, whilst also working in partnership to ensure that clients’ rights are upheld.’

## 3.5 Analysing and learning from challenges

#### 3.5.1 Learning from challenges

Local authorities in England and Wales reported that they have made a variety of changes to their adult social care decision-making processes, procedures or policies as a result of reviewing challenges to adult social care decisions in the past three years. These include: creating a customer engagement team; introducing a policy for appeals where they did not already have one; mandating training for all adult social care frontline staff; introducing a practice governance board; and developing a shared learning panel. Some noted that they are currently in the process of making changes while 13% stated that they did not know if they had made any changes or were unable to answer.

‘We have reviewed our complaints procedure and have adopted a two stage complaints process.’

‘The development of a shared learning panel, where complaints and feedback are discussed in terms of any learning for the Local Authority, reflect upon how we are undertaking our practice and by responding to people. Quarterly and annual reporting.’

‘Introduction of a policy for appeals, although we do not have a record of formal appeals occurring as most challenged [sic] or disagreements have previously been resolved informally with the customer happy with the outcome.’

Should a challenge to an adult social care decision be withdrawn, or resolved outside the formal complaints process, 65% of local authorities reported that they will review records to identify improvements needed. Examples of how these records are reviewed included: senior management reviewing the challenge and monitoring the case; through discussing in monthly or quarterly team meetings; through reviewing lessons learnt across all complaints; and through reporting to managers who will review and identify any needed changes.

‘A monthly update is provided to all managers and Directors across Adult Services which details the numbers of informal and formal complaints, MP and councillor enquiries, LGSCO complaints and compliments. Brief outlines are given of all the informal / formal complaints and Members Enquiries with the outcomes and any learning identified. These updates are shared by managers with their teams. Included within this information are complaints that have later been withdrawn and any early resolution concerns. Training on all stages of the complaints process is given to all staff and emphasis is placed on the importance of dealing with complaints as soon as they arise rather than expecting people to go through the formal complaints process. We are constantly using challenges and complaints to inform improvement in practice.’

‘If appropriate we will share the lessons learned and / or make changes.’

‘Senior managers would review such challenges and decisions and intervene as appropriate. Any learning is fed into future policy / practice reviews as appropriate.’

‘Share learning informally across teams and between managers.’

‘We have monthly Quality meetings to discuss all complaints and compliments and where necessary, we make changes to policy, procedure or practice.’

Of the local authorities that did not give an example, the majority do not review these records (25%) and the remaining 10% did not know or were unable to answer.

#### 3.5.2 Collecting and analysing data about protected characteristics

The majority of local authorities in England and Wales reported that they do not collect or analyse data on the protected characteristics of complainants that make challenges outside the formal complaints system about an adult social care decision (see Table 15). Local authorities that do collect data are more likely to only collect it rather than to both collect and analyse it. Depending on the protected characteristic, between 62% and 71% of local authorities do not collect this data at all.

Table 15: Percentage of local authorities that collect and analyse data on the protected characteristics of individuals that make an informal complaint (England and Wales)

|  | Collect data only (%) | Collect and analyse (%) | Neither (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- | --- |
| Age | 11 | 6 | 62 | 19 |
| Sex | 12 | 8 | 64 | 15 |
| Race | 11 | 8 | 65 | 14 |
| Religion or belief | 10 | 7 | 65 | 17 |
| Disability | 12 | 8 | 64 | 14 |
| Type of impairment | 9 | 7 | 67 | 14 |
| Sexual orientation | 10 | 5 | 67 | 18 |
| Gender reassignment | 7 | 3 | 71 | 20 |
| Marriage and civil partnership | 7 | 5 | 69 | 19 |
| Pregnancy and maternity | 5 | 4 | 71 | 20 |

Question 31: Does your local authority collect and analyse any of the following information about adult complainants who make challenges outside of the formal complaints system about an adult social care decision?

Base: All local authorities (n=153).

Compared with complaints made outside the formal complaints process, local authorities are more likely to collect and analyse data on the protected characteristics of individuals who make formal complaints, though the number of local authorities that do this remains low.

Depending on the protected characteristic, between 7% and 26% of local authorities report that they collect and analyse this data (see Table 16). Local authorities are most likely to collect and analyse data about race (24%), sex (26%) and age (26%), and are least likely to collect and analyse data on pregnancy and maternity (7%) and gender reassignment (8%). Depending on the protected characteristic, between 45% and 69% of local authorities do not collect this data at all (see Table 16).

