

**Factsheet 24 July 2009**

## **Self-directed support: direct payments, personal budgets and individual budgets**

### **About this factsheet**

This factsheet provides information on the development of self-directed support in social care. It includes discussion of relevant legislation, the requirements of local authorities, current limitations and practical guidance.

The information in this factsheet is correct for the period April 2009 – March 2010 but rules and figures sometimes change during the year.

This factsheet describes the situation in England. There are differences in the rules for funding care in Northern Ireland, Scotland and Wales. Readers in these nations should contact their respective national Age Concern offices for information specific to where they live – see page 30 for details.

For details of how to order other Age Concern factsheets and information materials mentioned inside go to page 29.

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## 1 Recent developments

- From 1 April 2009 there is a new, joint complaints system for health and social care. The existing three stages are now one stage intended to be more flexible and responsive to the needs of the complainant. The Local Government Ombudsman will still provide a further channel of complaint should this be required.
- On 1 April 2009 the Care Quality Commission took over the work of the Commission for Social Care Inspection as the main regulator of social care standards.
- In July 2009, the Government introduced new guidance on local authority charging for personal budgets. This is called the *Fairer Contributions Guidance - calculating an individual's contribution to their personal budget*. It provides local authorities with a model for calculating a person's contribution to their personal budget. It is intended to sit alongside the existing guidance for charging for non-residential services incorporating all of the standards and principles already in place. Local authorities providing personal budgets should implement this guidance by March 2010.

## 2 The development of self-directed support

Major changes are taking place in the social care and support system. They are intended to transform the way in which people interact with the State when they arrange and receive services. According to the Government concordat *Putting people first – a shared vision and commitment to the transformation of adult social care* (Department of Health, December 2007) public service provision is to be 'personalised' (see the Appendix for a summary of relevant publications and legislation).

In January 2008, the Department of Health (DoH) published a Local Authority Circular entitled *Transforming social care* in which personalisation was described as 'every person across the spectrum of need, having choice and control over the shape of his or her support, in the most appropriate setting'. This was followed by a further Local Authority Circular on the subject in March 2009 (see Appendix: 2.)

The Social Care Institute for Excellence's 2008 publication *Personalisation: a rough guide*, described personalisation as:

- finding new collaborative ways of working and developing local partnerships, which produce a range of services for people to choose from and opportunities for social inclusion
- tailoring support to people's individual needs
- recognising and supporting carers in their role, while enabling them to maintain a life beyond their caring responsibilities
- a total-system response so that universal and community services and resources are accessible to everyone
- early intervention and prevention so that people are supported early on and in a way that's right for them.

Self-directed support, including direct payments and personal and individual budgets, is part of the personalisation agenda. It is about you having increased control over how the money available for your care and support is spent. The idea is that you can tailor support to your needs and preferences, with appropriate assistance and within a framework of identified needs and planned outcomes agreed with the local authority.

Part of the 'universal' service provision mentioned above is the plan to offer information, advice, advocacy and support planning to all those in need of assistance, regardless of their ability to pay for services.

Over the past few years many people have found that direct payments have allowed them to gain control over the services provided for them. The new drive towards personalisation is intended as a more systemic approach to giving this opportunity to as many people as possible.

However, the development of self-directed support has taken place over many years and there are outstanding issues about the level of take-up among certain groups, – older people, for example, appear less inclined to take on the responsibility of directly managing their own funding.

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### **Point of law**

Direct payments, personal and individual budgets all come within the existing social care legal framework and do not change your existing rights. This point should not be lost in the variety of new systems and approaches being introduced to implement and fund personal and individual budgets.

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You can receive direct payments from a personal or individual budget, or have your payments managed by someone else on your behalf. This could be the local authority, a service provider or your relatives and friends. User-controlled trusts provide a framework for relatives and friends to help you. Trustees have certain legal responsibilities and should be aware of these. Arrangements like this can allow you to benefit from direct payments without the burden of managing the budget yourself.

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## **Important**

You have a right to have your budget managed in the way that best suits you and should not be under any pressure to accept a direct cash payment to arrange services yourself.

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There is now a great deal of work going on in England to implement a new model of service provision and meet targets. For example, plans are being made for trials of the implementation of personal health budgets in the NHS. This should allow more joined-up service provision between health and social care, for example with regard to NHS Continuing Care.

## **3 Direct payments**

### **3.1 What are direct payments?**

Although at present the main Government focus is on personal and individual budgets, looking first at direct payments and their legal basis is helpful for understanding these relatively new approaches.

Direct payments are cash payments that are an alternative to directly arranged community care services. Rather than the local authority social services department providing or arranging the community care services it has assessed you as needing, you receive money to enable you to arrange your own services, allowing you more control over the way your care and support needs are met.

The DoH set out how local authorities should develop and administer their direct payment schemes in *Community Care, Services for Carers and Children's Services (Direct Payments Guidance) 2003*. Since April 2003, local authorities have had a duty to offer direct payments if the person is willing and able to manage them, with or without assistance.

