



advice and support for older age

**Independent
Age**

Factsheet

Using direct payments or a personal budget

This factsheet is relevant to you if you have had a care needs assessment, qualify for council support and social services are arranging your care.

Your personal budget is the amount of money that the council has calculated is needed to meet your social care needs. Direct payments are one way of receiving this personal budget, so you can arrange your own social care support.

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Independent Age provides advice to help people claim benefits, access social care and stay independent at home. Our local volunteers provide friendship visits and calls for lonely older people. To find out how Independent Age can help you, call us FREE on **0800 319 6789** or visit **independentage.org**



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The information in this factsheet applies to England only. If you're in Wales, contact Age Cymru (0800 022 3444, agecymru.org.uk) for information and advice. In Scotland, contact Age Scotland (0800 470 8090, agescotland.org.uk). In Northern Ireland, contact Age NI (0808 808 7575, ageni.org).

1. What are personal budgets?

The government wants all social care support to be 'personalised'. Personalisation is about making sure that social care services work for each person. It means that you should have choice and control over any care and support that you need to live your daily life and stay independent. It's about looking at the whole of your life – your needs, preferences and wishes – and tailoring your care and support to you.

This is why personal budgets were introduced – so people can get the care that suits them best.

Your personal budget is the amount of money that the council has worked out is needed to meet your needs. Rather than just having support arranged for you by the council, you can take charge of your budget, either by telling the council how you want it to be spent or by spending it yourself.

To receive a personal budget, you must start by having a care needs assessment. This is when a social care professional from the council looks at your needs to see if they are high enough to qualify for support. For more information, read our factsheet **Assessment and services from your local council** (0800 319 6789, independentage.org).

If your needs are high enough to qualify for council support, the next step is to have a financial assessment to see whether you need to contribute any of your own money towards the cost of your support. If the council is paying for all or some of your care, you must receive a personal budget.

Depending on your finances, your personal budget could be:

- made up totally from money provided by the council
- a combination of some money from the council, and some of your own money

You will only get financial help from the council if you have savings below £23,250 (although some councils may have a higher savings limit).

If the council is paying towards your support

If the council is paying for all or some of the care for your eligible needs, you must receive a personal budget. This includes carers.

If you end up paying for all your support yourself

If your savings are higher than £23,250 and you are receiving care at home, you can still ask the council to help you to arrange your support. However, you may need to pay for it all yourself and the council may charge an arrangement fee.

People who lack mental capacity who have eligible needs must receive a personal budget. This is the case even if their savings are higher than £23,250 and there is no one authorised to help arrange their care. See chapter 7 for more information about people who lack mental capacity.

If you're already getting support from the council

If you already receive care services from your council, you must be told what your personal budget is. You should then be given the option to receive this budget as direct payments (see chapter 2) so you can arrange your own support instead of the council arranging services for you. If this doesn't happen, ask what your personal budget is.

If your next review isn't for some time and you're keen to receive your support in a different way, you can ask for a re-assessment of your care needs and discuss personal budgets during this.

2. How can I receive my personal budget?

If the council is contributing towards your support costs, there are several ways that you can receive your personal budget.

- You can use it as a direct (cash) payment, allowing you to buy your own support services.
- The council can hold and manage your personal budget for you, but you decide how the money is spent on your care.
- A third party such as a local voluntary organisation or someone you trust can manage your personal budget for you.
- You could also choose a mixture of these options. For instance, you could take some of your personal budget as direct payments and leave the rest with the council to arrange some services for you.

See chapter 6 of this factsheet for more details about these options.

The council should help you decide which option, or mixture of options, is best for you.

If you have problems with managing your personal budget, the council's social services department should step in and arrange services for you. This may be through a brokerage service (see chapter 4).

What you can expect from the council

The council must:

- be clear about how they have calculated your personal budget
- make sure that the budget is enough to meet your particular needs. Care may cost more if your needs are complex. It should also take into account the costs of care where you

live and the market rate for home care services bought privately rather than by the council

- let you know what your budget is in good time, so that you can start planning your support knowing how much money is available.

