

## Factsheet 24

# Personal budgets and direct payments in social care

June 2017

### About this factsheet

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

A personal budget is the amount of money allocated by your local authority to ensure your assessed needs are appropriately met.

Direct payments are a funding choice in personal budgets. They aim to maximise your involvement and control over how your needs are met and to achieve the best possible outcomes in line with how you want to live your life.

More information about how to access social care support and the financial assessment is in factsheet 41, *How to get care and support*.

The information in this factsheet is applicable in England. If you are in Scotland, Wales or Northern Ireland, please contact Age Scotland, Age Cymru or Age NI for information. Contact details can be found at the back of this factsheet.

Contact details for any organisation mentioned in this factsheet can be found in the Useful Organisations section.

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## 1 Recent developments

*Local Authority Circular (DH)(2017) 1*, published in January 2017, kept all rates and financial thresholds for care and support charges at the same levels as the previous financial year.

## 2 Sources and terms used in this factsheet

This factsheet is based on the *Care Act 2014* (*the Act*), supporting regulations and the *Care and Support Statutory Guidance* (*the statutory guidance*), introduced in April 2015.

The most relevant parts of the Act are sections 25–27 titled '*Next steps after assessment*' and sections 31–33 under '*Direct payments*'. Relevant chapters in the statutory guidance include: 10. *Care and support planning*, 11. *Personal budgets* and 12. *Direct payments*.

Regulations of significance are:

- *The Care and Support (Personal Budget Exclusion of Costs) Regulations 2014* (*the excluded costs regulations*)
- *The Care and Support (Direct Payments) Regulations 2014* (*the direct payments regulations*).

### Local authority

In this factsheet, references to a '*local authority*' refer to the adult social services or social care department of the local authority or council. It is also used to describe similar departments within: a county council, a district council for an area in which there is no county council, a London borough council, or the Common Council of the City of London.

## 3 The personalisation of social care

Prior to the Act being introduced in April 2015, the Government developed policies aimed at personalising adult social care services. The stated goal was to empower service users by putting them at the heart of the system, to better tailor services to individual needs and to improve their outcomes.

Personalisation principles are central to the Act, which provides the legal basis for adult social care. The following are explanations of relevant terms:

**Wellbeing:** Local authorities must seek to maximise your individual wellbeing when working with you. This principle is set out in section 1 of the Act. Here it states among other things that those working with you should begin '*with the assumption that the individual is best-placed to judge the individual's well-being*'.

**Person-centred care:** An approach that local authority staff must take throughout the care planning process. You should be at the heart of the process and be centrally and actively involved in describing your needs and shaping your care and support package.

**Outcomes:** You should be asked, during the assessment and care planning process, to identify the outcomes that will matter to you.

**Self-directed support:** Similar to person-centred care, but related specifically to the care and support planning process. You should be closely involved in developing your care or support plan, based on what you think is the best way to meet your eligible care needs.

For example, you might want to do a leisure activity during the day, but prefer to attend a craft class rather than go to a day centre for older people. You should be able to make these kind of choices about how your care needs are met.

## 4 Getting assistance from your local authority

If you need help managing your personal care tasks at home, contact your local authority and ask for an assessment of your needs.

Once your needs are assessed, the local authority decides whether you are eligible to receive help.

If you have eligible needs for care and support, they work with you to produce a written care plan about how those eligible needs will be met.

Some eligible needs may be met by your carer and others by services available to everyone, such as an Age UK lunch club, sometimes called '*universal services*'.

Any eligible needs not met in these ways must be met by your local authority. All these elements of support plus any other services you need are recorded in your care plan.

If you are a carer seeking local authority support, the same process applies to your support plan.

Section 25 of the Act requires your care/support plan to include a personal budget figure.

For more information about this stage of the process, see factsheet 41, *How to get care and support*.

## 5 What is a personal budget?

A personal budget is the amount of money necessary to meet your eligible needs, based on the costs in your local area. The amounts vary across the country, even for people with very similar needs, because the cost of buying in care is more expensive in some parts of the country.