Direct payments can be used to arrange most community care services provided by the local authority, except for long-term residential care. You can choose to have some of your services provided or arranged by social services, and use a direct payment to arrange the rest for yourself. Services can also include equipment such as aids to help you get around or to assist you with daily activities in the home. Within certain constraints laid down by law, you can use the direct payment in the way you want to meet your needs.

Direct payments can only be paid towards the cost of services that social services has assessed you as needing. They cannot be offered to people who are assessed as not needing any services, or as a way of meeting needs that social services are not prepared to meet. Each local authority decides who can get services based on its interpretation of the Fair Access to Care Services (FACS) criteria, which should be published by them. If you are refused a direct payment on the grounds that you would not be offered services, you can use the complaints procedure in the same way as anyone else refused services.

For further information about your rights to community care services see Age Concern's Factsheet 41, *Local authority assessment for community care services*. For information on how to make a complaint see Age Concern's Factsheet 59, *How to resolve problems and make a complaint to the local authority*.

You may be asked to contribute towards the cost of your care services. Your contribution is calculated using the same means-test rules as if the local authority were directly providing or arranging services.

### 3.2 Who can have a direct payment?

To be eligible for a direct payment you must be:

- aged 16 or over
- a disabled person as defined by section 29 of the *National Assistance Act 1948*

- assessed as needing services
- not subject to mental health or criminal justice legislation that carries elements of compulsion
- willing to have a direct payment; and
- able to manage a direct payment (alone or with assistance).

The exact definition of disability, as stated in section 29 of the *National Assistance Act 1948*, is ‘persons who are blind, deaf or dumb, and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity or who are suffering from a mental disorder within the meaning of the Mental Health Act (*National Assistance Act 1948*, section 29)’ and people who are ‘partially sighted or hard of hearing’ (Local Authority Circular 93/10).

The definition in the Act may now seem outdated or offensive but should be taken to include people who have any kind of impairment caused by physical disabilities, sensory impairments, learning disability, or are affected by an illness or condition (such as mental illness, arthritis, multiple sclerosis, HIV/AIDS, a heart condition, etc).

Local authorities are required to offer direct payments to all service users who meet the eligibility rules set out above.

### 3.3 **The planned extension of direct payments**

At the time of writing (July 2009), to get a direct payment you have to be able to manage the payments, alone or with assistance. Direct payments are currently not available to people lacking capacity, as defined by the *Mental Capacity Act 2005*:

*A person lacks capacity in relation to a matter if he is unable to make a decision for himself in relation to a particular matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.*

Current legislation requires an individual to give his or her consent to receive a direct payment and people who lack capacity are unable to give this consent. However, in the 2006 White Paper, *Our health, our care, our say*, the Government committed itself to extending the scope of direct payments to those currently excluded, if this is in their best interest. This will be done by allowing the payments to be made to a third party who has been assessed as suitable by the local authority. At the time of writing (July 2009), the Government is consulting on how to implement these planned changes, which have been included in the *Health and Social Care Act 2008*.

In the mean time, DoH guidance advises local authorities to involve individuals as much as possible in the decision-making process and to support them wherever possible to make decisions for themselves.

Further information on the *Mental Capacity Act 2005* and how it relates to service users and those supporting them can be found in Age Concern's Factsheet 22, *Arranging for others to make decisions about your finances or welfare*.

Local authorities must satisfy themselves that their direct payment schemes serve all adult client groups and do not discriminate unfairly between people requesting direct payments. The local authority should seek and respond to service users' views on an ongoing basis. If you are unhappy with the Direct Payments scheme in your area, you may wish to consider making a complaint through the local authority complaints procedure.

### 3.4 **How to get a direct payment**

If you do not currently receive a direct payment or have services arranged or provided for you, you can ask the local authority to carry out an assessment of your needs.

Direct payments are now one element in a new personalised system of social care and may be offered alongside other options available within new personal and individual budget programmes (see section 4).

If you meet the eligibility criteria direct payments should be discussed and offered by the local authority as part of your needs assessment and care plan. You can also request to switch to direct payments rather than continue to have services arranged or provided by the local authority. This could be done at a review of your care package.

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## Action

Contact your social services department for more details of direct payments. The local authority's local long-term care charter, called *Better care, higher standards*, should explain the possibilities of benefiting from direct payments.

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If you are considering whether to have a direct payment, or have decided that you want to use direct payments but have not yet had time to arrange your own services, you should not be left without the services you need in the mean time. You may need to have services arranged by the social services department until you are able to put your own services into place. The local authority is only relieved of duty to provide services if it is satisfied that your needs are being met. If they are not, the local authority has a duty to provide the services directly.

Obtain as much information as possible so that you can make an informed choice about whether direct payments are the best option for you. Your local authority may have its own guide, or be able to put you in touch with a support group or with other people who already have direct payments.

### 3.4.1 Deciding if you can have a direct payment

At present, the social services department must satisfy itself that you yourself are willing and able to manage your direct payment and that your needs will be met. However, when the planned developments described in section 3.3 come into force regarding extensions to access to direct payments, the local authority will also have to make a decision about whether the person acting on behalf of someone without capacity is 'suitable'.

The judgement about your eligibility should be made on an individual basis, taking into account your views. You can receive assistance in managing a direct payment, but you should have as much control as possible over how your support services are delivered to meet your needs.