Personal health budgets

These are slightly different from personal budgets, but you may start to hear them being mentioned. Personal health budgets are available for some people who need NHS Continuing Healthcare.

For further information, see our factsheet **Continuing Healthcare: should the NHS be paying for your care?** (0800 319 6789, independentage.org).

3. How are personal budgets worked out?

The way your personal budget is calculated varies from council to council, but the council must explain to you how your personal budget is worked out. First, they will give you an estimate, called your indicative personal budget.

The council must then make sure that this amount is enough to meet all of your particular eligible needs (including any social, emotional or psychological needs which came up in your assessment). They should check it against the actual costs for providing the kind of support you may need – they should not just use general amounts.

This may mean your personal budget is then increased or decreased. The council must explain their reasons behind how much your personal budget is worth.

If you disagree with the personal budget amount

If you feel your personal budget isn't enough to meet your needs, or your needs change at a later date, you can ask the council to review the amount.

Any contribution you're asked to make must be reasonable and shouldn't put you in financial difficulty.

If you feel your contribution is unreasonable, you can ask the council to review the decision, or make a formal complaint using the council's complaints procedure (see chapter 10). The council can't withdraw services if you refuse to pay the charges, but they can pursue this debt if it's established that the charges are reasonable.

4. Planning your support

Once you've been told you qualify for support from the council, you will need to put together a care and support plan to show how your personal budget will be spent. The assessor will help you do this.

This plan explains:

- your care needs
- what you want to achieve, such as being able to go out more
- your personal budget amount, including your assessed contribution towards the cost of your care if applicable
- how your support will be organised, such as the type of services you will get and who will arrange them
- the support that others (such as friends and family members) are willing to provide
- arrangements for a direct payment if you get one.

It may also say:

- how any risks to your safety will be managed
- who to contact if you have a problem or your needs change
- what to do in an emergency – such as if your care arrangements go wrong

Your care and support plans should be reviewed regularly, usually once a year.

You should be involved in putting this support plan together. It should reflect the discussions you have had with your assessor about your wishes and the type of support you would prefer.

If you feel you're not being listened to, you may want to discuss this with an independent advocate. The council must appoint an independent advocate to support you if they feel you have significant difficulty in communicating your wishes, or retaining or understanding information given to you. This only applies if you don't have anyone suitable (like a friend or family

member) who could support you. For further information, see our factsheet **Independent advocacy** (0800 319 6789, independentage.org).

Support planning and brokerage services

Some voluntary organisations offer a support planning service (also called a brokerage service) to help you plan your support and manage your personal budget. This is particularly useful if you decide to take your budget as direct payments - see chapter 6. They can help you to decide on and arrange suitable support to meet your needs.

Brokerage services can be used alongside any free support and advice that you're entitled to from your council. The council should refer you to local support and brokerage services.

If the brokerage service isn't free, you may need to pay for it. These costs should be included as part of your personal budget.

If you need help to find local support planning services, you can try contacting:

- Age UK (0800 169 6565, ageuk.org.uk) - for contact details of your nearest local Age UK
- Disability Rights UK has a personal budgets helpline (0300 555 1525, disabilityrightsuk.org).

5. Ways to receive your personal budget

There are different ways you can receive your personal budget. You could choose one or more of these options.

Direct payments

Direct payments are one way of using your personal budget.

You receive a cash payment from your council's social services department into your bank account. You then use this to arrange the care and support you need, as detailed in your care plan.

This is useful if you want to have flexibility about when you receive services or want to choose a care worker, as you can employ someone directly rather than social services providing the service for you.

For example, you could use your direct payment to:

- employ someone to provide care at home at a time that suits you
- employ someone to help you attend activities outside your home such as going shopping or to a lunch club
- employ someone to help you maintain your fitness by driving you to a local exercise class or going on a walk with you.

You can only use the money to meet those needs that the care needs assessment found you have and that are eligible for council help. As long as you are meeting those needs, you have the flexibility to buy the services or equipment that best suit you. So if you've been assessed as needing a meals on wheels service, you could instead use your personal budget to go to a cafe, or to meet friends for lunch.

The amount you receive in a direct payment can alter as your needs change. A direct payment won't affect any benefits you receive and isn't taxable.

