



CARE PLANS, PERSONAL BUDGETS AND HOW TO CHALLENGE THEM

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Caroline Barrett – Solicitor, Irwin Mitchell LLP

Overview

- What is a personal budget?
- Care Act 2014 and key principles
- Needs assessments, care and support plans
- Eligibility criteria
- Financial assessments
- Carers' rights
- Challenging decisions

What is a personal budget?

- The sum of money that the LA considers is sufficient to meet assessed care needs
- Different from a direct payment
- How is it calculated?
- Has to be sufficient to meet assessed care needs.
- So the starting point – how have those needs been assessed?
- Care Act 2014

CARE ACT 2014 – The key principles

Key principles and duties



Section 1 - Wellbeing principle



Section 2 – preventing needs for care and support



Section 3 - Integration of care and support with health services



Section 4 – Information and advice



Section 5 – Diversity and quality of services

The wellbeing principle

- **Section 1** - The general duty of an LA is to promote the individual's 'wellbeing'.
- Applies when making any decisions under the Care Act.
- Consider:
 - Personal dignity (including treatment of the individual with respect)
 - Physical and mental health and emotional well-being
 - Protection from abuse and neglect
 - Control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
 - Participation in work, education, training or recreation
 - Social and economic well-being
 - Domestic, family, and personal relationships;
 - Suitability of living accommodation;
 - The individual's contribution to society



The wellbeing principle

- How might this apply in practice?
 - At the care assessment stage – consider somebody’s wellbeing and their goals etc
 - Care planning – what support is needed to meet somebody’s needs – how does it tie in with the wellbeing principle.
 - Can it be used to access better support? For example, if there are two different ways of meeting the needs. One is more expensive but would fit in better with the person’s wellbeing – can we rely on the wellbeing principle here to get better support? Case law will develop this, but it may depend on the extent of the costs difference . . .

Preventing needs for care and support

- **Section 2** – LA must provide services or take steps which it considers will contribute towards preventing, delaying or reducing needs for care and support in its area.
- Applies to everybody – not just those with eligible needs. This can include:
 - Providing universal access to good quality information;
 - Supporting safer neighbourhoods
 - Promoting healthy and active lifestyles
 - Reducing loneliness or isolation
 - Providing support at an early stage to stop needs developing or becoming worse
 - Early intervention, such as fall prevention clinics, adaptations to housing, handyman services, and short term provision of wheelchairs or telecare services.
 - Services that maximise the independence for those already with complex needs, such as rehabilitation services, aids and equipment, adaptations
 - Provision of services to support carers, such as peer support groups or stress management classes.



- **Section 3** - Local authorities will be under a duty to ensure the integration of care and support services with health provision and health-related provision, where it considers that this would:
 - Promote the wellbeing of adults in its area;
 - Contribute to the prevention or delay in the development of needs for adults in its area; or
 - Improve the quality of care and support for adults that is offered.
- This places local authorities under a duty to liaise and coordinate services with the local CCGs and NHS bodies, to ensure a comprehensive programme of support can be provided.



Information and advice

- **Section 4** - LAs must establish and maintain an information and advice service relating to care and support for adults and carers.
- Applies to all adults (not just those with eligible needs)
- Must provide specific information on such things as:
 - How care and support is provided in the local authority's area;
 - The choice of support that is available and how it can be accessed;
 - How to raise concerns about the safety or wellbeing of an adult who has needs for care and support.
- Stat guidance suggests that advice should also include information on such matters as available housing and housing-related support, effective treatment and support for health conditions, the availability of befriending services, and the availability of aids and adaptations etc.



