

Putting People First
Personalisation Toolkit

Managing the Money: Resource deployment options for personal budgets



Gateway ref 9878

This document is part of the Personalisation toolkit, which can be seen in full at www.toolkit.personalisation.org.uk

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Introduction

Putting People First: a shared vision and commitment to the transformation of Adult Social Care¹ sets out the vision, ambitions and components of the future system. It establishes an explicit, collaborative approach between central and local government, the sector's professional leadership, providers and the regulators and recognises the need to empower citizens to shape their own lives and the support they receive. The learning from the Individual Budget Pilots, including this report will be important in making this a reality and to the commitment to ensure that, in the future, all those eligible for statutory support will have a personal budget.

The term 'resource deployment' is used here to describe the ways in which an individual or their appointed representative can decide how to manage their financial allocation within a personal budget. This report sets out some of the available options. Examples have been drawn from:

- The current system of community care, in particular direct payments
- The work of In Control
- The work of the thirteen Individual Budgets pilots.

This paper is not intended to set out recommendations of resource deployment options, rather the purpose is to reflect the experiences and illustrate the examples

available at the time of writing.

For the purposes of this paper we have assumed that the resource deployment stage of the process should follow on from a clear description of what needs to be achieved, which will be determined by the individual or their agreed representative in the creation of their support plan. This is to avoid constraining the possible deployment and support planning options by prematurely deciding how to achieve the task before having considered what is to be achieved: rather like choosing a vehicle before determining the destination and terrain. This paper looks at some of the ways in which people can access advice and guidance on how to use resource deployment options to best achieve the objectives of their support plan.

The purpose of a personal budget is to give the maximum degree of choice and control to an individual, or their appointed representative to decide how best the needs and agreed outcomes, for which they are eligible to receive support, can be met.

The budget amount represents the total to which the individual is eligible to for a given period of time. This is based on the single or various assessment mechanisms used by those bodies which make the funding available². It might also include 'one-off', or 'non-

1 www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081118

recurring' funding. An 'indicative resource allocation' is made known to the individual for them to plan its use, with support where required. The way in which this allocation will be used to achieve the purposes for which it has been made is contained in the individual's support plan. The final budget is agreed through the 'signing off' of this support plan.

In order to make this allocation practical for the individual or their appointed representative to use, an appropriate means of managing the financial resource needs to be identified. This will vary according to individual circumstances and preferences.

This report outlines a range of mechanisms for resource deployment. The method used must be appropriate and acceptable to the individual or their representative and may involve a combination of approaches. It should be noted that:

- As the number of people having a personal budget increases, new deployment options will emerge.
- The Health and Social Care Bill 2007/8 introduced in the House of Commons in November 2007, seeks to extend the availability of direct payments to those

people currently excluded due to a lack of capacity to consent to the receipt of a DP (within the meaning of the Mental Capacity Act 2005). Under the new powers it is intended that the payment will be made to a 'suitable person' who can receive and manage the payment on behalf of a person who lacks capacity.

- At any time an individual or their appointed representative may wish to change the way in which their individual budget/personal budget is managed, and may wish to combine, or change an existing combination of, different money management options.

Improving the Life Chances of Disabled People summarises the context for this as follows:

"Helping disabled people to achieve independent living by moving progressively to individual budgets for disabled people, drawing together the services to which they are entitled and giving them greater choice over the mix of support they receive in the form of cash and/or direct provision of services³."

² The IB pilot sites looked at combining resources from six sources: Social Care; Access to Work; Supporting People; the Independent Living Funds; Disabled Facilities Grant; and Integrated Community Equipment Services. In Individual Contracting: A Guide for Local Authorities on creating a local system of Self-Directed Support. Version 4.0, In Control report that other finding sources have also been included, such as Education; other Local Authority expenditure; pooled Health funding; Continuing Health Care funds (although the inclusion of the last two would affect the deployment options available).

³ Improving the Life Chances of Disabled People, Prime Minister's Strategy Unit, 2005, P7

Choosing how to manage the money

For personal budgets to be an effective method of increasing people's choice and control there must be access to good information, advice and guidance. This should include a range of options available for managing the money. Consideration should be given to the use of user-led organisations to deliver this support.

The recommendation set out in Improving the Life Chances of Disabled People is that by 2010 each Council with Social Services responsibilities (CSSRs)

"...should have a user-led organisation modelled on existing CILs [Centres for Independent Living]"

and that

"Local organisations, run and controlled by disabled people will be a vital part of the implementation of a new approach to supporting independent living."⁴

In addition the recent Local Authority Circular⁵, Transforming Social Care, DH (2008) sets out that by 2011 councils will have a

number of core components in place to transform social care, three particular elements are described as:

- 'Universal, joined-up information and advice available for **all** individuals and carers, including those who self-assess and fund.
- An enabling framework to ensure people can exercise choice and control with accessible advocacy, peer support and brokerage systems with strong links to user led organisations. Where ULOs do not exist, a strategy to foster, stimulate and develop user led organisations locally.
- A simple, straightforward personal budget system, which will lead to maximum choice and control being in the hands of people who use services as well as support to increase the uptake of direct payments.'