A personal budget is defined in the Act as having three elements:

1. **overall cost to the local authority of meeting your needs** (i.e. the eligible needs it is legally required to meet or the needs it decides to meet)
2. **charge payable by you** (after you have had a financial assessment using a means test)
3. **net amount the local authority must pay** to meet your needs.

See factsheet 46, *Paying for care and support at home*, for more information.

### How is it used?

The amount of money in your personal budget can be spent in one of three ways:

- 1 **A managed account:** Your local authority manages your personal budget in line with your wishes as agreed in the care plan. They look after the money, make arrangements for your care and support, and pay fees out of your personal budget.

For example, if you need care in the morning to help you get up, get washed and dressed and prepare breakfast, the local authority commission care workers to do this, usually through an agency, and pay them from your personal budget.

- 2 **An account managed by a third party:** Similar to a managed account, except a third party, sometimes called a broker, manages your personal budget. This can be the actual service provider. These are often referred to as '*individual service funds*'.
- 3 **Direct payments:** You are given the personal budget money to spend yourself on meeting your care and support needs, in line with your care plan, in the way that suits you best. See section 7 for more about how direct payments work.

## 6 Calculating your personal budget

General principles for calculating your personal budget are set out in the Act and statutory guidance. However, there can be different local approaches in practice.

**Ready reckoner approach** - Your social worker identifies the number of hours of care and support you need, discusses with you how you would like that support delivered and works out the hourly cost, to calculate your overall personal budget.

**Resource allocation system (RAS)** - Many local authorities use RAS, which is a computerised system. Your personal budget is calculated using data about your care needs taken from your assessment. It applies a system based on statistical information about care costs to calculate an amount for your personal budget. Inevitably, this comes up with a standardised figure that may not be right for you.

**Initial indicative figure** - RAS can only produce an *'indicative figure'*, which is then used as the basis for planning your care and support.

As the care and support plan develops, the estimated figure must be checked against the actual costs of purchasing the care and support needed. This means the final personal budget amount may be more or less than the original RAS indicative amount. The statutory guidance states:

*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.*

### 6.1 Transparent, timely and sufficient

Your local authority must meet the following standards when working out your personal budget:

- **Transparency:** local authorities should make their calculation processes clear. This refers to a general system, such as how RAS works, but also at an individual level. You should be given enough information to understand how the system works, how your indicative amount was decided, and how your actual personal budget amount was calculated.
- **Timeliness:** an up-front or indicative budget amount should be available to you at the start of the care planning process.
- **Sufficiency:** your final personal budget amount must be sufficient to meet your assessed eligible needs and should take into account your reasonable preferences as to how your needs are met. This is because your local authority has a legal duty to meet eligible needs.

The statutory guidance states 'Local authorities should not have arbitrary ceilings to personal budgets that result in people being forced to accept to move into care homes against their will'. This means they must be flexible in their approach and realistic about local costs.

## Local market conditions and meeting needs

The personal budget amount must be based on the '**cost to the local authority**' of meeting assessed needs it must meet or it chooses to meet, less the contribution you have to make due to the means test, under section 26 of the Act. The statutory 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 duty relates to meeting your eligible needs, not meeting them in a specified way. They have to consider whether "*appropriate care that meets needs can be obtained for the amount specified in the budget*" in line with statutory guidance.

If home care is used to meet your needs, this must include elements such as meeting national minimum wage requirements and '*appropriate remuneration for any time spent travelling between appointments*'.

## Not just the cheapest option

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

To aid transparency, cost assumptions should be shared so you understand how your personal budget was calculated. This creates a weekly final figure the local authority must pay to meet your 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, for example legal requirements.

You may be concerned the '*cost to the local authority*' results in your direct payment being less than what is actually needed to purchase care and support from the local market, due to local authority bulk purchasing and block contract arrangements. By basing the personal budget on the cost of your choice of quality local provision, this concern should be allayed.

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.

If you opt for direct payments, your personal budget might be the amount it costs the local authority to meet your needs in an alternative way and the remaining amount must be paid by you as a top-up.

