



Independent Living and people with learning disabilities

The right to independent living is central to disabled people's human rights. However given the cuts to local authority budgets that right is under threat at present.

A report by the Independent Living Strategy Group, published by In Control in October 2015, found that despite the emphasis on wellbeing and choice and control in the Care Act 2014:

- Almost half (45%) of respondents to a survey said that their quality of life had reduced, and
- Almost a third (30%) said that they had experienced a reduction of choice and control over the past year.

The report found worrying evidence of caps being placed on local authority expenditure on care for disabled people. More concerning still is the fact that at least two Clinical

Commissioning Groups (CCGs) have formal policies which limit the amount they will spend on care at home to the cost of residential care for the disabled person.

A group of disabled people for whom the situation seems to have got much worse in the past year are those who previously benefited from support via the Independent Living Fund (ILF). The report from the Independent Living Strategy Group found that 14% of respondents who were previously ILF users had been told that they should expect less support in future, while the majority (56%) said they had not been told whether their support

would increase, decrease or stay the same. There have been terrible stories circulating of disabled people seeing massive reductions in their care package when their support transitions to local authorities – despite the assurances that this would not happen when the ILF closed.

The Care Act starts with a new principle of 'well-being' in section 1, which is supposed to inform all decisions taken about the care and support disabled people needs. The statutory guidance to the Care Act suggests that this principle is similar if not the same as the right to independent living under Article 19 of the UN Convention on the Rights of Persons with Disabilities – but Article 19 talks about a right to 'choice and control', whereas section 1 of the Care Act says nothing about choice for

disabled people, only control over the services they receive.

The Care Act requires local authorities to meet disabled people's needs if they hit the eligibility criteria. The broader duties on the NHS work in a similar way in relation to CCGs. However both local authorities and CCGs are expected to meet needs in the most cost effective way. This raises the big question – can it ever be lawful for a local authority or a CCG to meet a disabled person's needs in a way which cuts across their right to live independently in the community? The courts are likely to have to answer this question in the coming year.

It is vital that all disabled people and their families and friends know that they can access a solicitor to advise them on their right to independent living. Legal aid remains available to challenge local authority and CCG decisions, so long as the person meets the financial tests.

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