You should not be refused a direct payment just because you will need help with managing it, initially or in the long term. Social services should consider what assistance might enable you to manage, rather than assuming that you will be unable to. If you are refused a direct payment on the grounds that it is considered that you could not manage, the reasons should be explained to you. You could use the local authority complaints procedure to challenge the decision.

If you meet the eligibility criteria and start to receive direct payments but later lose mental capacity, someone who holds Lasting Power of Attorney over your financial affairs can continue to receive payments on your behalf. However, if you have not consented to receive direct payments before you lose capacity, your attorney cannot then request direct payments on your behalf. This rule may change in the future.

### **3.5 The level of your direct payment**

Your direct payment must be enough to enable you to meet all the related legal obligations and to secure a service of a standard that meets your assessed needs. The authority will not usually make a direct payment for more than it calculates that it would cost to provide (or arrange) the service. The estimated cost should include any associated costs (such as National Insurance, sick pay, employer's liability insurance, VAT, etc).

The authority can pay more than its estimated cost of providing the service if it is satisfied that the increased cost is justified because it is more effective in enabling the person to manage his or her own services and live independently.

If your preferred method of securing services will be more expensive than the council's estimate of the reasonable cost of doing so, you may have to meet any shortfall yourself. However, you can complain if you think that the local authority has been unduly restrictive about the amount it will pay.

### 3.5.1 Your contribution towards the cost of your care

You may be asked to contribute towards the cost of care arranged using direct payments, in the same way as if the local authority has arranged or provided services. Local authorities have a discretionary power to charge for non-residential services and most do so. See Age Concern's Factsheet 46, *Paying for care and support at home*, for more details of charging for domiciliary services.

Your direct payment can either be made net of your assessed contribution (ie the estimated cost less your contribution) or including your contribution and you repay your contribution to the authority. In practice it is likely that the direct payment will be made net, but if you are in dispute with the local authority about the amount you are expected to pay, you should ask to be paid the full amount until the dispute is settled. In this way you are in the same position as someone who receives services while the level of their charge is being resolved.

Local authorities should give you as much notice as possible before the direct payment starts or the level is changed in order to resolve any disputes. If you disagree with the amount you are being charged you can complain.

### 3.6 Direct payments for carers

The *Carers and Disabled Children Act 2000* gives local authorities powers to offer assistance to anyone who provides care to someone who might need community care services.

The types of help that can be given are wide-ranging and not limited to community care services. For example, if the person cared for refuses to accept help from anyone but a relative, the local authority might provide the relative with help with housework so that they had free time to assist the person who needed help. Local authorities can give carers direct payments to meet their assessed needs.

If you are not already receiving services, you can ask for an assessment of your needs. The only qualification for being assessed for a service or direct payment under this Act is that you must be providing regular and substantial care for someone who might need a community care service.

You do not need to live in the same household as the person cared for, and they do not need to be actually receiving, or to have been assessed as needing a community care service.

Carers UK can provide further advice and information on the rights of carers. See section 8 'Useful organisations' for contact details.

### 3.7 Using your direct payments

You can use your direct payments however you wish as long as it is to meet your assessed needs. Although social services departments need to set conditions to ensure this, the aim of direct payments is to give people more choice and control over the services they are assessed as needing. Social services departments should not be constrained by existing patterns of service provision. You might want to use your direct payment to help you go shopping instead of having it done for you or to get to a computer course to learn computer skills to enable you to keep in touch with family.

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#### Examples

The National Centre for Independent Living (see section 8) gives examples of someone who lived near the sea using his direct payment to be taken regularly to the seafront as this was very important to him. Someone else was taken to a café where she could meet her friends. Another person used the payment to get to her place of worship.

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However you cannot use direct payments to pay:

- your spouse, partner or a 'close relative' living in the same household
- anyone who provides you with care – including someone who lives with you – if they are assessed as needing help
- for social services' own provision. In this case you can either receive services from the social services department in the normal way, or have some social services provision and arrange some of your care yourself with a direct payment
- for services that the NHS has a duty to provide or for services provided by housing authorities

- for permanent residential care, Direct payments cannot be used to pay for a period of residential care lasting more than four weeks. If you have a number of short periods of residential care these will be added together unless each period of care is separated by at least four weeks. You can only receive direct payments for a total of four weeks of residential care added together in this way in any 12-month period. If each period of residential care is less than four weeks long, and there is at least four weeks between each stay, then you should be able to claim a direct payment to pay for each period of care.

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### Note

A close relative is a parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, step-son or daughter, brother, sister or the spouse of any of these. This restriction is intended to prevent direct payments being used where the relationship is primarily personal.

Social services departments can make exceptions to this general rule if securing the service from such a person is necessary to satisfactorily meet the service user's assessed needs.

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## 3.8 Arranging your own services

This section covers the issues around arranging your own services:

- employing your own care workers or personal assistants
- contracting with an agency or someone who is self-employed
- buying your own equipment
- dealing with emergencies.

A factsheet such as this can only give pointers you may want to consider. Section 3.9 describes the support services that may be available and section 11 gives details of where you can get further information that covers these issues in more depth.