Diversity and quality

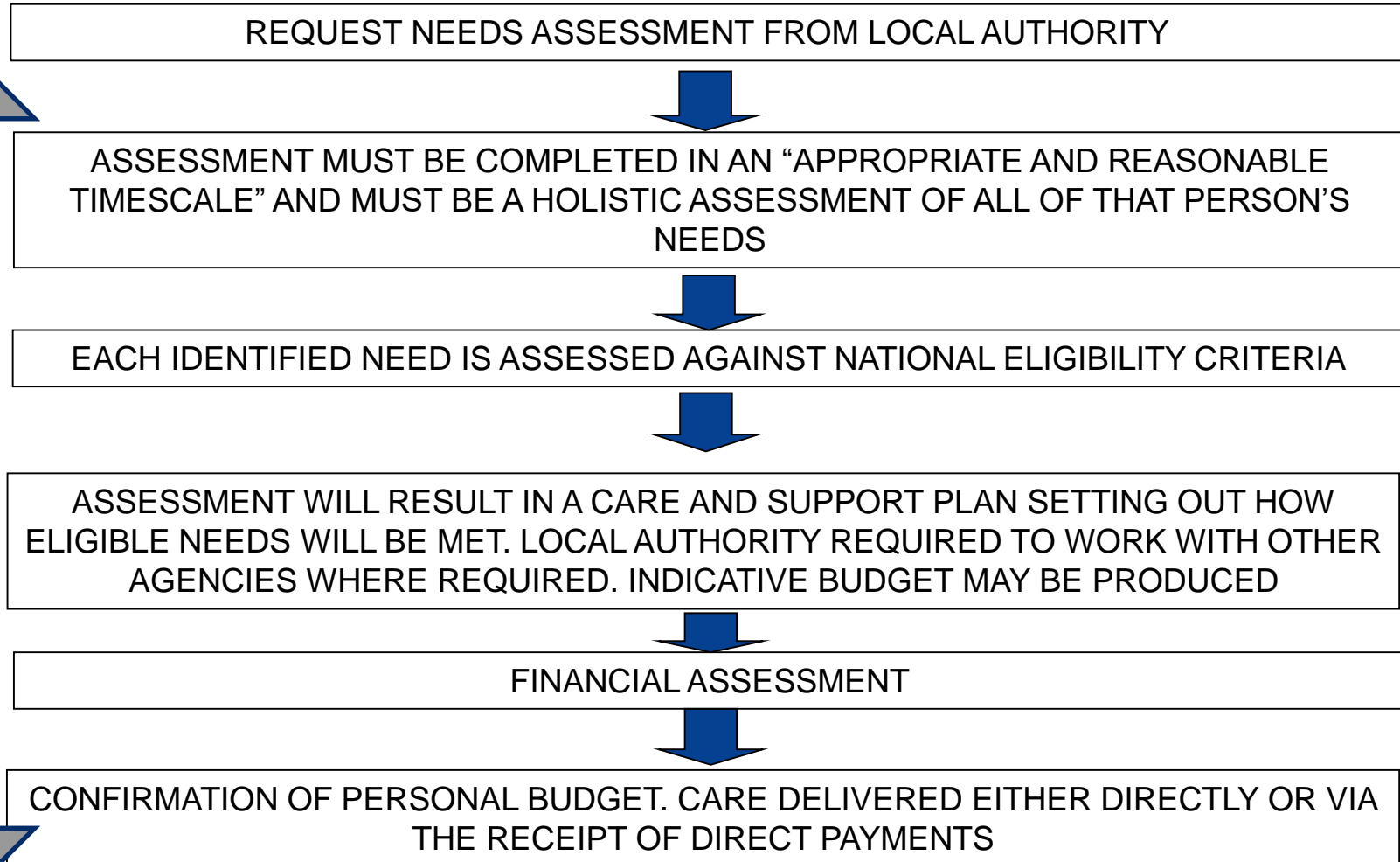
- Section 5
- A local authority must promote the efficient and effective operation of a market in care services, and should ensure that:
 - People have a variety of providers to choose from;
 - People have a variety high quality services to choose from; and
 - People have sufficient information to make an informed decision about how to meet the needs in question.



NEEDS ASSESSMENTS, SUPPORT PLANS, ELIGIBILITY

Process for obtaining support

LA must also consider general duties e.g. wellbeing, advocacy, prevention/delay of needs



Needs assessment

- Section 9. Threshold is low – “appear” to have needs for care and support
- Social worker or trained assessor to carry out the assessment.
- **Must** be person centred and holistic, and **must** take into account the views and wishes of the individual. A “collaborative process”
- Will need to take range of factors into account such as person’s needs, impact on wellbeing, the person’s desired outcomes, and impact on the family, any preventative measures.
- Finances irrelevant at this stage

- **Care and Support (Eligibility Criteria) Regulations 2014**

- ✓ The needs must arise from or be related to a physical or mental impairment or illness; and
- ✓ As a result of the needs, the adult must be unable to achieve two or more of the specified outcomes (although this is essentially defined as “significant difficulty”); and
- ✓ As a consequence of the above there is, or is likely to be, a significant impact on the adult’s well-being.

