This letter relates to ordinary residence concerns. Please note that there are separate letters available to use when a person wishes to move from one authority to another.

Please do note that you may wish to seek legal advice on these issues now and certainly once you receive a response if it is not favourable, or if no response is forthcoming within 14 days

This letter must be sent to BOTH local authorities who are party to the dispute.

DELETE THIS BOX BEFORE SENDING THIS LETTER

[Director of Adult Social Care]

[insert address of your local authority ]

[insert your name]

[insert the date of the letter]

Dear [insert name of the person you are writing to] , ,

**Care and support for X [insert name]**

There is currently a dispute over which local authority is responsible for meeting the care and support needs of [insert name]. I am *[explain relationship to X]*.

*[Insert details of X’s situation, including whether they have been assessed, where they are living, where they intend on living on a settled basis]*

It is accepted that [insert name] has eligible care and support needs, but these needs are not currently being met. This is unlawful. [delete as appropriate]

***The Legal Framework***

The Care Act 2014 states that there should be no gaps in provision and Section 6 of the Care Act sets out a clear duty to cooperate. This duty requires you to work together with [ insert name of the other authority]; to ensure that the needs of [insert name] are met in the interim, whilst the funding dispute is resolved.

The case law is clear on this point. In the Ombudsman Complaint no. 96/C/3868 against Calderdale MBC 24th November 1998 para 30, the local authority and the NHS body failed to put support in place whilst negotiating over costs. The Ombudsman held that this conduct was unreasonable.

In R(AM) v (1) Havering LBC and Tower Hamlets LBC [2015] EWHC 1004 (Admin) para 46, the High Court held that even where it was reasonably clear which public body is responsible for arranging care, it was an inexcusable failure of good social work practice for the public body who was not responsible for arranging care to ‘wash its hands’ of the family.

Further, the Care and Support Statutory Guidance sets out, at paragraph 19.10 and 19.11:

*19.10 Local authorities must determine whether an individual is ordinarily resident in their area following the needs or carer’s assessment, and after determining whether the person has eligible needs (see chapter 6).*

*19.11 The determination of ordinary residence must not delay the process of meeting needs. In cases where ordinary residence is not certain, the local authority should meet the individual’s needs first, and then resolve the question of ordinary residence subsequently. This is particularly the case where there may be a dispute between 2 or more local authorities.*

**Next steps**

In light of this, please could you confirm when a needs assessment will take place / that immediate arrangements will be made to meet the assessed and eligible support needs [delete as appropriate] for [insert name].

Please note that I have also written to our counterpart [insert name] at the [Local authority /CCG – delete as appropriate].

I look forward to hearing from you within 7 days.

Yours sincerely,

[insert name]