See chapter 6 for more details about direct payments.

Managed budgets

If you want to arrange your care but don't want to have the responsibility of managing your personal budget yourself, you can have a managed budget. You have various options for this:

- your council can manage your budget for you, and make sure that your care is arranged to meet your wishes and preferences. This is sometimes known as a 'virtual budget'
- an account can be set up with another third party, often a voluntary organisation. This is also sometimes known as an Individual Service Fund (ISF)
- you could ask for an account to be set up for a carer, family member or friend. This is called a user-controlled trust (see below)
- a mixture of all of the above mentioned options, which best suits you and your particular needs.

User-controlled trusts

Having a user-controlled trust (also known as an independent living trust) means that although the money belongs to you, it's managed by three or more trustees.

The trustees could be:

- friends
- family
- a solicitor
- an accountant
- an independent advocate
- another appropriate person.

The trustees have legal authority but you are still in control. You should be in charge of all decision-making about how your care needs are met and how the money is spent.

The trustees can manage the practical side of things, such as:

- employing care staff
- operating bank accounts and managing money on your behalf
- making sure arrangements are in place should something go wrong with your care.

The trustees should make sure that your needs are met in the way that you want.

It is advisable to get help from a solicitor to set up a trust, which may be expensive.

If you're interested in setting up a user-controlled trust, contact your local independent living centre to get help or advice. Contact Disability Rights UK (0300 555 1525, disabilityrightsuk.org) for details of local organisations.

6. Understanding direct payments

Before your direct payments start, you should discuss and agree the following things with your council:

- your care and support plan
- which care needs your direct payments will cover
- what outcomes or goals the direct payments will help you to achieve
- what direct payments can and can't be used for
- which services you intend to spend your direct payments on
- whether you need help to manage your direct payments
- what arrangements are in place to cover emergencies
- when the payments will start, how often they will be made, and how much each payment will be
- how much of your own money you will be expected to contribute towards the cost of your care
- what information you need to give the council about how your money is spent, and how the council will monitor your spending
- any conditions attached to the direct payments
- the date when your arrangements will next be reviewed
- any circumstances under which the council might stop your direct payments, and the notice period the council will give if it decides to discontinue the direct payments
- how any outstanding payments will be handled if the direct payments are discontinued, and the circumstances under which the council might ask you to repay the money.

How you will receive your direct payments

There are two ways for councils to pay direct payments to you.

- 1.** The council may pay the full personal budget amount (gross) to you in direct payments, and then invoice you for the amount they assess you as being able to contribute.

2. Or the council can pay the net personal budget amount to you in direct payments after it has deducted the amount that they assess you're able to contribute.

The council may have a usual practice but should be flexible depending on your preference and circumstances.

Spending your direct payments

If you receive direct payments, you are accountable to the council for the way you spend the money.

You must have a separate bank account for the payments and keep careful records of how you spend them. If you spend the money on items or services that it wasn't intended for, the council can request that some or all of the money is paid back to them. They may also stop your direct payments altogether.

Talk to your social worker if you're being refused direct payments for a service that you believe is suitable to meet your needs.

What you can't use direct payments for

You can't normally use direct payments to employ close family members to provide care. Close family means:

- a spouse, partner or civil partner
- a close relative living with you
- a spouse or partner of that close relative.

However, if the local council finds that the only way that your care and support needs can be met is by one of these people, the council can allow you to pay this person using your direct payment.

For example, it may be that you have severe dementia and your behaviour can only be managed by your spouse. Or it may be that your first language isn't English and you could only

make your wishes known if you were cared for by someone who spoke your language, such as a close relative.

You also can't use direct payments to:

- purchase services provided by social services. Councils aren't legally allowed to sell their own services in this way
- purchase services or equipment that the NHS has a duty to provide, such as a nursing bed
- purchase services provided by housing authorities
- pay for permanent residential care (although this is currently being trialled in some areas)
- pay for adaptations to your home when you would be eligible for a Disabled Facilities Grant. Our factsheet **Adapting your home to stay independent** has more information (0800 319 6789, independentage.org).

