



Personal Budgets: Council Commissioned Services

Advice Note

January 2010

Foreword

Experience from around the country suggests that many Authorities would benefit from further clarification about the key components of the personal budget 'offer', particularly where people opt to continue to use services commissioned by the council. Such arrangements can be referred to as 'managed'.

This advice note is therefore primarily focused on providing clarity and improving understanding of managed personal budgets, where confusion has arisen and where there is concern that councils are setting up arrangements that do not properly support the choice and control aspirations of personalisation.

Introduction

The document *Putting People First: Self-directed support*¹, released by the PPF Consortium last October promoted the concept of self-directed support as simple and easy to understand. It involves finding out what is important to people with social care needs and their families, and helping them to plan how to use the available money to achieve these aims. It is about keeping a focus on outcomes and ensuring that people have choice and control over their support arrangements. Implementing self-directed support in social care means ensuring certain elements are in place such as self-directed assessment, an up-front indicative allocation, support planning, choice and control, and a review process to check that outcomes agreed in the support plan are being achieved.

The same document stated that a **personal budget may be taken** by an eligible person as follows:

- in the form of a direct (cash) payment, held directly by the person or where they lack capacity, by a "suitable person".
- by way of an 'account' held and managed by the council in line with the person's wishes i.e. to pay for community care services which are commissioned by the council, or as an account placed with a third party (provider) under a council contract and 'called-off' by the user in direct negotiation with the provider;
- as a mixture of the above.

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Putting People First requires that every person with an ongoing care and support need who is eligible for council funding should have a personal budget. Information and advice about the options available for managing personal budgets should be made available to people using services and their carers, including through peer support and case studies of what has worked well for other people.

Most people using services will want to exercise choice and control, but they may not necessarily want to take on the responsibility of a direct payment. So, whilst significant numbers will in fact choose direct payments, many others will opt for a 'managed' arrangement or want a combination of the two.

1. The 'managed' option

A managed personal budget means:

At the person's request, the Local Authority either directly provides services to the value of the personal budget, or places the budget with a third party/provider under a contract. Under this latter kind of arrangement the contract is between the council and the third party/provider, whilst the day-to-day arrangements are between the individual and the third party/provider as provided for in the contract.

As with direct payments, anyone who opts for a managed personal budget must know what sum of money is available to them and also have the maximum possible choice and control over the support provided.

Managed personal budgets therefore require that the council's commissioning arrangements and contracts aim to incentivise providers to enable people using their services to exercise choice and control over the support they receive. It is however unlikely that a managed arrangement will be able to offer the same level of user choice and control as a direct payment, and this should be explained at the time a user or their representative decides upon the managed option.

In a managed budget arrangement, the contract remains between the council and the provider, either as a spot purchase from within a framework contract or as part of a pre-paid block contract. To ensure the greatest flexibility, providers working under managed budget arrangements should be allowed under the contract to buy services they cannot themselves provide from other providers, at the person's request.

The requirement for providers to offer to work in this way with people using their services can be included in the specification for this type of contract by way of a variation after the benefits have been explained to the potential provider.

A managed personal budget from the user's perspective

Supporting choice and control in a managed budget means that **from the outset users/carers should:**

- be told the indicative and final values of their budget (i.e. what the council will regard as a fair and reasonable contribution, and also what they themselves are expected to contribute on a means tested basis, if anything)
- be told the cost of each component of the proposed managed package and how this will be drawing off money against their budget
- be provided with information on alternative choices and their costs, and the consequences of these alternatives, in terms of liability, responsibility for payment etc
- know how to effect changes to their chosen services
- understand that a managed arrangement service, whilst striving to deliver the most personalised, flexible and user responsive services, may offer less choice and control than a direct payment

A budget recipient who decides to retain existing service arrangements should be doing so as a positive choice, in the light of the above information and in full consideration of the range of options for managing their budget. It should not be in a context of poor information from the council e.g. being unable to identify cost components to allow proper consideration of service options, or the council's reluctance to consider securing the services of choice.

Once a person has made a positive choice for a managed service, they should:

- have easy access to support services that encourage them to use their personal budget in ways that make sense to them, such as through peer support or a user led organisation. These services should either be provided by the Authority or commissioned with providers if none exist in the area already.
- receive periodic personal budget statements showing how money has been drawn down from their account, and any remaining balance. (This may be initially difficult for some councils to achieve, but is an aspiration that all councils should seek to ultimately deliver)

2. Full-cost payers

People who would be eligible for services but would be obliged to pay full cost after due consideration of their means under the local authority's Fairer Charging policy may still want the council to manage their services. Councils may exercise discretion as to whether or not the person's situation requires that they (the Council) should make the support arrangements. They should do so by consideration of whether that situation necessitates or calls for arrangements to be made, e.g. in the case of mental capacity. A decision should be made in consultation with the person requiring care, and/or their best interests consultees.

