11. Personal budgets

This chapter provides guidance on:

- Section 26 of the Care Act 2014;
- The Care and Support (Personal Budget Exclusion of Costs) Regulations 2014.

This chapter covers:

- The personal budget;
- Elements of the personal budget;
- Elements of care and support that are excluded from the personal budget;
- Calculating the personal budget;
- Agreeing the final budget;
- Use of the personal budget;
- Use of a carer’s personal budget;
- Carers’ personal budgets where the adult being cared for is not a personal budget holder;
- Appeals/disputes.

11.1. Personal budgets are a key part of the Government’s aspirations for a person-centred care and support system. Independent research shows that where implemented well, personal budgets can improve outcomes and deliver better value for money.\(^{87,88,89,90}\) The Act places personal budgets into law for the first time, making them the norm for people with care and support needs.

11.2. The personal budget is the mechanism that, in conjunction with the care and support plan, or support plan, enables the person, and their advocate if they have one, to exercise greater choice and take control over how their care and support needs are met. It means:

- knowing, before care and support planning begins, how much money is available to meet eligible, assessed needs and having clear information about the proportion the local authority will pay, and what amount (if any) the person will pay.
• being able to choose from a range of options for how the money is managed, including direct payments, the local authority managing the budget and a provider or third party managing the budget on the individual’s behalf (an individual service fund), or a combination of these approaches.

• having a choice of over who is involved in developing the care and support plan for how the personal budget will be spent, including from family or friends.

• having greater choice and control over the way the personal budget is used to purchase care and support, and from whom.

11.3. It is vital that the process used to establish the personal budget is transparent so that people are clear how their budget was calculated, and the method used is robust so that people have confidence that the personal budget allocation is correct and therefore sufficient to meet their care and support needs. The allocation of a clear upfront indicative (or ‘ball-park’) allocation at the start of the planning process will help people to develop the plan and make appropriate choices over how their needs are met.

11.4. The process of allocating the personal budget should be completed in a timely manner, proportionate to the needs to be met. At all times the person should be informed where they are in the care planning process, what will happen next and the likely timeframes.

11.5. This chapter applies to people in need of care and support and carers equally, unless specifically stated.

The personal budget

11.6. Everyone whose needs are met by the local authority, whether those needs are eligible, or if the authority has chosen to meet other needs, must receive a personal budget as part of the care and support plan, or support plan. The personal budget is an important tool that gives the person clear information regarding the money that has been allocated to meet the needs identified in the assessment and recorded in the plan. An indicative amount should be agreed with the person, and anybody else involved, at the start of care and support planning, with the final amount personal budget confirmed through this process. The detail of how the personal budget will be used is set out in the care and support plan, or support plan.

11.7. This allows the person, and anybody else the person wishes, to make informed decisions about how to meet their care and support needs. The person can choose for the personal budget allocation to remain with the local authority to arrange care and support on the person’s behalf, and in line with their wishes. Alternatively, if available locally, it can be placed with a third-party provider on the same basis, often called an individual service fund. Where an ISF type arrangement is not available locally, the local authority should explore arrangements to develop this offer, and should be receptive to requests from personal budget recipients to create these arrangements with specified providers. The person may also request to take some or all of the budget as a direct payment, and the local authority must comply with this request, provided the relevant conditions in the Act are met (see chapter 12 on direct payments).

11.8. There may also be cases where a person prefers to use a mixed package of care and support. For example, this may be
a direct payment for some of their needs, with the remainder of the personal budget allocated via the local authority or a third-party, or any combination of the above. The method of allocating the personal budget should be decided and agreed during the care and support planning process (see chapter 10). It is important that these arrangements can be subsequently adjusted if the person wishes this, with the minimum of procedure. The process for allocating and agreeing the personal budget via the planning process should be as straightforward and as timely as possible so that the person can access the budget without significant delay.

Elements of the personal budget

11.9. The personal budget must always be an amount sufficient to meet the person’s care and support needs, and must include the cost to the local authority of meeting the person’s needs which the local authority is under a duty to meet, or has exercised its power to do so. This overall cost must then be broken down into the amount the person must pay, following the financial assessment, and the remainder of the budget that the authority will pay.