This section describes the current system specifically for direct payments. However, as can be seen from section 4 on personal and individual budgets, the self-directed support system is rapidly developing, and new approaches will emerge in the future.

### **3.8.1 Employing your own care workers or personal assistants**

This option gives you the greatest choice and control over your care services. Some people worry about the responsibilities of being an employer but many others have found it to be a successful way of arranging their services, and that once systems have been set up, they run smoothly.

You may find that a local support scheme offers training and/or a payroll service that helps with the tax and National Insurance aspects of being an employer. There is also a national employer's helpline (see section 8).

Contact the National Centre for Independent Living for information about employing a personal care worker. Issues you will need to consider before recruiting a care worker include drawing up job adverts and job descriptions, making sure you have covered all the tasks you will want done, where to advertise, what to ask at interviews, how much to pay, drawing up a contract so that both you and the person you are employing are clear about the terms and conditions of the employment, what insurance you will need and your legal responsibilities as an employer.

### **3.8.2 Contracting with an agency or someone who is self-employed**

If you would prefer not to have the responsibility of being an employer you can use your direct payment to contract with an independent agency or a person who is self-employed. It is important to check very carefully that the contract you make with someone who is self-employed means that they are genuinely self-employed. Several different factors affect whether a person is considered to be self-employed for the purposes of tax, National Insurance and employment legislation, including the terms on which they have been engaged and the amount of control you have over the work done.

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## Note

The Inland Revenue produces a leaflet which explains the difference between being employed or self-employed (see section 10 'Further reading').

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If you decide to use an independent care agency you should be able to find local agencies in the telephone directory, through your local authority or by personal recommendation.

Local authorities are only able to contract with domiciliary care agencies that are registered with the Care Quality Commission, the national agency responsible for regulating care services.

You can use direct payments to make arrangements with unregistered providers if you wish, but you may feel safer using a registered provider. Your local authority will be able to tell you which providers are registered. You may want to approach several agencies or self-employed people before making a decision.

Before entering into an agreement, confirm the following with the agency or individual involved: the tasks you expect the staff to do and the way in which you would like them done; what the quoted price covers (some agencies add VAT or charge extra for travelling); what insurance cover they have; what training the staff have had; and what happens if you have to cancel the service suddenly.

To avoid any future misunderstandings, your contract should be as clear as possible. Agencies often use standard contracts that can be individualised. If you are making your own contract with someone who is self employed, examples of contracts may be useful (see section 10 'Further reading').

### 3.8.3 Buying equipment

If you are given a direct payment to buy equipment, take advice to ensure that the equipment you are buying is safe, appropriate and cost effective. This applies to smaller items that social services pay for rather than larger items and adaptations, which are funded by Disabled Facilities Grants from the housing department. There are about 40 Disability Living Centres across the UK; they display a wide range of equipment and have staff to give advice. If you plan to use your direct payment for equipment, establish whether you or the social services department will own the equipment and who will be responsible for ongoing care and maintenance.

In the new individual budget (IB) system, disability equipment funding may be included within a single budget with other funding, allowing you more choice and control over how your assessed needs are met.

See Age Concern's Factsheet 32, *Disability equipment and how to get it*, for information about community equipment.

### 3.8.4 Dealing with emergencies

Whatever arrangements you make, there may be times when equipment breaks. Discuss your contingency plans with social services so that they are included as part of the care plan for your direct payment. If you employ your own care worker, your contingency plans might include making arrangements with an independent agency for emergency cover if your care worker is sick or planned cover when your care worker goes on holiday. Some support schemes offer back-up in the form of emergency staff.

The social services department's responsibility for arranging services is the same as for any other service user. If the local authority becomes aware that your assessed needs are not being met, it has a duty to act to resolve the problem. You should have a named person to contact to ask for help.

### 3.9 **Support services for people receiving direct payments**

Support services for recipients of direct payments have been identified as a key element in the successful implementation and operation of direct payment schemes. The services may be run directly by the local authority or in partnership with a local voluntary agency. In some areas there may be separate support schemes for older people receiving direct payments reflecting the fact that this currently affects more older people than younger. The type of support services offered should reflect the needs of local people requiring services and their carers.

Services may include support, information and advice from those who currently receive direct payments who can pass on what they have learnt; training and practical assistance, particularly help with employing care workers; lists of agencies, help with drafting adverts and contracts, providing rooms for interviewing, or acting as an addressee for responses to adverts. Some support groups may produce newsletters or hold regular meetings for people to share their experiences.

The National Centre for Independent Living provides a national focus for advice and information and useful reading materials (see section 8). Your local social services departments should be able to tell you what local support schemes there are and have materials with local information.

### 3.10 **Monitoring and reviewing your direct payment**

Although the social services department is not providing or arranging your services, it is still responsible for making sure your needs are met.

Monitoring arrangements, to check that your needs have not changed and to discuss any concerns you have, should be agreed before you start to receive your direct payment. Do not feel inhibited about expressing reservations about the services you are purchasing or any other problems. Your payments should not be stopped automatically or arbitrarily as a result of your concerns.

