

Government to appear in “landmark court case” to avoid revealing social care data

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- *HM Treasury and the Department for Levelling Up, Housing and Communities (DLUHC) are set to appear in court against the Information Commissioner (ICO) and Access Social Care as a second respondent on the 29th April.*
- *The government is challenging a ruling by the ICO that it must disclose details around the decision-making processes which determine funding for adult social care.*
- *Legal rights charity Access Social Care has said this will be “a landmark court case for government transparency and accountability in social care, as well as for the many families across the country who rely on adult social care.”*

29 April 2024, London, UK - Two Government departments are set to appear in court against the Information Commissioner (ICO) in an attempt to dismiss requests from the ICO to reveal critical information around government funding for adult social care. The hearing in the Information Tribunal will take place on 29th April.

The litigation derives from Freedom of Information requests made by specialist legal rights charity, *Access Social Care (ASC)* to reveal data available to and used by policymakers in relation to decision making on social care funding. HM Treasury and the Department for Levelling Up, Housing and Communities denied the requests. Their decisions were overturned by the Information Commissioner in July 2023, who ruled that disclosure was in the public interest and outweighs the argument from HM Treasury and DLUHC that it should be exempt as it is live government policy. Now, the Government is appealing the decision in the Information Tribunal.

The ICO will be represented in the case by John Fitzsimons of Cornerstone Barristers, while Access Social Care will be represented by Niamh Grahame of Public Law Project and Stephen Cragg KC of Doughty Street Chambers. HM Treasury and DLUHC will be represented by Laura Shepherd of 30 Park Place.

Access Social Care’s CEO, Kari Gerstheimer, said:

“The social care sector, including public bodies, charitable and commercial organisations, are all aligned that social care is critically underfunded. Government’s position is that social care is adequately funded but they are refusing to reveal their maths.

For 2 years, 2 government departments have refused to share this information, despite the Information Commissioner stating that sharing is in the public interest.

Access Social Care is a data led legal rights organisation that exists to make sure people can access the social care they have a right to. Through our casework and our data, we see that everyday older and disabled people are denied the social care they need and have a right to. This case strikes to the heart of the need for government transparency to enable good quality public decision making.

In fighting for this information, ASC is trying to reveal and understand the decision-making that guides social care, and how it can be improved. Having information about social care funding allocations would shed light on whether the government is considering relevant factors, for which they have a public law duty, and critically would provide civil society organisations a much-needed opportunity to play a meaningful part in driving improvement of central government decision making.

We are a small organisation challenging two government departments on behalf of disabled people , older people and carers to make sure that central government adequately funds adult social care so that we all get the social care we need and have a right to.”

ENDS

Notes to the Editor

Access Social Care

Access Social Care (ASC) is a specialist legal rights charity working in the social care field. It exists to ensure people get the social care to which they are legally entitled.

It provides free legal advice and information for people with social care needs, helping achieve a better quality of life.

ASC is working towards a future where social care is adequately funded, and people all get the support they need.

ASC is currently running a litigation funding appeal via [crowd funding site, Crowd Justice](#), to ensure it can continue to seek transparency and accountability in this case.

Background information

- According to the [Association of Directors of Adult Social Services](#), 434,243 people are still waiting for assessments, care and support, direct payments, or reviews.
 - At the same time, the research shows that there has been a 99% increase in the number of people waiting over 6 months for an assessment of any kind from 2021 to March 2023.
- The Access Social Care [State of the Nation Report 2023](#), reported that there has been a 77% decrease in the number of people accessing community care legal aid since 2010. The report identified that there has been a concerning 95% increase in the number of queries it's members received that required specialist community care legal advice.
- Age UK estimates that [2.6 million people](#) in England aged over 50 are living with some unmet need for care.
- Research by [Carers UK](#) estimates there to be as many as 10.6 million unpaid carers in the UK, and the Health Foundation reports that only 2% of carers receive financial support from their local authority (source: [Only 2% of carers receive financial support from local authorities \(health.org.uk\)](#))

- There are currently 165,000 vacancies in the care sector – a number that has risen 52% since 2020.

Journalists can make arrangements to attend by contacting the General Regulatory Chamber here: [General Regulatory Chamber: cases listed for hearing - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/general-regulatory-chamber-cases-listed-for-hearing) quoting appeal references EA/2023/0377 and EA/2023/0378.

For further information, or to speak to ASC, please contact anna.cacciaguerra@drdpartnership.com.