Eligibility criteria

- **Specified outcomes:**

- Managing and maintaining nutrition;
- Maintaining personal hygiene;
- Managing toilet needs;
- Being appropriately clothed;
- Being able to make use of the adult's home safely;
- Maintaining a habitable home environment;
- Developing and maintaining family or other personal relationships;
- Accessing and engaging in work, training, education or volunteering;
- Making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and
- Carrying out any caring responsibilities the adult has for a child.

- Section 24 of the Care Act - next steps:
 - To prepare a care and support plan for the adult (or a support plan for a carer);
 - To tell the adult which of their needs may be met via the provision of direct payments;
 - To help the adult with deciding how the needs should be met



Paragraph 10.5 of the statutory guidance - the “guiding principle” is for the care and support plan to be “person-centred and person-led”.

Ways of meeting needs include:
LA support, e.g. reablement or respite;
LA arranging care and support provider;
Direct payments to purchase support; or
Some combination of the above.

Care and support
plan

Consider general duties e.g. wellbeing, information and advice, preventative measures

New duty to include personal budget in all care and support plans – right to request direct payment

FINANCIAL ASSESSMENTS

Paying for care

- Some types of care and support are provided free of charge, such as re-enablement, minor adaptations, and 6 weeks rehab. However often the LA will charge for a contribution for other support services.
- Depending on a person's finances, an LA may ask an individual to contribute towards the costs of their care (up to the full amount)
- Local authorities will carry out a financial assessment
 - If an individual has capital (e.g. savings or investments) over £23,250, they will not be eligible for state funded care
 - If they have capital less than £14,250, they will be eligible for state funded care
 - If they have capital between £14,250 and £23,249, they will be eligible for state funded care but will need to pay a contribution towards those costs. This is assessed as being £1 for every £250 over the threshold of £14,250.



CARERS' RIGHTS

Carers' Assessment

- Carers will have the same rights in law to those they care for
- Applies mostly to adult carers caring for other adults
- New duty to assess carers on appearance of need – **s.10**
- Carers assessments must consider (**section 10(4)**):
 - The carer's needs and the impact of the caring role
 - Things that a carer wants to achieve in their own day to day life
 - Whether the carer is willing and able to carry on caring
 - Whether they work or want to work, whether they want to study or do more socially
- Where agreed, a combined assessment can be undertaken

Carer's Eligibility

- Just like for disabled adults, then consider eligibility:
 - Their needs arise as a consequence of providing necessary care for an adult;
 - The effect of the carer's needs is that any of the following circumstances apply:
 - The carer's physical or mental health is, or is at risk of, deteriorating;
 - The carer is unable to achieve any of the specified outcomes:
 - As a consequence of the above there is, or is likely to be, a significant impact on the carer's wellbeing.

Specified outcomes:

- Carrying out caring responsibilities the carer has for a child;
- Providing care to other persons for whom the carer provides care'
- Maintaining a habitable home environment in the carer's home (whether or not this is also the home of the adult needing care)
- Managing and maintaining nutrition
- Developing and maintaining family or other personal relationships;
- Engaging in work, training, education or volunteering;
- Making use of necessary facilities or services in the local community, including recreational facilities or services; and
- Engaging in recreational facilities.

- After determining eligibility, prepare a carer's support plan.
- Financial assessment.
- Under section 20, carers will be entitled to support if they are assessed as having eligible needs
- Carers must receive a personal budget as part of their support plan
- Right to request a direct payment

Challenging decisions

Common queries about personal budgets

- Whether there is a 'standard' personal budget for certain types of needs
- Whether the personal budget is fixed at the outset of an assessment
- How 'RASs' work
- Whether you 'have' to take a direct payment
- Hourly rates for carers

- Informal routes, e.g:
 - Speak to social worker
 - Complaint/ombudsman
- Formal routes, e.g.:
 - Judicial review proceedings:
 - Unlawful (including human rights challenges)
 - Irrational
 - Procedurally improper
- Legal aid still available for most community care challenges and judicial review, where financially eligible



ANY QUESTIONS?

Caroline.Barrett@irwinmitchell.com