There will also be financial monitoring to ensure that public funds are being properly spent. Before your direct payments begin, discuss the information you will be expected to provide and the way monitoring will be carried out. You will normally be expected to keep separate accounts, including operating a separate bank account for your direct payments. Audit arrangements should be as simple and easy to understand as possible.

The *Community Care (Direct Payments) Act 1996* enables local authorities to require some or all of the money to be paid back if it has not been used for its intended purpose. Before you receive direct payments the circumstances when recovery may be considered should be explained to you. You should not be penalised if you have made an honest mistake.

Monitoring of both services and financial arrangements is likely to be more frequent in the early stages of your direct payment. Once the local authority is satisfied that your arrangements are working and your financial accounting is satisfactory, the monitoring is likely to be less frequent. You can ask for a review at any time if you think there is a need.

### 3.10.1 **Discontinuing direct payments**

You can decide at any time to stop having a direct payment. The local authority should then arrange services for you instead so that your needs continue to be met.

The local authority can decide to discontinue direct payments if it believes that your needs are no longer being met, or you are unable to manage your payment, or there has been misspending of the payments. You should be given the opportunity to demonstrate that you can still manage your payment.

Any decision to discontinue your payment should only follow full discussion with you and, if appropriate, your carer. You should be told the minimum period of notice you will be given in these circumstances at the time you start receiving direct payments.

## 4 **Personal and individual budgets**

Alongside direct payments, the Government is developing personal and individual budgets as part of its personalisation agenda in social care. See section 1 for information about the philosophy behind this agenda.

This is a new and fast-developing area of Government policy. The following information outlines work in progress but some general themes have emerged in the developing models of practice.

The Social Care Institute for Excellence (SCIE) described personalisation in their 2008 publication *Personalisation: a rough guide*:

*Personalisation means starting with the individual as a person with strengths and preferences who may have a network of support and resources, which can include family and friends. They may have their own funding sources or be eligible for state funding. Personalisation reinforces the idea the individual is best placed to know what they need and how those needs can be best met. It means that people can be responsible for themselves and can make their own decisions about what they require, but that they should also have information and support to enable them to do so. In this way services should respond to the individual instead of the person having to fit with the service.*

They also commented on the deficiencies of the current situation:

*This traditional service-led approach has often meant that people have not received the right support for their circumstances or been able to help shape the kind of help they need. Personalisation is about giving people much more choice and control over their lives.*

## 4.1 What are personal and individual budgets?

### **Personal budget**

A personal budget is a sum of money allocated to an individual who is assessed as needing personal assistance and support services, in a non-urgent situation; it is generally restricted to social care funding. Personal budgets were rolled out in local authorities from April 2008 (see Appendix: 4).

Personal budgets, along with direct payments and the relevant part of an individual budget, come within a local authority's system of means-tested, non-residential social services provision, which means that you may be asked to contribute to the cost of services. See Age Concern's Factsheet 46, *Paying for care and support at home*.

### **Individual budgets**

Individual budgets are similar to personal budgets in their aim of increasing service users' choice and control over services but they are intended to allow access to local authority and benefits funding streams beyond those for personal assistance services to create a single individual budget. Examples may include funding streams for Access to Work, community equipment and housing support (see Appendix: 5).

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## Note

'Individual budget' appears often to be used interchangeably with 'personal budget' in documents and guidance on personalisation, which may cause some confusion to individuals accessing services.

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## 4.2 The Individual Budget Pilot Programme

The Government ran an Individual Budget Pilot Programme at 13 sites in England between 2006 and 2007 to compare the experiences of people with individual budgets to those without them, and see how the means tests for the different funding streams could be brought together to create one individual budget. A wide range of service users were included in the pilot.

Most participants were positive about the control individual budgets gave them over their daily lives, access to appropriate support and the form of service delivery (see Appendix: 6) but there were difficulties, particularly with the integration of various funding streams into a single budget and negative outcomes for certain groups. Older people often found directly managing the budget and organising their care stressful and burdensome. With direct payments, too, take-up by older people has been limited.

The Government is working with local authorities to address these issues as part of the *Putting People First* delivery programme but they also recognise that older people should be free to choose how much or how little direct control they wish to take in managing the money and organising support and not feel pressurised to adopt a particular approach.

## 4.3 The personal or individual budget process

At present personal and individual budgets are not intended for long-term residential care but this may be included in the future.

Personal and individual budgets allow you to take your allocated funding in the form of direct payments or continue to have the local authority pay directly for your care and support, or a combination of both. It can be a cash payment, or a 'virtual' budget or a user-controlled trust, which is managed for you. You can also arrange a mixture of these approaches to suit your needs. You should know upfront how much money there is to spend over a year so that you can decide with a support worker how to design your care package to meet your identified needs.

The Individual Budget Pilot Programme explored new, more personalised ways of meeting identified needs. *Evaluation of the Individual Budgets Pilot Programme* (October 2008) explained that in planning how to use an individual budget, individuals should be encouraged to identify the outcomes they want and how they wish to achieve them. Whereas direct payments were generally used to employ personal assistants, individual (and personal) budgets are being promoted as being flexible enough to meet individual needs and preferences, including the purchase of ordinary community or commercial services (for example, gym membership rather than day-centre attendance) or to pay relatives and friends for the help they provide.