11.10. The personal budget may also set out other amounts of public money that the person is receiving, such as money provided through a personal health budget. Integrated health and care, and integration of other aspects of public support are the long-term vision of the Government. This will provide the individual with a seamless experience, and can help to remove unnecessary bureaucracy and duplication that may exist where a person’s needs are met through money from multiple funding streams.

11.11. Local authorities should take a lead in driving the integration of support services for their population. For example, this may involve agreeing with partner organisations a lead organisation that agrees to oversee monitoring and assurance of all budgets the person is receiving.

11.12. Where a local authority is meeting the eligible needs of a person whose financial resources are above the financial limit, but who has requested the local authority meet their needs, the local authority may make a charge for putting in place the necessary arrangements to meet needs (a brokerage fee) (see chapter 8 on charging and financial assessment). Where this occurs, the local authority should consider how best to set this information out to the person, in a format accessible to them. This fee is not part of the personal budget, since it does not relate directly to meeting needs, but it may be presented alongside the budget to help the person understand the total charges to be paid. For example, a local authority may wish to specify this in both the plan and the personal budget for the person so all parties are clear on how costs are allocated.

11.13. Similarly, there will be cases where a person is making an additional payment (or a “top-up”) in order to be able to secure the care and support of their choice, where this costs more than the local authority would normally pay for such a type of care. In these cases, the additional payment does not form part of the personal budget, since the budget must reflect the costs to the local authority of meeting the needs. However, the local authority should consider how best to present this information to the individual, so that the total amount of charges paid is clear, and the link to the personal budget amount is understood.
Elements of care and support that are excluded from the personal budget

11.14. Regulations set out the cases or circumstances where the costs of meeting the needs of care and support do not have to be incorporated into the personal budget. Because both the care and support plan and personal budget are mechanisms to enable people to have greater choice and control over their care and support, there are not many instances where this exclusion will apply.

11.15. The Care and Support (Personal Budget Exclusion of Costs) Regulations 2014 set out that the provision of intermediate care and reablement to meet eligible needs, must be excluded from the personal budget. This will mean that where either intermediate care or reablement is being provided to meet eligible needs (i.e. needs under section 18, 19 or 20 of the Care Act) the cost of this must not be calculated in the personal budget. “Intermediate care” is a structured programme of care provided for a limited period of time, to assist a person to maintain or regain the ability to live independently at home. “Reablement” is a particular type of intermediate care, which has a stronger focus on helping the person to regain skills and capabilities to reduce their needs, in particular through the use of therapy.

11.16. There is a tendency for the terms “reablement”, “rehabilitation” and “intermediate care” to be used interchangeably. The National Audit of Intermediate Care categorises four types of intermediate care: crisis response – services providing short-term care (up to 48 hours); home-based intermediate care – services provided to people in their own homes by a team with different specialities but mainly health professionals such as nurses and therapists; bed-based intermediate care – services delivered away from home, for example, in a community hospital; and reablement – services to help people live independently provided in the person’s own home by a team of mainly social care professionals.

11.17. Three of the four types of intermediate care have historically been clinician-led and provided by health staff, with reablement being provided by local authorities. However, these are not concrete, mutually-exclusive categories – and, furthermore, with greater integration and co-operation between health and local authorities, there should be greater use of qualified staff from health and social care working together to provide intermediate care.

11.18. Local authorities should not seek to include additional elements that would not normally be classified as intermediate care or reablement into this exclusion. Indeed, the Act restricts the regulations into specifying only care and support which the local authority cannot charge for, or chooses not to charge for. This ensures that long-term care and support will always be part of the personal budget, and in future, the cap on care costs.

11.19. Intermediate care/reablement should usually be provided as a free, universal service under section 2 of the Act, and therefore would not contribute to the personal budget amount (and in future to the cap on care costs). However, in some circumstances, a local authority may choose to combine either service with aspects of care and support to meet eligible or ongoing needs, which would require a personal budget to be developed. Removing the cost of provision of intermediate care/reablement from the personal budget in these scenarios ensures that the allocation of both services is applied
uniformly across all local authorities, and in future people progress towards the cap on care costs in a fair and consistent way.

