

## **A Consultation on Extending Legal Rights to Have Personal Health Budgets and Integrated Personal Budgets**

### **Purpose of report**

For discussion.

### **Summary**

On 6 April the Department of Health and Social Care (DHSC) and NHS England launched a [consultation](#) on extending legal rights to have personal health budgets and integrated personal budgets. The closing date is 8 June. We have invited the Association of Directors of Adult Social Services (ADASS) and the Association of Directors of Children's Services (ADCS) to feed their views into our response. This report summarises the consultation questions and invites Members to comment upon emerging key messages.

### **Recommendations**

That the Community Wellbeing Board comments upon the emerging key messages in paragraphs 16-36 and agrees that officers submit a draft consultation response to Lead Members for clearance by 8 June.

### **Actions**

1. Draft a consultation response that reflects steers from the Community Wellbeing Board, the Children & Young People Board, ADASS, ADCS and any further feedback from councils.
2. Submit a draft consultation response for clearance with Lead Members by 8 June 2018.

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## **A Consultation on Extending Legal Rights to Have Personal Health Budgets and Integrated Personal Budgets**

### **Background**

1. On 20 March, the Secretary of State for Health and Social Care, Jeremy Hunt MP, outlined the seven key principles that will guide the Government's thinking ahead of the social care green paper, to be published later in 2018.
2. The third principle was "control." The Secretary of State said that "Personalisation isn't new, and there is a strong consensus that it is the right path to follow, but progress has often been slower for older people than for working age adults with disabilities...So I want to turbo-charge progress on integrated health and care budgets, making them the norm and not the exception when people need ongoing support."
3. As part of the second principle "whole person integrated care", the Secretary of State announced new pilots in Gloucestershire, Lincolnshire and Nottinghamshire. Over the next two years every person accessing adult social care will be given a joint health and care and support plan and will also be offered an integrated health and care personal budget.
4. This was followed on 6 April by the publication of a [consultation](#) on extending legal rights to have personal health budgets and integrated personal budgets. The closing date is 8 June. The LGA's response will be joint with the Association of Directors of Adult Social Services (ADASS).
5. Personal budgets are relatively new in the NHS, but local government social care has a long history of personal budgets stretching back to the 1970s. There is a huge amount of learning and experience that we hope will be drawn upon in taking forward the current proposals.

### **Overview of Personal Health Budgets and Integrated Personal Budgets**

6. A personal health budget is one mechanism to allow people to have greater control and choice over the health services they receive. It is an amount of money to support an individual's identified healthcare and wellbeing needs, planned and agreed between them, or their representative and the local NHS team. A personal health budget can be used for a range of things to meet agreed health and wellbeing outcomes, including therapies, personal care and equipment.
7. Since October 2014, adults in receipt of NHS continuing healthcare or children receiving continuing care have had a specific right to have a personal health budget. Since March

2015, adults with long-term conditions have had the right to ask for a personal health budget. Nearly 23,000 people currently receive a personal health budget; NHS England has a target of between 50,000 and 100,000 people receiving a personal health budget or integrated personal budget by March 2021.

8. A personal health budget or an integrated health budget can be managed in one of three ways:
  - 8.1. Notional budget – the council or the NHS manages the budget and arranges the care and support.
  - 8.2. Third party budget – an independent organisation manages the budget and works with the individual, family and/or carers to ensure the right care is put in place and outcomes achieved.
  - 8.3. Direct payment – the budget holder has the money in a bank account or equivalent account and takes responsibility for purchasing care and support.
9. A person with an integrated health budget will have all their health and social care needs considered during one, single assessment. They will have a single personalised care and support plan designed with them, not for them, and one, integrated budget that meets their needs.
10. There are multiple areas across the country looking at how personal health budgets and personal budgets in social care can be joined together into a single integrated personal budget wrapped around the individual's health and social care needs.
11. Evidence from the evaluation of the personal health budget pilot programme showed that personal health budgets can support a move from unplanned, emergency care to planned care, and that they are cost effective in comparison to conventional services. More generally, there is recognition that while there is a good evidence base in support of the benefits of personal budgets, more use could be made of this.<sup>1</sup>

### **Summary of the Consultation**

12. The consultation proposes the following groups who could benefit from having a 'right to have' a personal health budget, or where appropriate, an integrated personal budget:
  - 12.1. People with ongoing social care needs, who make regular and ongoing use of relevant NHS services.
  - 12.2. People eligible for Section 117 aftercare services, and people of all ages with ongoing mental health needs who make regular and ongoing use of community

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<sup>1</sup> <https://www.thinklocalactpersonal.org.uk/assets/Resources/CareAct/GatheringTheEvidence.pdf>