Direct payments in a care home

At the moment, direct payments can't be used to pay for permanent care in a care home. The government plans to allow people to use direct payments to pay for long-term residential care from April 2020.

You can use direct payments to pay for a short stay in a care home. This is limited to four consecutive weeks in a year. If you stay in a care home for less than four weeks at a time, the amounts are added together unless the gap in between is more than four weeks.

If you're considering moving out of a care home

If you're already living in a care home, you may be able to use direct payments for a trial period of independent living before you move out permanently. You can also use the payments to help you take part in day-time activities such as day centre visits, cultural trips or exercise classes.

Direct payments and hospital stays

If you have to go into hospital, your direct payment will usually continue. This is so you can still get social care help in hospital if you need it, and to avoid losing your personal assistant if you employ them directly (see chapter 9).

7. Direct payments for people who lack mental capacity

Direct payments are available to people who lack mental capacity to make decisions about their care if a 'suitable person' asks on their behalf. The person must also be able to manage a direct payment by themselves or with support. This support must be from someone reliable who will manage things in their best interests, like a close family member. It will often, but not always, be someone who has a lasting power of attorney for that person. It can also be someone who has been appointed by the Court of Protection as a deputy under the Mental Capacity Act 2005.

The council is responsible for making sure that the chosen person is suitable for the role. They should consult with all relevant family members, carers, close friends and people involved in the person's care. If there are no appropriate family or friends, the chosen person could be a professional such as an independent care broker or a solicitor.

If someone without mental capacity has direct payments, the council should still, as far as possible, find out their views on the care they get. This should include communicating in ways that the person understands, or by taking into account what the person had previously said their wishes were.

8. Direct payments for carers

Direct payments are also available to carers. Start by asking the local council social services for a carer's assessment. If you're assessed as needing support, you can choose to buy the services you want to support you in your caring role and to maintain your health and wellbeing.

You can't use direct payments to buy services for the person you care for. Direct payments can only be spent on getting the support you, as a carer, have been assessed as needing.

For more information about practical and financial help available to carers, see our factsheet **Support for carers** (0800 319 6789, independentage.org).

9. Employing someone through direct payments

If you decide to employ someone directly with your direct payments, there are some legal responsibilities you will have to consider as an employer. These include:

- providing your care workers with a contract and terms of employment
- observing the National Minimum Wage
- deducting income tax and National Insurance contributions
- managing holiday and sick pay
- following health and safety legislation.
- potentially enrolling your care worker in a pension scheme.

When working out the amount of your direct payment the council should include all the costs of becoming an employer.

You can find out more about filing accounts and paying taxes by calling the HMRC New Employer Helpline (0300 200 3211) or visiting gov.uk/employing-staff

Getting help with employing someone

A local disability organisation or centre for independent living will be able to help you to find a suitable carer. They can also tell you about direct payments support services – such as payroll services that can administer the wages, tax and National Insurance for your care worker(s) to make direct payments easier for you to manage. Contact Disability Rights UK (0300 555 1525, disabilityrightsuk.org) for details of local organisations.

Health and safety responsibilities

You will be responsible for providing a healthy and safe place for your care workers. Your care workers also have a responsibility to work in a way that avoids risk to them and to

you. Using common sense will avoid most dangers and causes of accidents. Talk to your care workers about what tasks you need doing and the safest way of carrying them out.

You should also get advice from the council's social services department. Your care needs assessment should include a health and safety risk assessment, carried out by an experienced risk assessor. They should highlight any possible risks and suggest ways of managing them, such as storing cleaning materials in a safe place. You should be given a written record of this.

If you have difficulty getting in and out of a bed, chair or bath, you should have an occupational therapy (OT) assessment before these tasks are carried out. The occupational therapist will look at what equipment could reduce any risks to you and your care worker. This could include a hoist to help get you out of bed, for example. For more information on OT assessments, see our factsheets **Health difficulties: how to cope with changing needs** and **Adapting your home to stay independent** (0800 319 6789, independentage.org).

