



FACTSHEET 4

The Care 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 Care Bill gives people maximum control over how their needs are met.

What is care and support planning?

Everyone’s needs for care and support are different, and needs can 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 can 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 with the local authority and the person, any carer they have and any other person they ask the authority to involve. Where the person lacks the capacity to ask, any person who appears to the authority to be interested in the adult’s welfare should be involved. This process will decide how to meet the needs of the person and the local authority must do everything it reasonably can to reach

agreement with the person as to how their needs should be met.

The local authority must produce a plan that sets out the detail of what was agreed. As part of the planning process, the local authority will tell the person about their **personal budget**. This is the amount of money that the local authority has worked out it will cost to arrange the necessary care and support for that person.

It includes any amount that the local authority is going to pay itself towards those costs (which might range from all, to none of them). The personal budget helps the adult to decide how much control they want to have over arranging their own care and support.

Using the information from the personal budget, the person can ask the local authority for a **direct payment**. The local authority must provide it to someone who meets the conditions unless the Bill or regulations provide otherwise.

A direct payment is a payment of money from the local authority to either the person needing care and support, or to someone else acting on their behalf, to pay for the cost of arranging all or part of their own support. The local authority could make a

direct payment instead of arranging or providing 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 very important to the way care and support is given, have only been set out in guidance.

The Government wants the new law to focus on the person and their needs, their choices and what they want to achieve. It should put them in control of their lives and the care and support they receive. The care and support planning process is the way of making this happen. It will provide people who use services, and carers, with clear legal rights to a care and support plan.

Personal budgets also need to be included in the law as they are important for making care and support personalised. If they are not in the law, it will be more difficult to offer them to everyone. While some local authorities are already making great progress in this area, legislation is needed to make it happen everywhere.

What does the Care Bill do?

The Care Bill sets out when the local authority has a responsibility to meet someone's care and support needs, and how it can do so even if it does not have to. The Bill also sets out what must happen next to help the person make decisions about how their needs should be met.

The Bill gives local authorities a new legal responsibility to provide a care and support plan (or a support plan in the case of a carer).

For the first time, the Bill provides people with a legal entitlement to a personal budget, which is an important part of the care and support plan. This adds to a person's right to ask for a direct payment to meet some or all of their needs.

Even when an assessment says that someone does not have needs that the local authority should meet, the local authority can advise people about what needs they do have, and how to meet them or prevent them. The Care Bill will help to improve people's independence and wellbeing. It makes clear that local authorities must arrange services that help prevent or delay people

The adult and their carer must be involved in developing the care and support plan. The local authority will have to do everything it reasonably can to agree the plan with the adult.

It must also provide an independent advocate to help the person take part in the planning and review process, if that person would otherwise have substantial difficulty in doing so.

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 legal responsibility to review the plan to make sure that the adult's needs and outcomes continue to be met over time. The Bill also contains a new right for people to request a review of their care and support plan.

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 2** on establishing the core entitlement to care and support, and **factsheet 8** on the law for carers.