



Department
of Health

FACTSHEET 4

The Care Act - personalising care and support planning

“It is essential that personal budgets are recognised [in the law]. To leave this significant policy development without statutory basis would leave local authorities uncertain of their legal obligations and individuals uncertain of their entitlements” (Law Commission)

This factsheet describes how the Care Act and supporting regulations and guidance give people maximum control over how their needs are met.

What is care and support planning?

Everyone’s needs for care and support are different, and needs can be met in many different ways.

The **care and support planning** process is there to help decide the best way to meet the person’s needs. It considers a number of different things, such as what needs the person has, what they want to achieve, what they can do by themselves or with the support they already have, and what types of care and support might be available to help them in the local area.

The planning process takes place with the local authority and the person, any carer they have and any other person they ask the authority to involve. Where the person lacks the capacity to ask, any person who appears to the authority to be interested in the adult’s welfare should be involved. This process will decide how to meet the needs of the person, and the local authority must do everything it reasonably can to reach agreement with the person as to how their needs should be met.

The local authority must produce a plan that sets out the detail of what was agreed. As part of the planning process, the local authority will tell the person about their **personal budget**. This is the amount of money that the local authority has

worked out it will cost to arrange the necessary care and support for that person.

This includes any amount that the local authority is going to pay itself towards those costs (which might range from all, to none of the total). The personal budget helps the adult to decide how much control they want to have over arranging their own care and support, by seeing how much money is available to buy the care they need.

Using the information from the personal budget, the person can ask the local authority for a **direct payment**.

A direct payment is a payment of money from the local authority to either the person needing care and support, or to someone else acting on their behalf, to pay for the cost of arranging all or part of their own support. The local authority could make a direct payment instead of arranging or providing any services itself, if the adult asks them to do so. This ensures the adult can take full control over their own care.

The local authority must provide a direct payment to someone who meets the conditions in the Act and regulations.

Why do we need to change the law?

Of all the things above, only direct payments have a place in law at the moment. Care and support planning and personal budgets, although very important to the way care and support is given, have only been set out in guidance.

We want the law to focus on the person and their needs, their choices and what they want to achieve. It should put them in control of their lives and the care and support they receive. The care and support planning process is the way of making this happen. It will provide people who use services, and carers, with clear legal rights to a care and support plan.

Personal budgets also need to be included in the law as they are important for making care and support personalised. If they are not in the law, it will be more difficult to offer them to everyone. While some local authorities are already making great progress in this area, legislation is needed to make it happen everywhere.

What does the Care Act do?

The Act sets out when the local authority has a responsibility to meet someone's care and support needs. It also sets out how it can do so even if it does not have to. The Act also says what must happen next to help the person make decisions about how their needs should be met.

The Act gives local authorities a new legal responsibility to provide a care and support plan (or a support plan in the case of a carer).

For the first time, the Act provides people with a legal entitlement to a personal budget, which is an important part of the care and support plan. The personal budget must be included in every plan, unless the person is only receiving a reablement service.

This adds to a person's right to ask for a direct payment to meet some or all of their needs. Provided that the direct payment is used to meet the needs identified in the plan, the person should have freedom over how the money is spent.

Even when an assessment says that someone does not have needs that the local authority should meet, the local authority must advise people about what needs they do have, and how to meet them or prevent further needs from developing.

The person concerned must be involved in developing their plan. The local authority will have

to do everything it reasonably can to agree the plan with them.

It must also provide an independent advocate to help the person take part in the planning and review process, if that person would otherwise have substantial difficulty in doing so.

Completing the planning process and putting in place care and support arrangements does not mean the end of the local authority's responsibilities. The local authority has a legal responsibility to review the plan to make sure that the adult's needs and outcomes continue to be met over time. If anything has changed, the authority must carry out a new assessment. The person themselves also has the right to request a review of their care and support plan, if they wish.

How do I comment on the proposals?

We have published regulations and guidance for local authorities that set out how they should carry out their responsibilities under the Care Act. This guidance is open for discussion and we want to receive your comments to make it right.

More information, including how to comment, is available at: www.careandsupportregs.dh.gov.uk