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### A typical individual budget process

A range of assessment processes are undertaken with an individual to determine the level of help needed and the outcomes sought. These should include assessment by the local authority and also generally a self-assessment (possibly a questionnaire) with appropriate support.

A decision is made as to whether the individual meets the local authority's Fair Access to Care Services (FACS) eligibility criteria. If they don't, they are not eligible for publicly funded social care.

Other assessments might be needed to determine the allocation of other funding streams because these are not normally aligned or integrated with the IB assessment.

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The assessment feeds into the resource allocation system (RAS) and is used to determine an 'indicative budget', setting the level of resources the person can expect to receive from adult social care and, potentially, resources from other funding streams. If it is felt to be inadequate, the allotted level of resources can be challenged and reviewed.

A financial assessment is undertaken to determine the person's contribution (if any) to the costs of any services. Further financial assessments for the different funding streams may be required.

Once the indicative amount of money in the IB is agreed, a support planning process starts to work out the individual's priorities and goals and how to meet them. Help with planning support may come from a care manager, an in-house or external specialist support planner or broker, the person's family and friends, a service provider or a local user-led organisation.

A team leader, senior manager or possibly a panel approves ('signs off') the support plan and also considers the level of risk and possible adult safeguarding concerns.

The IB is then managed according to the chosen deployment option. The funding can be paid in a number of ways, depending on the amount of support needed.

If the estimated (indicative) budget is found to be inadequate it should be reconsidered. Like all social care, the IB should be reviewed after a few (typically six to eight) weeks and then annually. Minor changes to support plans can usually be made with the approval of the care manager, team manager or IB lead officer. Substantial changes may require a reassessment, a new allocation of resources, and a fresh support plan.

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A personal budget involves a similar process without the possible inclusion of funding streams beyond adult social care.

## 4.4 The resource allocation system

At the heart of the process is the resource allocation system, which gives you an indication of how much money you can expect so that you can decide how best to use it to meet your care and support needs.

In the Individual Budget Pilot Programme the RAS process usually took the following form. The level of help an individual needed across several areas was itemised to achieve particular outcomes, and each item was scored to reflect the level of support and assistance required. The individual's total score was then translated into a single sum of money.

This is the system that has generally been taken forward by local authorities but Age Concern has concerns that 'one size fits all' point allocation systems may not adequately reflect the complexities of individual cases and could also have inherent inequalities. The concerns about potential inequalities relate to the use of different supported assessment questionnaires for different client groups and various levels of point allocation and budgets being awarded to different client groups.

There are also concerns about the flexibility of indicative budgets once they have been allocated. Recent research by Age Concern found a variety of views among local authorities about modifying the allocated amounts if issues arise about their adequacy.

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### Important

Ask for your indicative budget or resource allocation to be reviewed if you feel it doesn't meet your needs or if your needs change at a later date. It must be adequate to meet your assessed eligible needs and should comply with Government guidance on non-residential charging.

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See Age Concern's Factsheet 46, *Paying for care and support at home* for further information.

As has been mentioned above, your RAS budget can be paid to you in various ways. This is one of the main differences from the existing, more restrictive, direct payments system.

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## Action

If you would like to explore the option of a personal or individual budget you should contact your local authority to discuss what is available. You may not presently be receiving a service or could be receiving a service that is directly controlled by the local authority; you may also already have a direct payments arrangement.

It could be useful for you to discuss this option with support agencies such as Age Concern, who have local knowledge of services.

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## 5 Support planning, brokerage and information

The Government is emphasising the importance of support planning and brokerage for the development of self-directed support and the wider personalisation agenda.

The *Putting People First personalisation toolkit*, published in May 2008, advises that:

*effective support planning and brokerage are crucial in enabling disabled people to exercise more choice and control in their lives. Support planning and brokerage, including easy access to information, advice and advocacy, should offer disabled and older people the opportunity to make decisions for themselves that might otherwise be made for them by other people.*

For you this could start at the assessment stage and run right through to monitoring and reviewing the support. Services may vary in each area but the aim is to allow you to get the most out of your personal or individual budget or direct payment. Assistance with support planning may come from care managers, independent support planning agencies such as charities, or family and friends (see Appendix: 7). You should be able to choose how you wish to proceed.

According to the vision set out in *Putting People First personalisation toolkit*, a key element of a new personalised adult social care system will be the provision of information, advice and advocacy for those in need of services, regardless of their eligibility for public funding.

Advocates should be available to support those who do not have a carer or who need support to articulate what they need to achieve self-directed support (see Appendix: 8).

The Department of Health has advised local authorities to invest in and develop support planning and brokerage services, making use of local voluntary-sector and user-led organisations (see Appendix: 9).

## 6 Regulation and risk management

The Government is working to re-design the health and social care regulatory systems in light of the shift towards more personalised services and self-directed support. The *Better Regulation* programme is looking at risk and responsibility in public services. Personalisation is likely to require new, more flexible approaches to regulation and risk management, which are able to adapt to innovative support solutions from new types of providers.

