



Factsheet 24

Personal budgets and direct payments in social care

November 2023

About this factsheet

This factsheet provides information about personal budgets and direct payments in the adult social care system.

A personal budget is the overall cost of the care and support the local authority provides or arranges for you. It specifies how much, if any, you

Contents

1	Recent developments	3
2	Sources and terms used in this factsheet	3
3	The personalisation of social care	3
4	Getting assistance from the local authority	4
5	Paying for social care services	4
6	What is a personal budget?	5
7	Calculating your personal budget	6
7.1	Carers' personal budgets	8
7.2	Challenging the personal budget amount	8
7.3	Personal budget reviews	9
8	What is a direct payment?	10
8.1	Duty to provide direct payments – 4 conditions	11
8.2	Can the local authority impose conditions?	11
8.3	If you lack mental capacity	11
8.4	Restrictions on employing a partner or family member	12
8.5	Limitations on direct payment use	13
8.6	Calculating the amount of your direct payments	13
8.7	Becoming an employer	14
8.8	Agency contract if you do not want to be an employer	15
8.9	Support and help to manage direct payments	16
8.10	Equipment and home adaptations	16
8.11	Review of your arrangements	17
8.12	Terminating direct payments	17
8.13	Harmonising NHS and social care direct payments	18
9	Complaints and safeguarding from abuse and neglect	19
	Useful organisations	20
	Age UK	21
	Support our work	21

1 Recent developments

Local authority circular - LAC (DHSC) (2023) 1, published in February 2023, increased the income thresholds in the financial assessment in line with inflation.

2 Sources and terms used in this factsheet

4 Getting assistance from the local authority

6 What is a personal budget?

'*Personal budget*' is the term used to describe the overall cost of the care and support services that the local authority arranges or provides to

7 Calculating your personal budget

General principles for calculating a personal budget are set out in the Act and guidance. There are different local approaches in practice.

Ready reckoner approach - the local authority identifies the number of hours of care and support needed to meet your eligible needs, discusses with you

Local market conditions and meeting needs

The personal budget amount must be based on the **cost to the local authority** of meeting your assessed eligible needs that it must, or that it chooses, to meet. It specifies how much, if any, you must contribute to that cost based on the financial assessment and the remaining amount paid by the local authority.

The guidance states:

In establishing the 'cost to the local authority', consideration should therefore be given to local market intelligence and costs of local quality provision to ensure that the personal budget reflects local market conditions and that appropriate care that meets needs can be obtained for the amount specified in the [personal] budget.

The reference to local market conditions as a gauge for personal budgets is important. Local authorities often contract at cheaper rates than individuals by bulk purchasing block contracts to drive down prices.

The local authority must also consider the cost of care outside of its area, if this is part of meeting your eligible needs. For example, if the local authority is meeting your needs by arranging a care home, you may need this to be located out-of-area, so you are closer to a support network of family and friends.

The local authority duty relates to meeting your eligible needs, not meeting them in a specified way. They must consider whether *'appropriate care that meets needs can be obtained for the amount specified in the budget'* in line with the guidance.

Local authorities have a duty to promote the local market so there is a range of service providers and *'a variety of high quality services to choose from'*. However, the range and quality of services can depend on where you live and there may not be many choices in reality.

Not just the cheapest option

The emphasis in the guidance is on achieving sustainable care plans. It recognises this may not be achieved by opting for the cheapest option. It says decisions should *'be based on outcomes and value for money, rather than purely financially motivated'*.

The local authority must explain how it arrived at your personal budget figure and why they believe this is sufficient to meet your eligible needs.

If your needs are met by direct payments, consideration must be given as to whether the personal budget is sufficient for other costs associated with becoming an employer, including legal requirements such as National Insurance and pension contributions for employed carers.

Local authorities can consider financial constraints when meeting eligible needs and may not agree, for example, to a direct payment request twice as expensive as a care home or directly commissioned care.

Making a complaint

There are other rules about an '*authorised person*' that include:

an authorised person must notify the local authority if they think the adult receiving care support has regained mental capacity to decide whether or not they want a direct payment

if the authorised person is not a friend involved in the provision of your care, partner or cohabiting close family member, a Disclosure and Barring Service (DBS) check must be carried out for any care staff they employ. The local authority must explain how DBS checks can be accessed.

For more information about mental capacity, see factsheet 22, *Arranging for someone to make decisions on your behalf*.

8.4 Restrictions on employing a partner or family member

As a general rule, the direct payment regulations prevent you using direct payments to employ co-habiting family members to meet your care and support needs.

This applies to your spouse, partner or civil partner, as well as relatives who live in your house. They are:

parent or parent-in-law

son or daughter, or son-in-law or daughter-in-law

stepson or stepdaughter

brother or sister

aunt or uncle

grandparent, or

spouse, partner or civil partner of any of these people.

An exception can apply if the local authority agree it is necessary to permit direct payments to pay a partner or relative.

Your care plan must include how your needs impact on your wellbeing. It

The costs of becoming an employer must be recognised

If you use a direct payment to employ one or more care workers or PA's, it should cover all costs associated with being an employer. These include National Insurance contributions, holiday and sick pay, pension contributions, and potentially redundancy payments when their employment ends.

It is necessary to take out insurance to cover employer's liability. Your direct payment amount should take account of these basic legal requirements.

Making pension contributions on behalf of your carer(s)

You may have a legal duty as an employer to enrol your employees into a pension scheme and contribute towards their pensions, known as '*automatic enrolment*'. If you currently employ a carer aged 22 or over

Whilst you can choose to use your direct payment in this way, the local authority should make you aware that equipment and small adaptations costing £1,000 or less must be provided free of charge, subject to them agreeing this is part of meeting your needs. More expensive adaptations are generally provided via means tested Disabled Facilities Grants, in conju

There are several reasons why the

Useful organisations

Care Quality Commission

www.cqc.org.uk/

Telephone 03000 616 161

Independent regulator of adult health and social care services in England, whether provided by NHS, local authorities, private companies or voluntary organisations, and people detained under the Mental Health Act. They assess how local authorities meet their duties under the Care Act 2014.

Carers UK

www.carersuk.org

Telephone 0808 808 7777

Information, advice and support for carers, including information about benefits.

Citizens Advice

www.citizensadvice.org.uk

Telephone 0800 144 8848

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

Disability Rights UK

www.disabilityrightsuk.org

Telephone 0330 995 0400

Personal Budgets Help Line 0330 995 0404 (9.30am -1.00pm Tuesday and Thursday)

Advice and information about personal budgets, direct payments and personal assistance.

HM Revenue & Customs

www.hmrc.gov.uk

Telephone 0300 200 3200

Helpline providing information to those considering becoming employers.

Pensions Regulator (The)

www.thepensionsregulator.gov.uk/en/employers/

Telephone 0345 600 1011

Information for employers about their duties to automatically enrol their employees into a pension scheme.

Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

Age UK Advice

www.ageuk.org.uk

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

In Wales contact

Age Cymru Advice

www.agecymru.org.uk

0300 303 4498

In Northern Ireland contact

Age NI

www.ageni.org

0808 808 7575

In Scotland contact

Age Scotland

www.agescotland.org.uk

0800 124 4222

Support our work

We rely on donations from our supporters to provide our guides and factsheets for free. If you would like to help us continue to provide vital services, support, information and advice, please make a donation today by visiting www.ageuk.org.uk/donate or by calling 0800 169 87 87.

Our publications are available in large print and audio formats

Next update November 2024

The evidence sources used to create this factsheet are available on request. Contact resources@ageuk.org.uk