Table 16: Percentage of local authorities that collect and analyse data on the protected characteristics of individuals that make a formal complaint (England and Wales)

|  | Collect data only (%) | Collect and analyse (%) | Neither (%) | Don’t know / unable to answer (%) |
| --- | --- | --- | --- | --- |
| Age | 15 | 26 | 45 | 9 |
| Sex | 14 | 26 | 45 | 10 |
| Race | 14 | 24 | 47 | 11 |
| Religion or belief | 15 | 17 | 55 | 10 |
| Disability | 16 | 23 | 48 | 10 |
| Type of impairment | 12 | 14 | 59 | 11 |
| Sexual orientation | 14 | 12 | 59 | 14 |
| Gender reassignment | 11 | 8 | 65 | 14 |
| Marriage and civil partnership | 12 | 9 | 65 | 13 |
| Pregnancy and maternity | 7 | 7 | 69 | 18 |

Question 32: Does your local authority collect and analyse any of the following information about adult complainants who make formal complaints about an adult social care decision?

Base: All local authorities (n=153).

Where local authorities in this sample reported that they have a dedicated appeals process, depending on the protected characteristic, more than half (n=27, 32 of 52) report that they do not collect data on the protected characteristics of complainants who appeal an adult social care decision. Between five and nine local authorities collect the data and between four and eight both collect and analyse the data. Due to this question being asked only of those that have an appeals process, base sizes were low and therefore actual numbers were used as they provide a more accurate representation. When local authorities collect and analyse data on the protected characteristics of complainants or appellants to improve practice, the ways in which they do so are not uniform, with processes including: creating action plans; quarterly reporting; performance monitoring; audits or meetings; and including any trends or themes found in the data in their annual reports. Many local authorities also added that this is something that they are in the process of reviewing or improving.

‘Compare the demographic profile of complainants to the demographic of the city to identify any areas in which people may be experiencing barriers to making complaints, or underrepresented characteristics. Work with council’s equalities and community engagement team to engage with particular communities / groups.’

‘The Council operates regular workshops for social care practitioners and for Team Managers and Senior Social Workers where case examples are used to enhance learning, where mistakes have been made due to information and support being provided in a format which is not accessible to those with protected characteristics. Workshops are also carried out with Finance Teams undertaking Financial Assessments where learning can be applied.’

‘We need to improve our practice in this area.’

‘Current audit in progress to help us to improve this. On an individual basis we use information on [protected characteristics] but recognise we could improve analysis on a broader level.’

‘We regularly report upon the themes of complaints of which this is part and use the learning to feedback to improve practice outcomes.’

#### 3.5.3 Monitoring whether the outcomes of challenges are implemented

Local authorities were asked if they have any processes in place to monitor whether the outcomes of a complaint (formal or informal) or appeal are implemented. The most commonly occurring response was that they would create action plans to implement the outcomes, with two in 10 (20%) local authorities doing so. Just under two in 10 (16%) also mentioned that this would include reviewing lessons learnt.

Other examples of processes included monthly or quarterly reporting, reflective learning sessions and through their independent complaints team. Some also added that this is something that they are working to improve currently.

‘Lessons learnt through the internal complaints procedure are collated into quarterly analyses for senior managers to review and will be fed back into management and team.’

‘Action plans are produced and progress monitored by the Council's complaints department to ensure completion / implementation.’

‘We have an independent complaints team who keep a view of any actions and non-compliance is reported to Directors. Any decisions / actions are reviewed after 3 months by the complaints team.’

‘Our processes are currently undergoing review. There is a QA [quality assurance] policy for adult social care that covers the monitoring and compliance with actions and outcomes arising.’

Just under one in 10 (8%) did not give an example of a process that they use within their local authority, with around 4% stating that they do not have a process and 4% stating that they do not know or are unable to answer.

When asked specifically about complaints that have been considered by the relevant ombudsman, around two in 10 (18%) again stated that action plans are used for monitoring whether outcomes have been implemented, making it the process that was mentioned by the most local authorities. Further, logging lessons learned again appears to be a key aspect of monitoring the implementation of outcomes, with 10 local authorities mentioning that this is part of their processes.