11.20. In cases where intermediate care/reablement is provided to meet needs under section 18 or 20(1) or under section 19(1) or 20(6), either in isolation or combined with longer-term care and support, the plan should describe what the package consists of and how long it will last. This will help the person understand what is being provided to meet their needs. However, the person should not receive a personal budget, unless there are other forms of eligible care and support being provided. In these cases, the personal budget amount should not include the cost of intermediate care/reablement.

Calculating the personal budget

11.21. It is important to have a consistent method for calculating personal budgets that provides an early indication of the appropriate amount to meet the identified needs to be used at the beginning of the planning process. Local authorities should ensure that the method used for calculating the personal budget produces equitable outcomes to ensure fairness in care and support packages.

11.22. There are many variations of systems used to arrive at personal budget amounts, ranging from complex algorithmic-based resource allocation systems (RAS), to more ‘ready-reckoner’ approaches. Complex RAS models of allocation may not work for all client groups, especially where people have multiple complex needs, or where needs are comparatively costly to meet, such as deaf-blind people. It is important that these factors are taken into account, and that a ‘one size fits all’ approach to resource allocation is not taken. If a RAS model is being used, local authorities should consider alternative approaches where the process may be more suitable to particular client groups to ensure that the personal budget is an appropriate amount to meet needs.

11.23. Regardless of the process used, the most important principles in setting the personal budget are transparency, timeliness and sufficiency. This will ensure that the person, their carer, and their independent advocate if they have one, is fully aware of how their budget was calculated, that they know the amount at a stage which enables them to plan their care and support accordingly, and that they can have confidence that the amount includes all relevant costs that will be sufficient to meet their identified needs in the way set out in the plan. This should prevent disputes from arising, but it must also be possible for the person, carer or advocate to challenge the local authority on the sufficiency of the final amount.

- **Transparency:** Authorities should make their allocation processes publicly available as part of their general information offer, or provide this on a bespoke basis for each person the authority is supporting in a format accessible to them. This will ensure that people fully understand how the personal budget has been calculated, both in the indicative amount and the final personal budget allocation. Where a complex RAS process is used, local authorities should pay particular consideration to how they will meet this transparency principle, to ensure people are clear how the personal budget was derived.

- **Timeliness:** It is crucial when calculating the personal budget to arrive at an upfront allocation which can be used to inform the start of the care and support
planning process. This ‘indicative allocation’ will enable the person to plan how the needs are met. After refinement during the planning process, this indicative amount is then adjusted to be the amount that is sufficient to meet the needs which the local authority is required to meet under section 18 or 20(1), or decides to meet under section 19(1) or (2) or 20(6). This adjusted amount then forms the personal budget recorded in the care plan.

- **Sufficiency**: The amount that the local authority calculates the personal budget to be must be sufficient to meet the person’s needs which the local authority is required to meet under section 18 or 20(1), or decides to meet under section 19(1) or (2) or 20(6) and must also take into account the reasonable preferences to meet needs as detailed in the care and support plan, or support plan.

11.24. The Act sets out that the personal budget must be an amount that reflects the cost to the local authority of meeting the person’s needs. In establishing the ‘cost to the local authority’, consideration should be given to the cost of the service at an appropriate quality, through local provision to ensure that the personal budget reflects local market conditions. Consideration should also be given as to whether the personal budget is sufficient where needs will be met via direct payments, especially around any ‘on-costs’ that may be required to meet needs (see chapter 12). There may be concern that the ‘cost to the local authority’ results in the direct payment being a lesser amount than is required to purchase care and support on the local market due to local authority bulk purchasing and block contract arrangements. However, by basing the personal budget on the price of quality local provision, this concern should be allayed.

11.25. However, a request for needs to be met via a direct payment does not mean that there is no limit on the amount attributed to the personal budget. There may be cases where it is more appropriate to meet needs via directly-provided care and support, rather than by making a direct payment. For example, this may be where there is no local market for a particular kind of care and support that the person wishes to use the direct payment for, except for services provided by the local authority. It may also be the case where the costs of an alternate provider arranged via a direct payment would be substantially more than the local authority would be able to arrange the same support for, whilst achieving the same outcomes for the individual.