If you use your direct payments to employ a care worker through a home care agency, the agency should make sure their care workers have relevant, up-to-date training and that you have any necessary equipment. Read our factsheet **Getting care services at home** to find out more (0800 319 6789, independentage.org).

Getting insured

To cover you and your care workers against accidents, you must take out employers' liability insurance and public liability insurance:

- Employers' liability insurance will cover you if your care worker is injured or becomes ill as a result of an accident in your home.

- Public liability insurance covers you for any damage or injury you or your carer cause to anyone else while your carer is working for you.

Good to know

As insurance is compulsory for employers, the cost should be included in the direct payments given to you by your council. Similar cover may also be available through your household insurance policy. Get advice from your insurance company or local support service.

Deciding who to employ

When thinking about employing someone yourself, it may be useful to consider:

- what kind of person you want to employ
- how many people you will need (including back-up for holidays and sick leave)
- what tasks you want them to do
- what skills and qualities the person will need. For example, if you want to be driven to places, they will need a driving license and a vehicle with the correct car insurance
- what hours you need them to work
- the rate of pay. Rates are usually higher in the evenings and weekends, and on bank holidays people usually expect double pay so you have to make sure that you have enough money in your personal budget to cover this. All wages must meet the national minimum wage. This rate changes every year. You can check the rates at gov.uk/national-minimum-wage-rates
- how you will recruit staff. This could be by word-of-mouth, through friends or relatives, or by placing an advert in your local post office, newspaper or jobcentre.

At interview, be sure to ask all questions that may be important to you – such as does the person smoke? What are their dietary preferences? For instance, if they're vegetarian,

are they willing to prepare meat? You should also check whether they provide their own overalls and rubber gloves, or if you will have to provide these. You should have someone with you when interviewing candidates for safety reasons and to get a second opinion.

Once you have successfully identified a possible candidate, you should:

- ask for two references from previous employments
- ask for identification documents, such as a passport or visa, for proof that they have the right to work in the UK.

You could employ a care worker through an agency rather than employing them directly yourself. Contact the UK Homecare Association if you need help finding a suitable agency (020 8661 8188, ukhca.co.uk). You can see details of how the Care Quality Commission has rated a home care agency on their website (cqc.org.uk, 03000 61 61 61).

You could also read our factsheet **Care services at home** (0800 319 6789, independentage.org).

Criminal records checks

People who are employed directly by personal budget holders don't currently need to have a Disclosure and Barring Service (DBS) check (formerly called a Criminal Records Bureau (CRB) check).

If you do still want to have your carers DBS-checked, or you have been advised to do so by social services, any costs for this should be included within your personal budget amount.

Once your care worker starts

When your new care worker starts, you could get a friend, or someone you trust, to spend some time with you both. If you're unhappy with the person caring for you, as a responsible employer you will need to give them feedback about what isn't

working and give them a chance to improve before you look elsewhere. You may wish to get advice from a local support service or independent living centre. Contact Disability Rights UK (0300 555 1525, disabilityrightsuk.org) for details of local organisations.

Timesheets

Independent living centres or local support services may offer administrative services to help you manage timesheets and general record keeping for your care worker.

When you receive care from a care worker, it's important to check and sign the timesheet to record the help you have been provided with. This is to make sure that you are only charged for the care you have actually received.

10. Making a complaint if you're unhappy about your personal budget or direct payment

If you disagree with any decision made about your personal budget or direct payment, you can make a complaint to the council.

If you're unhappy with services you've purchased from a care agency, you will need to first address your complaint to the care agency and request a copy of their complaints process. If you're unhappy with their response, you should let the council know so that it can look into the services provided by that agency and make sure they are safe.

If you're still not happy

If you are still unhappy, you can contact the Local Government Ombudsman so that your complaint can be further investigated (0300 061 0614, lgo.org.uk). You could also consider making a complaint through the courts (known as a judicial review).

For more information about making a complaint see our factsheet **Complaints about care and health services** (0800 319 6789, independentage.org).

This factsheet has been put together by Independent Age's expert advisers. It is not a full explanation of the law and is aimed at people aged over 60.

If you need this information in an alternative format (such as large-print or audio cd), call us on 0800 319 6789 or email advice@independentage.org.

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