‘Action Plans resulting from complaints and lessons learnt are overseen by the Complaints Department and they monitor compliance against those.’

‘We log all lessons learned on our complaints system and ensure that any agreed actions with the Ombudsman are completed before closure.’

‘We have to report back to the Ombudsman on the completion of remedies carried out.’

‘We log all lessons learned on our complaints system and ensure that any agreed actions with the complainant are completed before closure. This also applies to systemic changes.’

When asked if they have any processes in place to make any required systemic changes that occur from complaints that are being considered by the relevant ombudsman, the majority of local authorities stated that the processes are the same as for monitoring the implementation of outcomes. Additions outside of this included: monitoring by the senior leadership team; actions taken by the complaints team; and council-wide awareness-raising pieces of work.

‘Systemic changes, should they be required, will be agreed and monitored through the senior leadership team and scrutiny committees.’

‘On occasions, system council-wide actions are taken, most recently this was an awareness piece and update of the reasonable adjustment expectations in the wider council equalities position statement.’

‘The Council by in large [sic] accepts the findings of the Ombudsman and any systemic changes may be implemented on the back of an Ombudsman’s finding of fault. Again, the Complaints Service takes the lead on working with colleagues in ASC [adult social care] to ensure any systemic changes are implemented. This is fed back to the Ombudsman when they request evidence. ASC will then reflect any necessary recommendations in practice and policies.’

Just 2% of local authorities did not give an example of their process for monitoring whether ombudsman-complaint outcomes are implemented, with less than 1% stating that they do not have a process and 1% stating that they do not know or are unable to answer. This was slightly higher for making required systemic changes, with 5% not giving an example of their process or stating that it is the same as for monitoring whether ombudsman-complaint outcomes are implemented, of which 2% stated that they do not have a process and 3% stated that they do not know or are unable to answer.

## 3.6 Impact of COVID-19 on complaints and appeals processes

Just 6% of local authorities in England and Wales reported that they fully or partially suspended their complaint system as a result of COVID-19 (see Table 17). Over half (58%) were able to continue their complaints system as usual for the whole of the duration of the pandemic (up to the time of this survey), whereas a further quarter (24%) operated with reduced capacity or significant delays.

**Table 17: Impact of COVID-19 on local authorities’ ability to handle complaints about adult social care decisions – England and Wales combined**

|  | England and Wales (%) |
| --- | --- |
| The system has not been suspended at any point during the pandemic and operated as usual | 58 |
| The system has not been suspended at any point during the pandemic but operated at reduced capacity or with significant delays | 24 |
| The system has not been suspended at any point, but different processes were put in place | 10 |
| The system has been suspended or not operational at some point during the pandemic | 4 |
| The system has been partially suspended or partially not operational at some point during the pandemic | 2 |
| The system is currently suspended or not operational | 0 |
| Other | 1 |
| Don’t know / unable to answer | 1 |

Question 37: How has the pandemic and the associated restrictions affected your local authority's ability to handle complaints to social care decisions (from March 2020 onwards)? (Multiple options)

Base: All local authorities (n=153).

Of those that have an appeals process, 63% (n=33) did not suspend their appeals system during the pandemic and it operated as usual. This figure should be used with caution due to low base sizes.

## 3.7 Monitoring and accountability mechanisms

#### 3.7.1 Legal training for frontline decision-makers

Over four in five local authorities in England and Wales reported that they provide legal training for frontline decision-makers on local authority duties and service user rights under the Equality Act 2010 (88%) and the Human Rights Act 1998 (82%) (see Table 18). In England, 92% provide this training on the Care Act 2014 and associated regulations, and in Wales 16 of 20 (80%) provide this training on the Social Services and Well-being (Wales) Act 2014 and associated regulations. Local authorities were significantly less likely to carry out training on the United Nations Convention on the Rights of Persons with Disabilities, with just 42% doing so.

**Table 18: Percentage of local authorities that provide legal training to frontline decision-makers on local authorities’ duties and service users’ rights under the following acts and conventions (England and Wales)**

|  | Yes (%) | No (%) | Don’t know /  unable to  answer (%) |
| --- | --- | --- | --- |
| The Care Act 2014 and associated regulations  (England only) | 92 | 5 | 4 |
| The Equality Act 2010 | 88 | 5 | 7 |
| The Human Rights Act 1998 | 82 | 10 | 8 |
| The Social Services and Well-being (Wales) Act 2014 and associated regulations (Wales only) | 80 | 15 | 5 |
| United Nations Convention on the Rights of Persons  with Disabilities | 42 | 33 | 25 |

Question 38: Does your local authority provide legal training to frontline decision-makers on local authorities’ duties and service user’s rights under any of the following?