## Funding panels

Some local authorities use an internal panel to sign off your personal budget. In practice, these panels may be financially motivated and sometimes try to identify cheaper ways of providing support which may not fully meet your assessed needs. The statutory guidance warns against this approach to meeting your needs. A properly drafted care and support plan, taking into account all your individual circumstances, is the best protection against the temptation to make inappropriate recommendations for cheaper alternatives.

## 6.2 Free social care services

Your local authority can charge for most services it provides to you. There are some it must not charge for so they do not affect your personal budget, but must be noted on your care or support plan.

The excluded costs regulations prevent local authorities charging for short-term rehabilitation services, known as '*reablement*'. These are defined as:

- a programme of care and support
- for a specified period of time
- which provides assistance to maintain or regain the ability to live independently at home.

This may arise, for example, following a stroke, if you need help to move back home and regain as much independence as possible there.

No charge can be made for reablement services for the first 6 weeks. This is the minimum time and may be extended if necessary, particularly if this prevents, reduces or delays your need for long-term services. Similar short-term rehabilitation services called intermediate care are provided by the NHS. These must always be free of charge.

The excluded costs regulations prohibit your local authority from charging for the provision of specialist disability equipment and home adaptations costing less than £1000, if they are part of meeting your assessed eligible needs.

## 6.3 Carers' personal budgets

If you meet the carers' eligibility criteria, you are entitled to have your identified support needs met. Your assessment must focus on the difficulties and risks involved in caring and what you want to achieve in your life alongside your caring role.

It may be you need to have some time off from caring (respite). If you have other support needs, for example help with housework or meeting the costs of a training course, you should receive your own personal budget to cover these costs, provided you meet the eligibility criteria.



## Services that benefit a carer indirectly

If you need time off from your caring role, the local authority can provide 'replacement care' to look after the person you care for while you have a break. This is referred to in your support plan, but is not part of your personal budget. This is because the care service is actually being provided to the person you care for. Although it benefits you, it is not a service provided to you.

That means it can only be put in place if the person you care for agrees. It is also on their care plan and part of their personal budget. If the person you care for is charged for their care, the 'replacement care' is charged to them.

## 6.4 If your personal budget is not sufficient

If you do not think your personal budget is enough to meet identified needs in your care or support plan, ask the local authority for written reasons to explain how they arrived at this amount and how it relates to each of your needs.

The statutory guidance states it is vital the process used to establish the personal budget is transparent so you are clear how the budget was calculated, and the method used is robust so you have confidence the personal budget allocation is correct and sufficient to meet your needs.

If your draft care plan goes to a local authority panel and your personal budget is reduced, ask for written reasons for the reduction. This should explain how the new figure relates to the cost of meeting eligible needs recorded in your care plan.

If you have a complex condition or quite specialised needs and have had a specialist involved in your assessment, you could request the panel to reconsider your case and invite the specialist to come to the panel meeting. Or your specialist could provide written support explaining your needs. See section 7.6 for more information about calculations.

## 7 Direct Payments

One way to use a personal budget is to have it paid to you via direct payments. This means you receive the money to arrange your care rather than having it arranged for you.

The statutory guidance states '*a direct payment is designed to be used flexibly and innovatively and there should be no unreasonable restriction placed on the use of the payment, as long as it is being used to meet eligible care and support needs*'. This is in line with the personalisation principles. Note, they cannot be used to fund permanent residential care.

Local authorities must encourage a variety of different providers and different types of services. This should give you choice about accessing different care and support services.

You may find agency home care inflexible. Direct payments could enable you to buy in care from care workers you recruit and employ to come at times that suit you. You may have one or two care workers come to your home instead of a rota of different agency carers. When you employ staff in this way, they are called '*personal assistants*' (PAs). Many people using direct payments over a long period of time build up close working relationships with their PAs.

If you decide to receive your personal budget as a direct payment and use it to employ staff, you become an employer which brings other responsibilities with it. These are set out in more detail below, together with ways to get help fulfilling that role.

You can opt to receive part of your personal budget as a direct payment if it suits you better. For example, you might receive a direct payment to employ someone to take you out socially if you cannot go out alone, but ask the local authority to arrange day-to-day personal care in a managed budget.