11.26. In all circumstances, consideration should be given to the expected outcomes of each potential delivery route. It may be that by raising the personal budget to allow a direct payment from a particular provider, it is expected to deliver much better outcomes than traditionally delivered care and support. Decisions should therefore be based on outcomes and value for money, rather than purely financially motivated.

11.27. In cases such as these, the care plan should be reviewed to ensure that it is accurate and that the personal budget allocation is correct. The authority should work with the person, their carer and independent advocate to agree on how best to meet their care and support needs. It may be that the person can take a mixture of direct payment and local authority arranged care and support, or the local authority can work with the person to discuss alternate uses for the personal budget. Essentially, these discussions will take place during the planning process and local authorities should ensure that their staff are appropriately trained to support personalised care and support.
Example – Costs of direct payments

Mr A has been assessed as requiring home care support for 5 hours each week. The local authority has a block contract with an agency which has been providing support to Mr A twice per week. Mr A is happy with the quality of support he receives but would like more flexibility in the times at which he receives support in order to better meet his needs. He therefore requests a direct payment so that he can make his own arrangements with the agency, which is happy to provide a much more flexible and personalised service. The cost to the local authority of the block contracted services is £12.50 per hour. However, the more flexible support purchased by an individual costs £17 per hour. The local authority therefore increases Mr A’s direct payment from £62.50 to £85 per week to allow him to continue to receive the number of hours he requires. The solution through a direct payment delivers better outcomes for Mr A and therefore the additional cost is reasonable and seen as value for money. The local authority also agrees it is more efficient for Mr A to communicate the hours he wants to receive support and handle the invoicing himself.

Agreeing the final budget

11.28. The final budget should be agreed at the end of the care and support planning process. This ensures there is scope for the budget to increase (should the budget prove insufficient during support planning) or decrease (should the budget prove to be more than is required, for example where unpaid support or universal services have been identified as appropriate to meet some needs during the support planning process). Any process in place for agreeing the final budget and associated care and support plan should be transparent and proportionate to the budget involved and any risks identified. Some local authorities are devolving responsibility for agreeing budgets set at a low level to frontline staff and/or social work team managers so as to avoid unnecessary delays and minimise the use of panels.

11.29. Generally, the agreement of the final budget and support plan should not involve scrutiny of specific elements of the plan on the basis of their cost alone. Consideration should be given to the cost of meeting needs as part of a wider evaluation of other aspects such as value for money and anticipated outcomes. In many cases, as long as a plan is within the indicative budget (or justifiably above it) and the proposed use of the money is appropriate, legal and meets the needs identified in assessment, it should be “signed off.”

Use of the personal budget

11.30. The person should have the maximum possible range of options for managing the personal budget, including how it is spent and how it is utilised. Directing spend is as important for those choosing the council-managed option or individual service fund as for direct payments. Evidence suggests that people using council-managed personal budgets are currently not achieving the same level of outcomes as those using direct payments, and in too many cases do not even know they have been allocated a personal budget.91

11.31. There are three main ways in which a personal budget can be deployed:

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91 InControl Personal Budget Outcomes Evaluation Tool: http://www.in-control.org.uk/media/154591/poetnationalreport.pdf
• As a managed account held by the local authority with support provided in line with the person’s wishes;
• As a managed account held by a third party (often called an individual service fund or ISF) with support provided in line with the person’s wishes;
• As a direct payment.

11.32. In addition, a person may choose a ‘mixed package’ that includes elements of some or all three of the approaches above. Local authorities must ensure that whatever way the personal budget is used, the decision is recorded in the plan and the person is given as much flexibility as is reasonably practicable in how their needs are met. The mixed package approach can be a useful option for people who are moving to direct payments for the first time. This allows a phased introduction of the direct payment, giving the person time to adapt to the direct payment arrangements.