Base: All local authorities (n=153).

#### 3.7.2 Monitoring the quality and consistency of initial decisions and their compliance with equality and human rights legislation

The most commonly reported process used by local authorities in England and Wales to monitor the quality and consistency of adult social care decisions, and to monitor the compliance of decisions with equality and human rights legislation, is to supervise social workers on a fortnightly basis (94% and 80% respectively) (see Table 19). Other common practices for monitoring are critical reflection in peer groups (82% and 69%) and quarterly audits of decisions made and outcomes (78% and 59%). Only 1% of local authorities did not have any processes in place to monitor the quality and consistency of adult social care decisions, and 6% did not have any processes in place to monitor the compliance of decisions with equality and human rights legislation.

Of the local authorities that do have processes in place to monitor the quality and consistency of decisions, they are more likely to have a range of processes rather than just one. Over seven in 10 (73%) use between four and six of the processes mentioned in Table 19 and just seven local authorities use just one process. For the monitoring of the compliance of decisions with equality and human rights legislation there is a higher proportion of local authorities that use none, one or two of the processes (33% compared with 16% for quality and consistency monitoring); however, just over half (53%) of local authorities are still using between four and six. From this it can be said that local authorities implement a variety of processes when monitoring, but there is a lack of consistency.

Predominantly urban local authorities in England are significantly less likely to monitor compliance through reporting to relevant in-house quality assurance meetings (54%) compared with other English local authorities (60%). London borough local authorities are significantly less likely to monitor quality and consistency through exit interviews (33%) compared with other English local authorities (48%). Some further research into the reasons behind these discrepancies may be beneficial.

Five local authorities also reported that they use panels, such as best practice panels or quality assurance panels, to monitor both the quality and consistency of decisions and whether decisions are compliant with equality and human rights legislation, with these panels sometimes occurring weekly.

**Table 19: Percentage of local authorities that have processes in place to monitor the quality and consistency of adult social care decisions and their compliance with equality and human rights legislation (England and Wales)**

|  | Quality and consistency (%) | Compliance (%) |
| --- | --- | --- |
| Through regular (e.g. twice monthly) supervision with social workers | 94 | 80 |
| Critical reflection in peer group settings | 82 | 69 |
| Through regular audit (e.g. quarterly) of decisions made and outcomes | 78 | 59 |
| Through reporting to relevant in-house quality assurance meetings | 72 | 59 |
| Exit interviews | 50 | 35 |
| External peer review by another local authority | 40 | 29 |
| We do not have anything in place | 1 | 6 |
| Other | 20 | 12 |
| Don't know / Unable to answer | 1 | 9 |

Question 39: Does your local authority have any of the following in place to monitor the quality and consistency of initial decisions (i.e. the original decision, not the decision resulting from an appeal or complaint) about adult social care and / or support? (Multiple options)

Question 40: Does your local authority have any of the following in place to monitor the compliance of adult social care decisions with equality and human rights legislation? (Multiple options)

Base: All local authorities (n=153).

#### 3.7.3 Monitoring whether written records of decisions are provided

To monitor whether individuals and adult carers are consistently given a written record of decisions made about their adult social care and / or support in a timely manner, 78% of local authorities in England and Wales reported that they will supervise the relevant frontline staff, 64% reported that they will carry out an audit, while 48% will survey individuals and carers (see Table 20).

Nearly two in 10 (18%) reported other processes such as quality assurance meetings, care workers using a checklist that requires manager sign-off to ensure all relevant actions are taken and reminders in newsletters.

‘Quality Assurance Framework includes a question to check that the assessment and support plan have been shared with the person / their legal representative.’

**Table 20: Percentage of local authorities that have processes in place to monitor whether written records of decisions are delivered in a timely manner (England and Wales)**

|  | England and Wales (%) |
| --- | --- |
| Supervision of relevant frontline staff | 78 |
| Audit | 64 |
| Survey of adult social care users (including adult carers) | 48 |
| We do not have anything in place | 5 |
| Other | 18 |
| Don’t know / unable to answer | 6 |

Question 41: Does your local authority have any of the following in place to monitor whether people are consistently given a written record of decisions made about their adult social care and / or support, along with reasons, in a timely manner? (Multiple options)

Base: All local authorities (n=153).