- based NHS mental health services. (Section 117 of the Mental Health Act sets out people who are eligible for free care and support after they have been in hospital.)
- 12.3. People leaving the Armed Forces, who are eligible for ongoing NHS services.
  - 12.4. People with a learning disability, autism or both, or are eligible for ongoing NHS care.
  - 12.5. People who access wheelchair services whose posture and mobility needs impact their wider health and social care needs.
13. Within this, the consultation also proposes where DHSC and NHS England believe an explicit right to receiving a personal health budget or integrated personal budget via direct payment, would benefit certain groups. The consultation stresses that direct payment is not the only method available; rather, it is about ensuring the system is in place so that people can receive the budget in that way if they so wish.
14. Views are sought on the following:
- 14.1. Whether you agree that the groups DHSC and NHS England have identified should be prioritised.
  - 14.2. Whether you believe these groups would benefit from a personal health budget and/or an integrated personal budget or not.
  - 14.3. Whether there are other groups, or areas of the system not identified, who you believe a personal health budget and/or an integrated personal budget could benefit.
15. In addition, views are sought on whether there are other funding streams that could be incorporated into integrated personal budgets. The consultation documents highlights potential opportunities to join-up health, work and disability funding through a single, holistic assessment and plan, focussing purely on that individual's needs.

### **Emerging Key Messages**

16. Members are invited to comment upon the following key messages, which are based upon local government's experience of personal budgets, and will be developed further in the light of the Board discussion, feedback from our national partners and feedback from individual councils.
17. **The proposals are a significant opportunity to further catalyse health and social care integration.** Bringing together health and social care has been a constant and dominant policy theme for many decades. Extending integrated personal budgets is one way in which we can further help the shift towards meeting people's complex needs in a more holistic way.
18. **A person centred approach is the most important driver of better joining-up health and care services to meet individual's needs.** Personal budgets and integrated health

budgets are important mechanisms for personalisation, but they are just one approach and will not be right for everyone. Personalisation encompasses a wide range of approaches, including self-directed support, co-production, self-management, empowering information and community capacity building.<sup>2</sup> It is essential that an individual's care and support is organised to reflect that person's, and their families/carers', needs and wishes.

19. We welcome the level of ambition of the proposals but the opportunities may be greatest for those with long term conditions who use integrated health and social care services already and where services could be “unbundled” to create meaningful choice.
20. In relation to how the consultation proposals affect children and young people, we need to understand the links to Education, Health and Care Plans. Potentially there is a significant opportunity to integrate the Education, Health and Care Plan within a personalised care and support planning approach, bringing all the resources together around the individual.
21. We also need to aim for consistency in entitlement during the transition from children and young people to adults. Adult services need to respect and understand that a young person might have had more choice and control over a larger budget than is the case once they move to adult services. If there is a change in entitlement, then this needs to be managed through a shared framework that continues to support independence and better outcomes.
22. **Personal health budgets and integrated personal budgets must lead to meaningful choice for individuals that improves their outcomes – they are not an end in themselves.** The mere act of extending the right to a personal health budget or integrated personal budget will not automatically make a difference to a person's wellbeing. The policy rationale must be to increase choice and outcomes through a holistic look at people's needs with personal budgets used to divert or delay need. It also needs to be underpinned by a market and information that supports choice and a workforce that can respond to the expected increase in take-up of personal budgets.
23. Breaking down care pathways to identify care and support that is suitable for personal budgets can be very challenging. In addition, the prevalence of block contracts in the NHS for purchasing care and support can significantly reduce people's choice and this could affect progress. It can be challenging to remove money from block contracts without impacting on the sustainability of NHS providers. We might want to suggest some creative ways to overcome this. For example, some mental health services carve out alternatives out of their own block amounts of money.

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<sup>2</sup> It's Still Personal, ADASS, June 2017 <https://www.adass.org.uk/media/5950/its-still-personal-june-2017.pdf>