You can nominate another person to receive and manage your direct payment. This can be useful if you like the idea of the flexibility, but want to involve your carer, a friend or family member who you trust to help you manage the finance and employment responsibilities. This person is called your '*nominated person*'.

Your local authority must give you appropriate information, advice and support if you take this option. On the other hand, if you want the local authority to make arrangements for you, you can choose not to have direct payments. Some older people report feeling pressured to have a direct payment. This should not happen as it is your choice.

## 7.1 Right to direct payments – 4 conditions

You may have a right to direct payments (section 31 of the Act) if that is how you want some, or all, of your eligible needs to be met. You can request them, but the local authority must assess whether you meet certain conditions before it agrees your request. These are:

**Condition 1** – you have the mental capacity to make the request and, if you nominate another person, they agree to receive the payment.

**Condition 2** – you are not prevented by law from receiving direct payments. (This only applies if you have to attend drug or alcohol rehabilitation as part of a court order or under mental health law).

**Condition 3** – the local authority is satisfied you can manage direct payments, either on your own or with help from your nominated person.

**Condition 4** – the local authority is satisfied making direct payments to you (or your nominated person) is an '*appropriate way*' to meet your needs. This means they have discretion – a choice.

## 7.2 If you lack mental capacity

You can receive direct payments if you lack mental capacity. In this situation, payments are made to an '*authorised person*', usually a family member or friend. They may have power of attorney or a deputyship under the *Mental Capacity Act 2005*.

If you are considering becoming an authorised person for a spouse, partner, relative or friend who lacks capacity, and you are not their attorney or deputy, the local authority has to be satisfied you are a suitable person to take on the role and receive the money.

There are other rules about an '*authorised person*' in the direct payments regulations. These are:

- 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, partner or close family member, they must obtain an enhanced criminal record certificate for any care staff they employ.

For more information about attorney or deputy roles, see factsheet 22, *Arranging for someone to make decisions on your behalf*.

## 7.3 Can the local authority impose conditions?

Your direct payments must be used to pay for care and support as set out in your care and support plan. Generally, you have a lot of scope as to exactly how you go about meeting those needs. You cannot, however, spend the money on something not related to meeting your eligible needs as set out in your agreed plan.

The local authority can impose other conditions. For example, the direct payment regulations state there could be a condition not to employ a particular individual (to try and avoid financial or other abuse). It does not apply the other way round - a local authority cannot tell you that you must employ a particular person.

Another condition specified in regulations is a condition requiring you to give certain information to the local authority. This is because the local authority has to make sure public money is spent properly.

In practice, you are asked to keep a record of how you spend the money and provide receipts. You are required to open a separate bank account to manage your direct payments.

## 7.4 Close family member exclusion

As a general rule, the direct payment regulations prevent you using them to employ close co-habiting family members to meet your care and support needs. Close family means your spouse, partner or civil partner, as well as close relatives who live in your house. They are:

- parent or parent-in-law
- son or daughter
- son-in-law or daughter-in-law
- stepson or stepdaughter
- brother or sister
- aunt or uncle
- grandparent, or
- spouse or civil partner of any of these people.

An exception is if the local authority thinks it is necessary, it can permit direct payments to pay a partner or close relative either:

- to meet care needs, or
- to provide administrative and management support to meet the legal obligations under a direct payment and undertake day to day financial management.

This means if you are in the close family category providing support, including managing large complex direct payment packages, you may be able to get paid. The local authority can only agree to this if it is effectively the only way in which your care needs can be met.

If people in your close relative group live elsewhere, you can employ them if you want.

## 7.5 Limitations on direct payment use

### Permanent residential care

Direct payments cannot generally be used to pay for long term residential care. You can, however, purchase short-term respite or replacement care in a care home using a direct payment. The direct payment regulations limit this to four consecutive weeks in a year.