# 4. Conclusions

To understand how older and disabled adults as well as unpaid carers are able to challenge local authority decisions about social care and support, the Equality and Human Rights Commission launched an inquiry in July 2021. As part of this work, the online survey reported in the prior sections was undertaken. Our research was structured to provide evidence across five aims:

* How can adults trying to access or receiving social care question or challenge decisions about their care or support?
* How accessible are the systems and processes for challenging decisions?
* To what extent is advocacy support available for people who wish to challenge decisions?
* How are lessons learned and decision-making improved in response to challenges?
* What accountability systems and processes are in place to oversee and monitor key decisions?

Within this conclusion, we bring together the reported findings from each of the sections, focused on responding to these five aims.

While statutory guidance on responding to complaints is in place in England (Local Authority Social Services and National Health Service Complaints (England) Regulations 2009) and Wales (Social Services Complaints Procedure (Wales) Regulations 2014), it is important to note that across all aims it was clear there is no single process to which all local authorities adhere. For example, there was no uniform or universal practice in the type of information provided about people’s rights, signposting to advice or support to help make a challenge, such as a referral to an Independent Advocate, or maintenance of a care and / or support package while a challenge is pending. While such practice can be positive, ensuring that processes or procedures can be responsive and flexible to their place-based or local population, it could be argued that adherence and compliance to the statutory guidance may deliver better outcomes. Some standardisation of the complaints process alongside responsive place-based processes may improve the quality of decision-making and care as well as go some way to mitigating the challenges that users or unpaid carers report around the complaints process.

## Aims 1 and 2: Challenging decisions on care and support and accessibility of systems and processes

The majority of local authorities in England, and all local authorities in Wales in this sample, have procedures in place to make available a range of information on how to challenge decisions (by informal or formal complaint or appeal) and the right to challenge decisions in this way. However, these are not universally or easily accessible, with less than three in 10 local authorities (depending on the format) reporting that information in alternative formats (such as Easy Read, languages other than English and British Sign Language) is publicly available without the need to request it. For example, only 3% of local authorities that responded stated that this information is publicly available in British Sign Language without needing to request it, with 13% stating the same for alternative languages, 20% for large print and 29% for Easy Read. It was disappointing to note that some local authorities (albeit a small number) do not make this information available at all in either Easy Read, British Sign Language or large print.

Almost all local authorities reported that they would signpost individuals who wish to challenge a decision to independent advice and / or support. However, the frequency of signposting was not consistent across local authorities, with less than half of the local authorities reporting that they would do this for everycase (42%), almost a fifth (18%) would do this in most cases and over a quarter (29%) only in some cases. In addition, limited clarity was provided as to when (and why) only certain users and or unpaid carers would be signposted to independent support. For example, almost half of the local authorities reported that signposting to independent advice and support is on a case-by-case basis. Such variability does raise questions on overall accessibility and how decisions are made about who is signposted to independent support.

Almost all local authorities (88%) will allow an individual or an unpaid carer to resolve a concern about a decision about their care and / or support without making a formal complaint.

Accessibility in making formal complaintsis seemingly supported by the majority of local authorities through translation and interpreter services (both for non-English speakers and British Sign Language users) as well as by referral to an Independent Advocate (see Aim 3).

From the survey responses, it would seem that there is variation in the individual (or team) tasked with taking forward any formal complaint. Almost four in 10 local authorities in England identified that those accountable for determining formal complaints is dependent on a range of factors, suggesting that there is no uniform approach within or between local authority areas. Such lack of continuity and transparency may limit full accessibility to the complaints process.

A third of local authorities state that they have a dedicated appeals process separate from the complaints process; few local authorities indicated that they plan to create one by 2024. There was considerable variation in the operation of these appeals processes. While four in 10 local authorities report that there is no time limit under which an appeal must be lodged, a third state an appeal must be lodged at some point within 12 months and of these a substantial one in five adheres to a time limit of up to 1.5 months.