24. Furthermore, in many areas there is not a diversity of providers within the voluntary and community sector to provide choice. The voluntary and community sector social care market is already very fragile. Careful consideration will need to be given to how commissioners can support providers to develop the market, so that it offers genuine choice and is able to respond to care pathways.
25. People also need clear information and advice to navigate their way through the care and health system and make good quality decisions about the services and support they purchase. One issue is the lack of feedback from service users and we might want to recommend this is addressed so that people can make informed purchasing choices.
26. There are around 500,000 people using personal social care budgets, but take-up varies between places and groups of people. Barriers to taking up personal budgets include finding the process challenging, a lack of information and support and perceptions about complexity. Think Local Act Personal (TLAP) have produced a suite of resources to help councils ensure that personal budgets are nimble and effective.
27. Finally, we will need to ensure that the workforce is sufficiently developed so that there are the right people with the right mix of skills in the right places to support a greater take-up of personal budgets, particularly personal assistants. The National Audit Office recently highlighted the importance of a sustainable social care workforce.<sup>3</sup>
28. A key next step after the consultation will be mapping the practical steps that need to be taken so that the extension of legal rights leads to a reality of increased choice and better outcomes for people.
29. **We need to recognise that people's motivations are different; not everyone wants a direct payment or the responsibility of being an employer.** Extending the option of a direct payment will give more people the opportunity to exercise greater control and flexibility over their personal health budget or integrated personal budget, provided it is accompanied by appropriate support. But with greater control comes greater responsibility and not everybody wants a direct payment with which to arrange and purchase their own care and support. In particular, take-up of direct payments has been lower amongst older people. While this partly reflects difficulties with the process, which councils have worked hard to improve, Age UK has highlighted that some older people in the last years of their life just want to access high-quality and safe care without the additional complexity of managing a personal budget or directly employing carers and assistants.

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<sup>3</sup> <https://www.nao.org.uk/report/the-adult-social-care-workforce-in-england/>

30. In addition, the sleep-ins crisis risks undermining the personalisation agenda. Direct payment recipients who paid personal assistants a flat rate for overnight care shifts, in full compliance with National Minimum Wage (NMW) legislation, now find themselves personally liable for 6-years back-pay due to a change in Government policy which requires the NMW to be paid for the duration of sleep-in shifts.
31. **We are keen to further explore the possibility of bringing other appropriate funding streams within an integrated personal budget.** People with complex health conditions are often eligible for a range of other benefits and support, particularly for housing and employment. This can mean that people receive money from a number of different places and deal with multiple professionals and processes. Integrating other appropriate funding streams within an integrated personal budget has the potential to further align and join-up person-centred care to address health and wellbeing needs. However, not all funding streams will be suitable for integration, and the consultation proposals are already very ambitious, so we might want to suggest this aspect is explored further down the line.
32. **Further progress of the personalisation agenda could be put at risk by the financial challenges facing adult social care.** Discussions about taking personalisation further are happening in a very difficult financial climate. Our analysis shows that the funding gap for adult social care will be £2.2 billion by the end of the decade. In addition, an immediate £1.3 billion is required to stabilise the provider market. While there is strong support for personalisation, the scale of the funding pressures combined with demographic changes, means that there will be less money to support people's choices. When asked about the impact of financial savings in the 2017 ADASS Budget Survey, 36 per cent of respondents agreed that personal budgets are getting smaller. This increased to 54 per cent when respondents were asked to anticipate the impact of savings over the next two years. ADASS is leading work to explore how a strength or asset based approach might help to sustain progress in personalisation during austerity. In order to continue the progress of the personalisation agenda, adult social care must be sustainable funded.
33. **There is an opportunity to build upon local government's extensive experience of personal budgets.** The 2014 Care Act makes it clear that all people eligible for council funded social care will receive a personal budget, but local government's experience of personal budgets stretches back over 20 years. There is a huge amount of learning which we hope DHSC and NHSE will fully utilise when further developing their proposals. While significant progress has been made, with many people benefitting from greater choice and control, it has taken time, expertise and resources to unlock those benefits. There has to be a strong commitment from NHS system leaders to change organisational culture and behaviours, so that the needs of the person are paramount, including in the relationship between clinicians and the people they are treating.

34. In relation to children and young people, the Department for Education similarly needs to embrace cultural change and a commitment to review how it organises funding so that when relevant it can be brought within a personal health budget or integrated personal budget.
35. Our consultation response will include a number of case studies that demonstrate innovative approaches to personal budgets and the improved outcomes that can be achieved for people.
36. In particular, the Integrated Personal Commissioning Programme (IPC) is a partnership between the LGA and NHS England which over the last three years has supported areas across the country to develop a personalised model of integrated care for adults, children and young people with high and ongoing needs. The final report from the Programme will be published in September 2018 and should inform how the DHSC and NHS England consultation is taken forward. We will also want to ensure that the three integration pilots recently announced by the Secretary of State, the IPC and this consultation are all linked together.

### **Implications for Wales**

37. Health is a devolved policy responsibility and the consultation applies to England only.

### **Financial Implications**

38. There are no financial implications for the LGA.

### **Next steps**

39. Draft a consultation response that reflects steers from the Community Wellbeing Board, the Children & Young People Board, ADASS, ADCS and any further feedback from individual councils.
40. Submit a draft consultation response for clearance with Lead Members by 8 June 2018.