If you purchase residential care for less than four weeks at a time, the amounts are added together, but this does not apply if the gap in between is more than four weeks. An example in the statutory guidance notes:

*Mrs H has one week in a care home every six weeks. Because each week in a care home is more than four weeks apart, they are not added together. The cumulative total is only one week and the four-week limit is never reached.*

## Local authority services

The statutory guidance says as a general rule, direct payments should not be used to purchase a service the local authority provides itself. They could be used to purchase a service from a neighbouring authority or any service your local authority commissions. This is to avoid conflicts of interest, where the local authority is both promoting its services and providing money for people to purchase them.

## Hospital stays

If you have to go into hospital, the statutory guidance advises your direct payments should not be suspended while you are there. You may still need help with social care aspects and benefit from having your care worker/personal assistant available to come to hospital to help you.

If you use your direct payment to employ staff, it is important the direct payment scheme enables you to fulfil all your employment responsibilities whilst you are in hospital.

## 7.6 Calculating the amount of your direct payments

The care planning stage may be the best time to request direct payments if you would like them. This is after your assessment when you are discussing how best to arrange meeting your needs.

If you do decide to have direct payments, your personal budget amount should reflect the real local costs of purchasing your care applying market value principles. Your local authority must balance your personal preferences for how your care is delivered against their budgetary constraints. In doing so, they must always aim to promote your well-being. This can be a difficult balance in practice.

Your care plan has to include how your needs impact on your wellbeing. It should demonstrate how the proposed level of support meets your eligible needs in a way that promotes your wellbeing.

Direct payments can result in a less costly package of care. For example you may identify a care worker you would like to employ who is not part of an agency so there are no overheads. Sometimes, you may need a more expensive package, but the extra expense is justifiable. The statutory guidance states:

*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 local authority delivered care and support, or there may be other dynamics such as the preferred option reducing the need for travel costs, or out of hours care.*

*In addition, efficiencies to the local authority (for example through an individual making their own arrangements) should also be considered. Decisions should therefore be based on outcomes and value for money, rather than purely financially motivated.*

This links to the personal budget sufficiency requirement in section 6.1.

## **7.7 Becoming an employer**

If you plan to employ carers using direct payments, there are important factors you need to be aware of. Although the local authority expects you to take out employer's liability insurance and provides you with advice about this, you must consider your contractual arrangements with care staff in your employment.

As well as the local authority arrangements, you can contact Disability Rights UK personal budget specialist advice line for information about employing a personal care worker.

Employment law sets out what a contract should include. These are:

- start date
- hours of work
- remuneration (which must meet national minimum wage)
- place of work
- job title
- whether fixed-term or permanent
- statutory entitlement to sick pay and annual leave
- pension scheme provision, and
- notice requirements.

There is more information at [www.gov.uk/employment-contracts-and-conditions/contract-terms](http://www.gov.uk/employment-contracts-and-conditions/contract-terms).

### **The costs of becoming an employer must be recognised**

If you use a direct payment to employ one or more care workers/personal assistants, it should cover all costs associated with being an employer. These include national insurance, holiday and sick pay, pension contributions, maternity arrangements and potentially redundancy payments when the 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 over the age of 22 (and under state pension age) and you pay them over £192 a week or £833 a month, you need to make arrangements to enrol them into a pension scheme. The Pensions Regulator contacts you with a date by which you need to start making payments into a scheme (known as your '*staging date*').

If you pay your employees less than this amount, you do not have to put them into a pension scheme. You do need to give them the option to join a scheme, unless they are aged under 16 or over 74. If they do join, in some cases this means you have to pay contributions to the scheme on their behalf.

If you are not yet employing a carer but intend to do so, or you are currently employing a carer but are unsure of what you need to do, contact the Pensions Regulator for more information.

## 7.8 Contract with an agency if you do not want to be an employer

If you prefer not to have the responsibility of being an employer, you can use your direct payments to contract with an independent agency or a person who is self-employed. It is important to carefully check the contract you make with a self-employed carer means they are genuinely self-employed. If anything goes wrong in the working relationship and in reality, you have employed them, you could incur financial liability, as, for example, you would not have made relevant employer's contributions.

If you decide to use a local independent care agency, you should be able to find them through your local authority as part of their advice and information duty, or by personal recommendation. Agencies must be registered with the Care Quality Commission who regulate care services.