There is also variation in which decisions individuals and unpaid carers can appeal. In Wales, all the decision types listed in this survey can be appealed with the exception of one, about which one local authority was not able to answer. In England, around a fifth of local authorities do not allow individuals to appeal eight of the 10 decision types asked about. Variation in the availability and operation of appeals processes is perhaps unsurprising given that such processes are not required by statute at present. The result, however, is that individuals in different geographical areas across England and Wales do not at present have equal access to an appeals process for challenging adult social care decisions. The implications of this and the merits of different appeals processes require deeper consideration.

There is more work to be done in understanding why a care package may not be maintained while the formal complaint or appeal processes is ongoing. While in some cases it may be completely appropriate to stop a care plan ‒ for example if safeguarding complaints are made ‒ the overarching rationale as to when or why the care package is not maintained is unclear. As withdrawal of support is likely to have an impact on the health and well-being of the user as well as their unpaid carer, the processes underpinning these decisions need to be transparent and communicated appropriately to social care users.

## Aim 3: Availability and monitoring of advocacy support

The Care Act in England in 2014 placed a duty on local authorities to offer support from an Independent Advocate to individuals and unpaid carers requiring some form of assessment or service provision. In Wales, under the Social Services Complaints Procedure (Wales) Regulations 2014, ‘the local authority should inform the complainant about the availability of advice and assistance, which can include advocacy services’ (Welsh Government, 2014). Those individuals and unpaid carers that must be offered this support are those who, in the judgement of the local authority, have ‘substantial difficulty’ in being involved in decision-making and do not have access to support from any other appropriate individual (Newbigging et al., 2021). From the responses to the survey, in England, 86% of local authorities have procedures in place to arrange or refer people to an Independent Advocate when navigating the formal complaints process. In Wales, 18 out of 20 local authorities in this sample have procedures in place to arrange or refer people to an Independent Professional Advocate. In England and Wales there are procedures to arrange or refer to brokerage support in less than half of local authorities, while only a quarter have procedures to arrange or refer to a care navigator.

In addition to this lack of universal provision, ease in making a complaint as well as accessibility to the complaints process would seem to be limited by the paucity of advocacy available to those adjudged to be living without a ‘substantial difficulty’. It was somewhat concerning to note that fewer than two-thirds (65%) of local authorities reported that they commission (or make available) an advocacy service that can be accessed by individuals and unpaid carers regardless of whether they meet the 'substantial difficulty' threshold.

Most local authorities monitor the number of referrals to Independent Advocates to assess if these are at the level expected, based on the local demographic. Around eight in 10 authorities reported that they regularly carry out audits of the number of referrals made, as well as receive quarterly reports from those Independent Advocates commissioned to support individuals and unpaid carers. Where some accessibility and equity challenges may exist is in exploring if an advocate should have been appointed in the first instance. That is, rather than simply auditing the numbers referred, authorities may wish to explore if there are certain populations and certain cases when an advocate should have been appointed to support the individual or unpaid carer but was not. From our responses to this survey, four in 10 (41%) identified that this is done internally, while fewer than one in 10 (8%) identified formal audit of individuals’ and unpaid carers’ records by an external organisation.

## Aims 4 and 5: Lessons learnt and overarching monitoring of decisions

It has been highlighted by the LGSCO that: ‘Complaints are a cost-effective way to identify concerns and issues early and drive improvements; the best organisation will view them as central to good governance and accountability’ (LGSCO, 2020). From responses to this survey, it would seem that few local authorities are using such complaints received in this way, that is, in supporting their governance or accountability.

There is limited use of data available from the complaints or appeals processes around the protected characteristics of individuals or unpaid carers that may take forward an informal or formal complaint. For formal complaints, between 45% and 69% of local authorities are not collecting and analysing any data on one or other of the nine protected characteristics. For example, only 26% collect and analyse data on age and sex, with fewer collecting and analysing data on race (24%), disability (23%), sexual orientation (12%) and gender reassignment (8%). As all these protected characteristics are at higher risk of negative social determinants of health (Watkinson et al., 2021; Marmot et al., 2010; Bambra et al., 2020; Fish et al., 2021), and as all local authorities are required to comply with the Public Sector Equality Duty (Equality Act 2010), understanding the experience of those with protected characteristics would inform future planning of service provision as well as quality improvements to existing services, negating any accessibility challenges across the care system. Among the few that do collect this data, almost no single local authority uses or incorporates the data in service or quality improvement, governance or accountability. For example, this data is either brought into reporting, audits or meetings or included in passive reports. As one individual respondent recognised: ‘We need to improve our practice in this area.’

