

Last review: October 2016  
Next review: October 2018

## Know your rights: Day services

### Why are day services important?

Day services are an important way for many people with a learning disability to learn new skills, take part in activities, meet new people and receive personal care, outside of their home. They also provide families and carers with a break during the day, allowing family members to work.

Without day services, many people with a learning disability risk being isolated from society because they have no opportunity to leave their home. Many family members will have no choice but to quit their jobs to take care of their loved one.

If you are assessed as needing day services and your needs meet the National Minimum Eligibility Threshold set out in the Care Act 2014 – therefore you have an ‘eligible need’ for day services – the **local authority must provide day services in the community**, outside of your home.

### What do day services look like?

Day services can come in many forms, from employing a personal assistant using direct payments to accessing day services in the form of a day centre. For people with a learning disability, **day centres** are the most common form of day service provision, but they have been declining in number in recent years.

Day centres often provide transport, which is vital in making sure people with a learning disability can access the service.

### What changes to day services have occurred in recent years?

In recent years, government policy has encouraged local authorities to **modernise day services**, to make them more ‘person-centred’. Mencap welcomed this, as there were too many day services that were outdated and failed to provide meaningful activities. Many local authorities have already modernised their day services, where they have

either made improvements to day centres or have given individuals personal budgets to enable them to choose what they do during the day.

However, Mencap believes that often the modernisation of day services has been driven by a desire to save money and, as such, has failed to improve day services as it was originally intended. The government is cutting how much money it gives to local authorities and this has put pressure on local authority budgets, at a time when there is an increase in the number of people who need social care services.

People have experienced local authorities closing day centres and giving service users personal budgets that only cover the cost of a lower level of day services. This is often justified as giving people more choice and the opportunity to access day services in the community, but these can be empty words used to disguise a cut.

Mencap has also heard about changes to the transport arrangements in some areas, where people with a learning disability have been required to pay more for their transport. This often has the knock-on impact of reducing the number of people able to afford to get to the day service. In turn, the council can argue that demand for the day service has dropped and threaten it with closure.

## **What should local authorities do when changing day services?**

Whether they are modernising day services or cutting service provision, local authorities should do the following:

- **Hold a consultation** with everyone affected by the change. They should listen to the views of everyone involved and use these to shape their proposals. Please see our fact sheet on Consultations for more information about the correct process.
- **Fully reassess** the needs of all service users before any change is made. Local authorities also have a duty under the Care Act 2014 to assess the needs of carers. If a person's day services change, this might affect their carer as well so their needs may also need to be reassessed.
- **Offer a full range of services** for people to choose from. The range of services on offer should only include services that meet the needs of the individuals. The Care Act 2014 specifies that every council must develop a 'market place' of services available in the area, so if nothing is on offer locally which can be bought with the money given by the council, you can challenge the council to

provide more options.

- **Fully involve service users and their families** when deciding how to change day services.

Day service modernisation does not always amount to a cut in services. If your local authority has followed the correct procedure and provided a robust alternative which meets your needs, this should be a positive development for you. If a robust alternative has not been provided or the local authority has failed to follow the proper procedure, you should challenge the proposals.

#### **Case study – day centre closures**

A local authority in London is proposing to close 5 day centres in the area and create one 'super centre' for all service users. These day centres cater for people with a wide range of needs, including people with learning disabilities, dementia and mental health problems, and local groups are concerned how one centre could work for people with such different needs.

### **Can care homes provide day services?**

Mencap has heard of local authorities expecting care homes to provide day services for residents. The duty to provide day services for people who need them lies with the local authority, not the care home, but if a care home agrees that it is able to meet these needs then the local authority can include this in their contract. As mentioned before day services must be provided in the community, so the care home would have to arrange for these services to be accessed **outside of the care home**. The local authority is still responsible for the provision of these services, so if your needs are not being met in this way you can take action against the local authority.

As a result of cut backs some local authorities have tried to make care homes start providing day services without increasing how much they pay them.

Some local authorities say that they have been 'double funding' day services in error for years, for example, paying for someone to attend a day centre while also paying their care home to provide day services. They may use this to justify cutting that person's funding to attend their day centre. It is difficult to challenge a local authority

making this claim. However, the local authority still must ensure that the day services offered by the care home will meet the person's eligible needs.

There have been a few cases recently where the courts have criticised local authorities that have imposed unreasonable expectations on care homes and the local authorities in question have had to revise their decisions. If care homes are not receiving the necessary payment for the services they provide, it is service users who will suffer. If you are in this situation you should challenge the local authority.

### **Further information**

If you want more information you can ring the **Mencap Direct Helpline**. The Helpline is an advice and information service for people with a learning disability, their families and carers. To speak to the helpline please call 0808 808 1111.

Mencap also has a number of other factsheets that you may find useful, including on:

- Eligibility for care and support
- Consultations
- Charging

To request any of these or a *Don't cut us out!* campaign guide, please contact the Mencap publications team at [publications@mencap.org.uk](mailto:publications@mencap.org.uk) or 0207 696 6902.