

The draft Care and Support Bill

– 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 draft Care and Support Bill makes provisions to ensure that people have maximum control over how their needs are met.

What is care and support planning?

Everyone's needs for care and support are different, and need to be met in 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 could do by themselves or with the support they already have, and what types of care and support might be available to help them.

The planning process takes place between the person, any carer they have and the local authority, to decide how to meet needs. As part of the process, the local authority will tell the adult about their **personal budget**. This is the amount of money which the local authority has calculated to be the cost of arranging care and support to meet their needs, and it includes any amount which the local authority is going to pay itself towards those costs (which might be all, or none, of them). The personal budget helps the adult to decide how much control they want to have over arranging their care and support.

Using the information from the personal budget, the adult can ask the local authority to make a direct payment. This is a payment of money from the local authority to either the person needing care and support, or someone else acting on their behalf, to pay for the cost of arranging their own support. The local authority could make a **direct**

payment instead of arranging any services itself, if the adult asks them to do so. This ensures the adult can take full control over their own care.

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 critical to the way social care is provided, have only been set out in guidance.

We want the new legal framework to focus on the person and their needs, their choices and their aspirations. It should put them in control of their lives and the care and support they receive. The care and support planning process is the crucial way of making this happen, by providing clear statutory rights to plans for people who use services and carers.

Personal budgets also need a clear place in the statute. They are key to personalising care and support, and their absence of a legal requirement to provide them makes it more difficult to bring them to all people. Whilst some local authorities are already making great strides in this area, legislation is required to make personalised care standard practice.

What does the draft Bill do?

Having established whether the local authority has a duty to meet care and support needs, or is choosing to meet needs under a power, the draft Bill sets out what must happen next to help the adult make decisions about how their needs should be met.

There is a new duty on the local authority to provide a care and support plan (or a support plan in the case of a carer). In providing this plan, they must then work with the adult to help them to decide how to meet their needs, and produce a plan which sets out the detail of what was agreed. As part of this planning process, the local authority must tell people about their ability to take a direct payment for some or all of their needs.

One of the core requirements of a care and support plan is a personal budget for the adult and, for the first time, the draft Bill creates a legal entitlement to a personal budget. This is to help people to understand the costs of meeting their needs and find out what public funding is available to help them. This is complemented by a right to request a direct payment to meet some or all of those needs, to maximise the control people have over how that money is spent.

Even in the instances when assessments have determined that adults do not have eligible needs, the local authority can advise people about what needs they do have, and how to meet them or prevent further needs from developing. The draft Bill requires local authorities to give information to people to help them support themselves better in these circumstances.

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 duty to review the plan to ensure that the adult's needs and outcomes continue to be met over time.

CASE STUDIES

Isaac has a personal budget which he uses to manage his complex needs. Part of his budget is used for gym membership, so he gets more exercise that could help his recovery.

"I decided to apply for a personal budget and thought about how I would use it as part of my recovery. I have a number of conditions, bi-polar affective disorder, borderline personality disorder, HIV, epilepsy, asthma and other conditions as well. I've started a blog for disabled people, to be seen in a positive light, rather than not being able to do stuff. Although I'm disabled I don't want to be labelled. So I'll definitely do stuff I want to do, rather than maybe attending a day centre or doing a course that wouldn't really suit me."

Lewis, who has learning disabilities, lives with his family but wants more independence. His family have built him his own flat as an extension to the family home.

Lewis's social worker explains: "Lewis left college about a year ago. Lewis was quite clear when we did the assessment for him that we wasn't interested in going to go to the County Council's day service but he wanted to have more choice and control over what he did. Lewis has experienced a range of activities some that he's decided not to continue with and some that he has. He's also doing some voluntary work at a local museum, and also has some one to one support where he goes out one day a week to do some physical activity at the gym."

FURTHER INFORMATION

- Statutory guidance on care and support planning: *Prioritising Need in the Context of Putting People First* (February 2010)
- *A vision for adult social care: capable communities and active citizens* (November 2010)
- See also *factsheet 3* on establishing the core entitlement to care and support, and *factsheet 5* on the law for carers.