There is an ongoing debate between Government, service providers and service users about the appropriateness of certain types of regulation, for example for personal assistants and regarding safeguarding vulnerable adults – those employed directly by individual budget holders as personal assistants do not currently require a Criminal Records Bureau check.

In its 2008 report *Raising voices: views on safeguarding adults*, the Commission for Social Care Inspection (now the Care Quality Commission) recognised that ‘it is important not to be over-protective or prevent adults from leading ordinary lives – but this must be weighed against individuals’ fundamental right to expect to be safe and to be protected and safeguarded from harm’. It emphasised the need for clarity of roles and responsibilities of the agencies involved in safeguarding adults (within social care and wider public services) with clearer definitions of what constitutes abuse and harm.

The Department of Health’s 2007 report *Independence, choice and risk: a guide to best practice in supported decision-making* recognises the complexities involved in managing risk in relation to choice but is clear that:

*ultimately, the local authority has a statutory duty of care and a responsibility not to agree to support a care plan if there are serious concerns that it will not meet an individual’s needs or if it places an individual in a dangerous situation.*

## 7 **Complaining about a decision**

You have the right to use the local authority complaints procedure if you disagree with any decision about direct payments or personal budgets. Each local authority must publish details of its complaints procedure and you should be told about it. A new joint health and social care complaints procedure was introduced in April 2009, replacing the existing three-stage local authority system.

See Age Concern's Factsheet 59, *How to resolve problems and make a complaint to the local authority*, for further information on complaints and your rights to social services.

## 8 **Useful organisations**

### ● **Assist UK**

The national voice for disabled/independent living centres with information about Disabled Living Centres throughout the UK.

Tel: 0870 770 2866

Textphone: 0870 770 5813

Website: [www.assist-uk.org](http://www.assist-uk.org)

### ● **Care Quality Commission (The)**

The independent regulator of adult health and social care services in England, whether provided by the NHS, local authorities, private companies or voluntary organisations. Also protects the rights of people detained under the Mental Health Act.

Tel: 0300 0616 161 (free call)

Website: [www.cqc.org.uk/](http://www.cqc.org.uk/)

### ● **Carers UK**

General help and advice for all carers.

Tel: 0808 808 7777 (free call)

Website: [www.carersuk.org](http://www.carersuk.org).

- **National Centre for Independent Living**

An organisation run by and for disabled people working on campaigns and policy. It provides a wide range of publications relating to direct payments and personal assistance. It also offers training and consultancy on direct payments and personal assistance.

Tel: 020 7587 1663

Website: [www.ncil.org.uk](http://www.ncil.org.uk).

- **New Employers' Helpline**

Helpline from the HMRC providing information to those considering becoming employers.

Tel: 0845 607 0143

Website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

- **Royal Association for Disability and Rehabilitation (RADAR)**

A campaigning organisation that also provides various guides.

Tel: 020 7566 0116

Textphone: 020 7250 4119

Website: [www.radar.org.uk](http://www.radar.org.uk)

**Further information about personal and individual budgets can be obtained from the following websites:**

**In-Control** [www.in-control.org.uk/](http://www.in-control.org.uk/)

Care Services Improvement Partnership's individual budget pilot programme:  
<http://individualbudgets.csip.org.uk/index>

Information on individual budgets can be found in the social care section of the Department of Health website at:

[www.dh.gov.uk/en/SocialCare/index.htm.jsp](http://www.dh.gov.uk/en/SocialCare/index.htm.jsp)

## 9 Appendix

- 1 *Putting People First* is a shared commitment between five Government departments, local government, the professional leadership of adult social care and the NHS, and the regulatory bodies. It is designed to transform social care services over the next three years by making significant changes to the existing system to complement the proposed Green Paper on the long-term reform of social care funding expected in 2009.
- 2 A further Local Authority Circular entitled *Transforming adult social care* was published on 5 March 2009.
- 3 In October 2008 the Commission for Social Care Inspection published a review document on FACS entitled *Cutting the cake fairly*. The Government is presently (July 2009) considering the recommendations contained in this document.
- 4 Significant progress in the implementation of personal budgets is expected in all local authority areas in England by March 2011. Research findings from the Association of Directors of Adult Social Services (June 2009) shows that on 31 March 2009, 93,000 people were receiving personal budgets (40% of whom are older people), and it is hoped that by March 2010 this figure will reach 206,000.
- 5 Personal or individual budgets have been mentioned in several recent Government policy publications including *Independence, well-being and choice* (DoH 2005) and *Our health, our care, our say* (DoH 2006). The culmination of this was the Government 'concordat' *Putting people first – a shared vision and commitment to the transformation of adult social care* (DoH 2007).
- 6 Personal and individual budgets are derived from the positive outcomes that service users have achieved as a result of direct payments; also from the work carried out in the *In Control* pilot scheme for adults with learning disabilities, which began in 2003. The *In Control* pilot provided evidence of the increased satisfaction levels of service users as a result of the introduction of self-directed support. One of its aims was to eradicate some of the problems encountered by users of direct payments. The outcome was the design of a new process, which has been used as a model for the introduction of their personal and individual budget programmes by many local authorities.