There are some further issues regarding whether full cost payers should be included in NI130 or not. These issues are being addressed and further advice will be available in due course.

3. Direct payments

Direct payment recipients are people who have made an informed decision that they want to be responsible for purchasing services for themselves under direct contracts with providers, to which they will be the formal party.

Third parties, known as 'suitable persons' may manage a direct payment for people who would not otherwise be able to have this opportunity, if they have been appointed by the council under the new regulations.

A direct payment holder, or their suitable person, may choose to ask someone to act as his or her agent, for the purpose of making contracts with providers. Some councils will allow the Direct Payment holder to appoint the council itself as that agent, and this will constitute a very different form of managed arrangement – because the council will not be acting as a public body, commissioning social services, but as agent for the client.

Legal issues relating to council and individual responsibility/liability under direct payments and managed arrangements are explored in the appendix to this advice note.

People holding a direct payment should be fully informed about their right to request a move to a fully or partially managed arrangement at any time if they so wish. It is also essential that DP recipients understand what support services are available to them and how these can be accessed, including opportunities to avail themselves of managed or external 'brokerage' facilities.

4. Financial contributions (charges) and Personal Budgets

Indicative resource allocations should be calculated as a 'gross' amount, having taken account of any informal and non-statutory support that may be

available. This should happen before personal contributions (charges) are calculated and alternative funding streams identified. However, the individual should be informed as early as possible (ideally in advance of the assessment process) that they will need to disclose their financial circumstances and may subsequently be asked to make a financial contribution from their own resources to add to the contribution made by the council.

This allows the individual to move through assessment and into the support planning process in a properly informed way. It also affords them the opportunity to consider whether to continue with the process should they feel the likely resultant public funding offer will be insufficiently attractive.

Ideally, once a personal budget is confirmed (i.e. support plan 'signed off'), personal contributions should have been calculated so an accurate net figure can be provided to the service user in normal circumstances. Gross payment may be necessary in cases where the holder of the money has no legal authority to access the client's own monies from which to make up the difference between the net amount and the full cost of meeting need appropriately.

Authorities will need to have **reviewed their contributions (charging) policy** to ensure it can meet the requirements of personal budgets. This is because most such policies currently link charges to service type/volume, while personal budgets require a move away from such provision led approaches. Recent government guidance can be found at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_102450

5. Support Planning

Support plans should be proportionate and non-prescriptive

A support plan shows how a person's eligible needs will be met, and the actual cost of providing that support. Support plans do not need to specify specific volumes of service, but the plan should indicate how the assessed eligible needs can be met. Setting out units of provision e.g. 'hours of care,' will be required where the assessment of need itself included a certain number of hours of need unmet by informal unpaid support.

Individuals may therefore choose to include broader needs, desired outcomes and aspirations in addition to the needs which made them eligible for support, but the plan must show how objectives related to the eligible needs are to be met.

Personal budget holders must be clear about the 'rules' for making changes to arrangements for any care and support delivery e.g. in a provider held managed budget it should be clear how such changes are agreed and made. Ideally this would be a direct discussion between service user and the provider, without council involvement unless there are pre-agreed risk issues.

Proportionate support plans are essential in ensuring that already stretched council resources are not put under further pressure through the creation of additional and unnecessary process. Proportionate support planning should mean most people getting support faster with resources freed up for those with more complex needs. Some people will need very little support to develop their plans aside from clear and accessible information and/or help from friends and family. Where more direct support with planning is required, this should be provided by people with appropriate skills and experience. This does not necessarily mean qualified social work professionals (other than in Mental Health Act cases and where the presenting issues rationally compel such a judgment to be made). People should be able to expect a range of options to choose from when planning their support including from user led organisations.

The final decision to sign off a support plan must be taken by a local authority employed person or a seconded officer. See *Personalisation and the law: implementing PPF in the current legal framework* for more detailed information [http://www.dhcarenetworks.org.uk/library/Resources/Personalisation/Personalisation advice/ADASS Personalisation and the law 12.10.09.pdf](http://www.dhcarenetworks.org.uk/library/Resources/Personalisation/Personalisation%20advice/ADASS%20Personalisation%20and%20the%20law%2012.10.09.pdf)

6. Maintaining the 'SPIRIT' of Personalisation

Councils are encouraged to provide personal budgets within the spirit of personalisation i.e. by enabling people to take the greatest possible degree of choice and control over their care and support. Councils are therefore exhorted to avoid 'schemes' to bolster personal budgets numbers at the expense of the wider Putting People First agenda. This includes simply converting existing users' services to a monetary (£) figure and sending correspondence to say that this amount is now their personal budget. Without changing processes and culture, establishing support services, developing markets and altering commissioning arrangements, it is highly unlikely that real choice and control and better outcomes will result.