Decisions can only be appropriate and support equity and accessibility if appropriate training is carried out, ensuring knowledge and understanding by staff responsible for supporting individuals who may be moving through the complaints process. The majority of staff receive training on the Equality Act and the Human Rights Act, as well as the Care Act 2014 and the Social Services and Well-being (Wales) Act. Similarly, oversight of the quality and consistency of their practice decisions and compliance with equality and human rights legislation is carried out through bi-monthly supervision, although other common practices include critical reflection in peer groups and quarterly audits of decisions and outcomes. However, again this is not yet universal, with 6% of local authorities not having any processes in place to monitor decisions against equality and human rights legislation.

While over three-quarters of local authorities do monitor if written records of decisions around social care and support are given to individuals in a timely manner, this is done through supervision, with fewer carrying out perhaps a more ‘forensic’ exploration through audit (64%) or through understanding the experience of individuals and carers themselves from user surveys (48%). It is of some concern that 5% of authorities reported that they do not have anything in place.

## Conclusion

Based on the reporting in this survey, there are still a range of equity and accessibility challenges facing users as well as unpaid carers as they navigate their social care. Targeted information around access to care in accessible formats is still more likely to be available on request than publicly available, and few authorities consistently signpost individuals to independent support when they want to challenge a decision. Finally, further independent accountability systems and processes need to be made available, ensuring robust links can be embedded between assessment and care planning, the complaints processes and quality improvement.

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# Appendices

## Appendix 1: Margins of error for this research

|  | | England and Wales (%) | England (%) | Wales (%) |
| --- | --- | --- | --- | --- |
| 10% / 90% | 0.1 | 4.75 | 5.10 | 13.15 |
| 20% / 80% | 0.2 | 6.34 | 6.80 | 17.53 |
| 30% / 70% | 0.3 | 7.26 | 7.79 | 20.08 |
| 40% / 60% | 0.4 | 7.76 | 8.33 | 21.47 |
| 50% / 50% | 0.5 | 7.92 | 8.50 | 21.91 |

## Appendix 2: Percentage of local authorities in England with procedures to provide relevant care and / or support information

Question 2: Does your local authority have procedures in place, such as a written document distributed to relevant members of staff, to ensure that people seeking to access adult social care or support (and / or someone acting on their behalf) are provided with information about the following?

Percentages may not add up to 100% due to rounding.

Base: All local authorities in England (n=133).

|  | Individuals (seeking social care) (%) | Adult carers (%) | Both (%) | Neither (%) | Don’t know (%) |
| --- | --- | --- | --- | --- | --- |
| Their right to a needs assessment | 13 | 1 | 80 | 3 | 3 |
| That their assessed needs for care and / or support will be based on the nine areas of well-being set out in the Care Act | 10 | 0 | 80 | 8 | 2 |
| That an assessment of needs for care and / or support will not have regard to the resources available to the authority | 8 | 0 | 70 | 12 | 10 |
| Details of the National Eligibility Criteria for adult social care or support, and how you apply them | 8 | 0 | 84 | 5 | 4 |
| Who (job title(s)) is responsible for deciding whether an assessed need requiring ongoing council-funded support will have a ‘significant impact’ on well-being and therefore become eligible | 8 | 2 | 56 | 20 | 15 |
| Factors the decision-maker takes into account in making the decision about whether the need will have a ‘significant impact’ on well-being | 9 | 1 | 72 | 12 | 6 |
| How the individual should be involved in / supported to participate in decisions made about their own social care and / or support needs and / or care planning | 11 | 0 | 82 | 4 | 3 |
| Information for loved ones that they can act as advocates under the Care Act, should the individual have substantial difficulty participating | 7 | 0 | 80 | 10 | 4 |
| Criteria that may make the individual eligible for an Independent Advocate under the Care Act | 8 | 0 | 77 | 9 | 5 |
| The council’s likely response to meeting any assessed needs that are deemed not eligible but which the council has a discretion to meet | 6 | 0 | 57 | 23 | 14 |
| The process and timescale for determining and receiving a care or support package | 5 | 0 | 53 | 29 | 12 |
| The right to challenge a decision, whether by a formal or informal complaint, or an appeal to the local authority (depending on the processes available) | 7 | 2 | 86 | 2 | 3 |
| How to challenge a decision, whether by formal or informal complaint, or an appeal to the local authority (depending on the processes available) | 7 | 0 | 89 | 2 | 2 |
| The right to challenge a decision by a formal complaint to the Local Government and Social Care Ombudsman | 7 | 0 | 89 | 2 | 2 |
| How to make a formal complaint to the Local Government and Social Care Ombudsman | 7 | 0 | 89 | 3 | 2 |
| The right to a copy of an assessment | 8 | 0 | 81 | 7 | 5 |
| The right to a copy of the care or support plan | 9 | 0 | 83 | 6 | 2 |
| Where to seek advice about their rights in relation to any relevant decisions listed above in this question | 5 | 0 | 74 | 14 | 8 |