Before entering into an agreement, confirm with the agency or individual involved: the tasks you expect the staff to do and the way in which you would like them done; what the quoted price covers (some agencies add VAT or charge extra for travelling); what insurance cover they have; what training the staff have had; cover arrangements, for example, for sickness, and what happens if you have to cancel the service suddenly.

As well as help in your local area, there are other useful sources of information. HMRC has an online tool to determine a worker's employment status called the '*Employment Status Indicator*' at [www.hmrc.gov.uk/calcs/esi.htm](http://www.hmrc.gov.uk/calcs/esi.htm). There are factsheets about taking on a personal assistant produced by the Low Income Tax Reform Group at: <http://disabilitytaxguide.org.uk/about/resources>.

## 7.9 Equipment and home adaptations

As direct payments can be used to meet any non-care home-related eligible needs, this can include specialist equipment or small home adaptations. These are usually recommended when an occupational therapist (OT) carries out the needs assessment. If the recommendation comes from another professional, seek advice from the OT department in the local authority.

You need to clarify with the local authority when a direct payment is being set up whether you or the adult social care department own the equipment, who will be responsible for its on-going care and maintenance and how these costs are to be met.

Equipment and small adaptations (under £1,000) must be provided free of charge by local authorities to meet assessed needs. More expensive adaptations, particularly those that are structural (such as a wet room) are generally provided via means tested Disabled Facilities Grants, in conjunction with the housing department or district housing authority.

There are about 40 Disability Living Centres across the UK, which have a wide range of equipment and staff to give advice. Visit one if you are unsure about a piece of equipment and would like to try it out, for example an electric bath lift.

See factsheet 42, *Disability equipment and home adaptations*, for more information.

## 7.10 Support and help to manage direct payments

Many people like the flexibility direct payments bring, but find the idea of being an employer and managing public money quite daunting. Your local authority should have a system in place to provide advice and information to help you with this.

Sometimes, this is done through local authority staff employed as a direct payments team and sometimes the local authority commissions another specialist organisation to provide this support service.

You can get this support whether you manage your own direct payment or whether you are a nominated or authorised person managing it for someone else. When you discuss the possibility of a direct payment with your social worker at the care planning stage, you should be given all the advice you need to help you get started and you should be put in touch with other organisations offering help and support.

The sort of help and support you should be able to access ranges from one off advice on manual handling issues or suitable insurers through to services to advertise for staff, help with recruitment, contracts of employment and running the payroll for you. You may be able to discuss questions that concern you with someone who is already managing their own direct payment. This can be extremely helpful and reassuring.



## 7.11 Review of your arrangements

Your case is reviewed within the first 6 months and annually after that, under the direct payment regulations. The purpose is to ensure you are managing the direct payment and complying with conditions attached to it. For example, the local authority must be satisfied you are meeting obligations you have as an employer, such as deducting PAYE income tax and national insurance contributions from wages.

The statutory guidance says once the local authority is confident you are coping well with your direct payments and the system is stable, the reviews can become more '*light touch*'. Your carer and an authorised or nominated person are involved in the review as well as you. You can ask for anyone else to be involved if you want.

As well as providing an opportunity for the local authority to make sure the system is working smoothly, it is also an opportunity for you to raise any concerns you may have and to ask any questions.

It is important to remember you are free to change your mind. If you feel the direct payment scheme is not right for you, you can and should ask the local authority to arrange care services for you instead. You can also ask for a review assessment at any time.

## 7.12 Terminating direct payments

You may want to end a direct payments agreement because it is not working for you or the local authority may be thinking of doing so for some reason. If you want to finish your direct payment arrangement, contact the local authority and ask for a review of your care plan and direct payment arrangement. If there is a crisis, explain why and ask for the review to be undertaken urgently.

Unless you are working closely with a support organisation, it is probably not a good idea to terminate contracts with any staff you employ without getting advice, to ensure you do not incur unnecessary liability.

There are several reasons why your local authority might consider bringing your direct payment to an end. It could be because your situation has changed and adult social care staff can see you are struggling to manage the payments or they think it is no longer an appropriate way to meet your needs.