7 In their January 2007 publication *Self-directed support: the role of support brokerage within individual budgets*, the Care Services Improvement Partnership stated: 'Support Brokerage involves the assistance that people need to work out what their choices will be, and the support required to make it happen.'

If the provider market can diversify to cover the requirements and choice options of all people likely to need social care and support there will be an increasing need for navigation, and for help in dealing with complexity. The Government has stated that the challenges faced by older people in adjusting to personal budgets could be addressed by ensuring that the right sorts of support planning and brokerage services are in place, readily accessible and adequately resourced. Guidance for commissioners in the Department of Health's *Putting People First personalisation toolkit* suggests that 'Key principles for personalised commissioning might include ... Developing a diverse range of support planning and support brokerage options that utilise the resources of the whole community.'

8 The Social Care Institute for Excellence's publication *Personalisation: a rough guide* stated: 'Everyone needs universal access to information and advice to ensure they can choose the best support regardless of how their care is funded. All citizens should be able to access universal services such as transport, leisure and education facilities, housing, health services and opportunities for meaningful occupation.' This shows the Government's emphasis on well-being and inclusion, beyond social care, for all those in need of support services.

9 The Social Care Reform Grant, announced in *Putting People First*, is available to local authorities to support universal information, advice, advocacy, support planning and brokerage services to be developed locally.

## 10 Further reading

***Guide to direct payments from local council.*** Available free from Department of Health. Tel: 0870 1555455, fax: 01623 724524.

***Community Care (Direct Payments) Act 1996.*** Price £6.00. Available from The Stationery Office. Tel: 0870 600 5522. Free from the website: [www.opsi.gov.uk](http://www.opsi.gov.uk).

***Direct routes to independence: a guide to local authority implementation and management of direct payments.*** Policy Studies Institute. Price £10 (p&p 20% of order value to a maximum of £10) (ISBN: 0853 74 75 71). Available from Central Books. Tel: 020 8525 8840.

***Employed or self-employed? A guide to employment status for tax and national insurance.*** (Ref: IR56). Available free from HM Revenue & Customs Office (formerly 'Inland Revenue Enquiry Centres'). Orderline 0845 9000 404 Website: [www.inland.revenue.gov.uk](http://www.inland.revenue.gov.uk).

## 11 Further information from Age Concern

Visit the Age Concern website, [www.ageconcern.org.uk](http://www.ageconcern.org.uk), or call our national Information Line on 0800 00 99 66 (free call) if you would like:

- to order copies of any of the Age Concern information materials mentioned in this factsheet
- to request information in large print
- further information about our full range of information products
- contact details for your nearest local Age Concern.

### **Books from Age Concern**

Age Concern publishes a wide range of books for older people and those who care for and work with them. The following title may be of particular interest:

*Your rights to money benefits 2009/10.* All you need to know about the full range of benefits for the over 60s. £5.99 (available June 2009).

To order this book, or to view our full range of books, please visit our website [www.ageconcern.org.uk/bookshop](http://www.ageconcern.org.uk/bookshop) or call our book order line 0870 442 2120.

### **Age Concern and Help the Aged**

Age Concern England and Help the Aged have joined together to form Age UK, a single charity dedicated to improving the lives of older people.

## **Age Concern and Help the Aged across the UK**

To find out more about Age Concern and Help the Aged's work in Northern Ireland, Scotland and Wales, contact:

Age Concern Northern Ireland

Tel: 028 9032 5055

Website: [www.ageconcernni.org](http://www.ageconcernni.org)

Scottish Helpline for Older People (Age Concern Scotland)

Tel: 0845 125 9732

Websites: [www.olderpeoplescotland.org.uk](http://www.olderpeoplescotland.org.uk)

[www.ageconcernscotland.org.uk](http://www.ageconcernscotland.org.uk)

Age Concern Cymru

Tel: 029 2043 1555

Website: [www.accymru.org.uk](http://www.accymru.org.uk)

## **Support our work**

Age Concern is the largest provider of services to older people in the UK after the NHS. We make a difference to the lives of thousands of older people through local resources such as our befriending schemes, day centres and lunch clubs; by distributing free information materials; and through our national freephone helpline – the Age Concern Information Line 0800 00 99 66.

If you would like to support our work by making a donation please call Supporter Services on 020 8765 7527 (Monday to Friday 9.15am–5pm) or visit [www.ageconcern.org.uk](http://www.ageconcern.org.uk)

### **Legal statement**

Age Concern England (charity number 261794) has merged with Help the Aged (charity number 272786) to form Age UK, a charitable company limited by guarantee and registered in England: registered office address 207-221 Pentonville Road, London, N1 9UZ, company number 6825798, registered charity number 1128267.

Age Concern and Help the Aged are brands of Age UK. The three national Age Concerns in Scotland, Northern Ireland and Wales have also merged with Help the Aged in these nations to form three registered charities: Age Scotland, Age Northern Ireland, Age Cymru.

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Please note that the inclusion of named agencies, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age Concern and Help the Aged. While every effort is made to ensure accuracy, Age Concern and Help the Aged cannot be held responsible for errors or omissions.

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