11.33. Where ISF approaches to personal budget management are available locally, the local authority should provide people with information and advice on how the ISF arrangement works, how the provider(s) will manage the budget on behalf of the person, and advice on what to do if a dispute arises. Consideration should be given to using real local examples that illustrate how other people have used the ISF arrangement.

11.34. Where there are no ISF arrangements available locally, the local authority should consider establishing this as an offer for people. Additionally, the local authority should reasonably consider any request from a person for an ISF arrangement with a specified provider.

11.35. Local authorities should also give consideration to how choice could be increased by pooling budgets together. For example, this may include pooling budgets of people living in the same household such as an adult and carer, or pooling budgets of people within a community with similar care and support needs, or aspirations. Pooling budgets in circumstances such as this may deliver increased choice, especially where managed budgets are concerned.

11.36. Evidence suggests that in most cases people need to know the amount of their budget, be able to choose how it is managed, and have maximum flexibility in how it is used to achieve the best outcomes. This implies that the process and practice for personal budgets must follow the key principles of self-directed support. Local authorities should aim to develop a range of means to enable anyone to make good use of direct payments and where people choose other options, should ensure local practice that maximises choice and control (for example use of Individual Service Funds). Local authorities should also take care not to inadvertently limit options and choices. For example “pre-paid cards” can be a good option for some people using direct payments, but must not be used to constrain choice or be only available for use with a restricted list of providers.

Use of a carer’s personal budget

11.37. Specific consideration should be given to how a personal budget will be used by carers. The Act specifies that a carer’s need for support can be met by providing care to the person they care for. However, decisions on for whom a particular service is to be provided may affect issues such as whether the service is chargeable, and who is liable to pay any charges. It is therefore important that it is clear to all individuals

involved whose needs are intended to be met by a particular type of support, to whom the support will be provided directly, and therefore who may pay any charges due. Where a service is provided directly to the adult needing care, even though it is to meet the carer’s needs, then that adult would be liable to pay any charge, and must agree to doing so.

11.38. Decisions on which services are provided to meet carer’s needs, and which are provided to meet the needs of the adult for whom they care, will therefore impact on which individual’s personal budget includes the costs of meeting those needs. Local authorities should make this decision as part of the care planning process, in discussion with the individuals concerned, and should consider whether joint plans (and therefore joint personal budgets) for the two individuals may be of benefit.

11.39. Local authorities should consider how to align personal budgets where they are meeting the needs of both the carer and the adult needing care concurrently. Where an adult has eligible needs for care and support, and has a personal budget and care and support plan in their own right, and the carer’s needs can be met, in part or in full, by the provision of care and support to that person needing care, then this kind of provision should be incorporated into the plan and personal budget of the person with care needs, as well as being detailed in a care and support plan for the carer.

11.40. “Replacement care” may be needed to enable a carer to look after their own health and wellbeing alongside caring responsibilities, and to take a break from caring. For example, this may enable them to attend their own health appointments, or go shopping and pursue other recreational activities. It might be that regular replacement care overnight is needed so that the carer can catch up on their own sleep. In other circumstances, longer periods of replacement care may be needed, for example to enable carers to have a longer break from caring responsibilities or to balance caring with education or paid employment.

11.41. The carer’s personal budget must be an amount that enables the carer to meet their needs to continue to fulfil their caring role, and takes into account the outcomes that the carer wishes to achieve in their day to day life. This includes their wishes and/or aspirations concerning paid employment, education, training or recreation if the provision of support can contribute to the achievement of those outcomes. The manner in which the personal budget will be used to meet the carer’s needs should be agreed as part of the planning process.