In this situation, the statutory guidance says the local authority should carry out a review and make sure any outstanding issues are dealt with. There must be no gap in the services you receive when you change from one method of delivery to another.

The same principles apply if the local authority decides to bring the arrangement to an end because they think you have not spent the money on meeting your care needs or you have not complied with a condition of the payment.

If you no longer need the help that the direct payments are designed to meet, that would be a reason to bring the payments to an end.

The statutory guidance stresses that, unless the legal requirements are no longer being met, direct payments should only be terminated as a last resort. Before that happens, you should be offered help or a revised care plan to help you manage better.

Where the local authority brings the payments to an end, they should give you a reasonable period of notice. What is reasonable depends on the circumstances, especially the degree of urgency and the seriousness of the breach of any conditions. Very exceptionally, the local authority might stop them immediately, for instance if you were being seriously financially exploited.

### **7.13 Harmonising NHS and social care direct payments**

Depending on your health and social care needs, your care package may involve joint funding between the NHS and your local authority. Alternatively you may have a continuing NHS healthcare package funded in full by the NHS, but also receive additional social care funding from the local authority.

Health personal budgets, for NHS funded services, can be delivered by way of a direct payment. Similar principles apply, although the NHS can refuse a direct payment if they do not think it is a cost-effective way of meeting your healthcare needs.

You could find yourself with two direct payments, one for healthcare and one for social care. In that case, the statutory guidance stresses the importance of cooperation between both bodies to ensure the system is harmonised and runs smoothly. For example, you should not have to set up two separate bank accounts or reporting systems. These should be coordinated and it is likely that the local authority will play the lead role.

## **8 Complaints, rights and safeguarding**

Although most issues can be informally resolved, you have a right to make a formal complaint if you are dissatisfied with any aspect of your local authority service. For more information, see factsheet 59, *How to resolve problems and complain about social care*.

Whoever works with you should treat you with respect and take account of your wishes and feelings.

If you lack mental capacity, all actions taken by those supporting you must be taken in your best interests as defined by the *Mental Capacity Act 2005* and its Code of Practice.

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

This links to your human rights, for example, your right not to be put at undue risk or to be subjected to abuse or neglect. If you or someone you care for is being abused or neglected, this can be reported to your local authority who must respond to ensure the issue is dealt with appropriately in line with your wishes.

For more information, see factsheet 78, *Safeguarding older people from abuse and neglect*.

## Useful organisations

### Care Quality Commission

[www.cqc.org.uk](http://www.cqc.org.uk)

Telephone 03000 616 161 (free call)

Independent regulator of adult health and social care services in England, covering NHS, local authorities, private companies or voluntary organisations and people detained under the Mental Health Act.

### Carers UK

[www.carersuk.org](http://www.carersuk.org)

Telephone 0808 808 7777

Provides information and support for carers, including information about benefits.

### Citizens Advice

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Telephone 0344 411 1444 (England)

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

### Disability Rights UK

[www.disabilityrightsuk.org](http://www.disabilityrightsuk.org)

Telephone 020 7250 8181

Personal Budgets Help Line 0300 555 1525 (9.30-1.30 Tues and Thurs)

Provides advice, training and information about personal budgets, direct payments and personal assistance.

### HM Revenue & Customs

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

Telephone 0300 200 3200

Helpline run by the HMRC providing information to those considering becoming employers.

### Pensions Regulator (The)

[www.thepensionsregulator.gov.uk/en/employers/](http://www.thepensionsregulator.gov.uk/en/employers/)

Telephone 0345 600 1011

Provides 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](http://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

[www.agecymru.org.uk](http://www.agecymru.org.uk)

0800 022 3444

### In Northern Ireland contact

#### Age NI

[www.ageni.org](http://www.ageni.org)

0808 808 7575

### In Scotland contact

#### Age Scotland

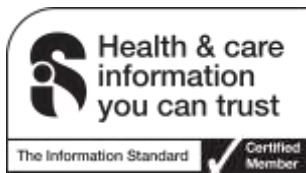
[www.agescotland.org.uk](http://www.agescotland.org.uk)

0800 124 4222

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