## Appendix 3: Number of local authorities in Wales with procedures to provide relevant care and / or support information

Question 3: Does your local authority have procedures in place, such as a written document distributed to relevant members of staff, to ensure that people seeking to access adult social care and / or support (and / or someone acting on their behalf) are provided with the following information?

Base: All local authorities in Wales (n=20).

|  | Individuals (seeking social care) | Adult carers | Both | Neither | Don’t know |
| --- | --- | --- | --- | --- | --- |
| The right to a needs assessment | 2 | 0 | 17 | 1 | 0 |
| That their assessed needs for care and / or support will be based on the personal outcomes they wish to achieve and the 10 areas of well-being set out in the Social Services and Well-being (Wales) Act 2014 | 1 | 1 | 16 | 2 | 0 |
| That an assessment of needs for care and / or support will not have regard to the resources available to the authority | 0 | 0 | 13 | 4 | 3 |
| Details of the National Eligibility Criteria for adult social care and / or support, and how you apply them | 0 | 0 | 17 | 2 | 1 |
| Who (job title(s)) is responsible for deciding whether an assessed need for ongoing care and / or support that requires the use of council resources will become eligible to receive such care and / or support | 0 | 0 | 10 | 5 | 5 |
| Factors the decision-maker takes into account in making the decision about whether an assessed need for care and / or support that requires the use of council resources will be eligible to receive such care and / or support | 0 | 0 | 14 | 4 | 2 |
| How the individual should be involved in / supported to participate in decisions made about their social care and / or support needs and / or care planning | 0 | 0 | 18 | 1 | 1 |
| Information about the criteria that may make them eligible for an Independent Professional Advocate under the Social Services and Well-being (Wales) Act | 0 | 0 | 16 | 3 | 1 |
| The council's likely response to meeting any assessed needs that are deemed not eligible but which the council has a discretion to meet | 0 | 0 | 10 | 4 | 6 |
| The process and timescale for determining and receiving a care and support package | 0 | 0 | 11 | 7 | 2 |
| The right to challenge a decision, whether by a formal or informal complaint, or an appeal to the local authority (depending on the processes available) | 0 | 0 | 20 | 0 | 0 |
| How to challenge a decision, whether by a formal or informal complaint, or an appeal to the local authority (depending on the processes available) | 0 | 0 | 20 | 0 | 0 |
| The right to challenge a decision by a formal complaint to the Public Services Ombudsman for Wales | 0 | 0 | 19 | 0 | 1 |
| How to make a formal complaint to the Public Services Ombudsman for Wales | 0 | 0 | 20 | 0 | 0 |
| The right to a copy of an assessment | 0 | 0 | 18 | 1 | 1 |
| The right to a copy of the care or support plan | 0 | 0 | 18 | 1 | 1 |
| Where to seek advice about their rights in relation to any relevant decision listed above in this question | 0 | 0 | 14 | 2 | 4 |

# Contacts

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Published February 2023

ISBN: 978-1-84206-867-0

1. Note that adults are also entitled to care and / or support for their role as unpaid carer. [↑](#footnote-ref-2)
2. Those that did not enter the option as an open-text response [↑](#footnote-ref-3)
3. Those that answered that they did not know whether this is publicly available or only available on request [↑](#footnote-ref-4)
4. Such as: accessibility toolbar; ability to change text size or colour; screen reader; Google Translate [↑](#footnote-ref-5)
5. ‘Other local authorities’ refers to all local authorities in England apart from the significant group. [↑](#footnote-ref-6)
6. This is usually accommodation with care and support services. [↑](#footnote-ref-7)