11.42. Local authorities must have regard to the wellbeing principle of the Act as it may be the case that the carer needs a break from caring responsibilities to look after their own physical/mental health and emotional wellbeing, social and economic wellbeing and to spend time with other members of the family and personal relationships. Whether or not there is a need for replacement care, carers may need support to help them to look after their own wellbeing. This may be, for example, a course of relaxation classes, training on stress management, gym or leisure centre membership, adult learning, development of new work skills or refreshing existing skills (so they might be able to stay in paid employment alongside caring or take up return to paid work), pursuit of hobbies such as the purchase of a garden shed, or purchase of laptop so they can stay in touch with family and friends.
Example – Flexible use of a carer’s personal budget
Connor has been caring for his wife, who is in a wheelchair with ME and arthritis, for the last nine years. He does all the cooking, driving and general household duties for her. Connor received a personal budget which he requested in the form of a direct payment from his local authority for a laptop to enable him to be in more regular contact through Skype with family in the US. This now enables Connor to stay connected with family he cannot afford to fly and see. This family support helps Connor with his ongoing caring role.

Divya has four young children and provides care for her father who is nearing the end of his life. Her father receives a direct payment, which he used to pay for a family member to come from India for a period of time to give his daughter a break from her caring role. Divya received a carers’ direct payment, which she uses for her children to attend summer play schemes so that she get some free time to meet with friends and socialise when the Indian family member providers care to her father. This gives Divya regular breaks from caring which are important to the family unit.

Carers’ personal budgets where the adult being cared for is not a personal budget holder

11.43. The Act makes clear that the local authority is able to meet the carer’s needs by providing a service directly to the adult needing care. In these cases, the carer must still receive a support plan which covers their needs, and how they will be met. This would specify how the carer’s needs are going to be met (for example, via replacement care to the adult needing care), and the personal budget would be for the costs of meeting the carer’s needs.

11.44. The adult needing care would not get a personal budget or care plan, because no matter what the service is in practice, it is designed to meet the carer’s needs. However, it is essential that the person requiring care is involved in the decision-making process and agrees with the intended course of action.

11.45. In situations such as these, the carer could request a direct payment, and use that to commission their own replacement care from an agency, rather than using an arranged service from the local authority or a third party. The local authority should take steps to ensure that the wishes of the adult requiring care are taken into account during these decisions. For example, the adult requiring care may not want to receive replacement care in this manner.

11.46. If such a type of replacement care is charged for (and it may not be), then it would be the adult needing care that would pay, not the carer, because they are the direct recipient of the service. This is in part why it is so important that the adult needing care agrees to receiving that type of care. The decisions taken by the carer and adult requiring care should be agreed and recorded in the support plan.

11.47. For the purposes of charging, the personal budget which the carer receives must specify the costs to the local authority and the costs to the adult, based on the charging guidance (see chapter 8). In this case, “the adult” refers to the carer, because they are the adult whose needs are being met. However, in instances where replacement care is being provided, the carer should not be charged; if charges are due to be paid then these have to be met by the
adult needing care. Any such charges would not be recorded in the personal budget, but should be set out clearly and agreed by those concerned.

**Appeals/disputes**

11.48. The local authority should take all reasonable steps to limit appeals or disputes regarding the personal budget allocation. This will include through effective care and support planning, and transparency in the personal budget allocation process. Additionally, many disputes may be avoided by informing people of the timescales that are likely to be involved in different stages of the process. Keeping people informed how their case is progressing may help limit the number of disputes.

11.49. Current complaints provision for care and support is set out in regulations. The provisions of the regulations mean that anyone who is dissatisfied with a decision made by the local authority can make a complaint about that decision and have that complaint handled by the local authority. The local authority must make its own arrangements for dealing with complaints in accordance with the 2009 regulations.

**Links to external resources**

The seven steps to being in control of my support, In Control, 2005: http://bit.ly/1c7cgSX


Adult social care minimum process framework, TLAP, 2011: http://bit.ly/1BJym0


Choice and control for all – the role of individual service funds in delivering personalised care and support, Groundswell, 2012: http://bit.ly/1dsYA4f

Personal health budgets – ways in which money can be held and managed, NHSE, 2012: http://bit.ly/1iv2Gyn

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Local Authority Social Services and NHS Complaints Regulations 2009, made under powers in Sections 113 to 115 of the Health and Social Care (Community Health and Standards Act) 2003.
Improving personal budgets for older people, TLAP, 2013: http://bit.ly/1iuTGJq


Paths to personalisation in mental health, TLAP / NDTi, 2013: http://bit.ly/1b5mRmB