The Department of Health 'User Led Organisations Project Policy'⁶, 2007, outlines the criteria for the design and key requirements for sustainable user led organisations, modeled on existing CILs (see Appendix 1).

4 Improving the Life Chances of Disabled People, Prime Minister's Strategy Unit, 2005, P91

5 LAC (DH) (2008) 1, Transforming Social Care, Department of Health, appendix B

6 www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_078804

Since December 2006 there has been a legal duty for council/partnership organisations, to promote equality of opportunity for disabled people, this duty for council/partnership organization includes organisations contracted to provide services on their behalf.⁷ The Disability Equality Duty covers the full range of what councils/partnership organisations do – including policy making and services that are delivered to the public. Please see the Equal Access Framework in this *Personalisation Toolkit* for detailed information of this and other duties.

In designing an effective range of local resource deployment options, community mapping and co-production will be particularly important. Co-production in this context should involve disabled and older people, families and carers and local voluntary and user-led organisations. This process will require piloting different money management options and then reviewing, revising, and refining these.

Examples of councils who have direct experience of working with local user-led/voluntary organisations and disabled/older people to develop resource deployment options are included in Appendix 1.

⁷ Disability Discrimination Act (2005) www.opsi.gov.uk/Acts/acts2005/ukpga_20050013_en_1

The supporting context – contracts and commissioning arrangements

In order for people to have maximum choice over the way in which they manage their money, commissioners should ensure that the resources which they manage can be made available to each individual in the way they choose to receive them. Getting the balance right between the amount of money to be left available for people to receive as direct payments and the amount of money to be invested in various service and support options for people to choose to use as part of their support planning is crucial. Alongside this will need to be flexibility to amend such a balance as time progresses and the patterns of choice of individuals may change.

This paper primarily details the resource deployment options available to individual budget holders – the chosen vehicles by which the money is managed. The destination and terrain are determined by the individual recipient in their support plan.

However, for those purchasing services from or delegating money management responsibilities to the council, there are a number of broader features of the 'terrain' that are pre-determined by the current adult social care system. These features can have considerable influence on the degree of choice and control available to these budget holders.

Although not resource deployment options in themselves, these features are integral parts of the current social care system. They are important for councils and their partners to consider because the right supporting context for individual budget holders requires the right balance – and not over reliance, on these features.

The supporting context can loosely be divided between contracts and commissioning arrangements which are:

- a) traditional, or
- b) outcomes based.

a) Traditional arrangements:

In-house: Traditionally such arrangements are considered in units of care, 'hours,' 'days,' or 'beds,' and fall within standard definitions of domiciliary care, transport, meals services etc. The council/partnership arranging services from their 'in-house' options should ensure these options are costed transparently. There is some debate as to whether the 'actual' and 'full' cost should be shown and whether any subsidy should be applied to in-house options. Councils need to work closely with in-house providers and commissioned service providers to agree a price structure for these services. It

is best to make early if necessarily imperfect decisions about the costs of services, particularly in-house provision. These can be adjusted over time to reflect demand. The key principle is to cost these services early so that they are available to personal budget holders.⁸

These arrangements tend to be generic and are available from relatively standardized 'menus' of services. The benefits and limitations of such services need to be understood by the individual. A standardized menu places obvious constraints on the flexible use of personal budgets for people choosing to purchase 'traditional' services. However, these arrangements can still be effective for those that choose them in full awareness of the available alternatives. In-house provision can be made more flexible and responsive to individual needs.

External – 'block' and 'spot' contracting:

These describe differences in the council's contracting role. Both involve the council/partnership specifying and arranging services from external sources on the individual's behalf. This is based on expected demand both in volume and type of service required. These services are either;

- purchased in 'blocks' and paid for up-front, or

- bespoke, 'spot', as and when they are needed.

The kind of contract employed will depend on the nature of the service/support the individual chooses and the council/partnership's range of pre-paid services. The same benefits and limitations noted for in-house services are applicable to both types of external provision.

b) Outcomes based arrangements:

This approach best aligns the availability of provided services with the principles of self-directed support. Outcome-based commissioning involves commissioners moving away from measuring the cost and volume of service inputs, towards a concentration on outcomes – measurable improvements for individuals. Under these arrangements details of the 'service' can be negotiated directly between the individual and the provider. The commissioner alongside the individual anticipates a qualitative outcome rather than a quantitative service, e.g. through improvements made to individual or community well-being or reductions in hospital readmissions.

⁸ For a full discussion on transparent pricing and a methodology for approaching this challenge with in-house services and externally contracted block or spot contracts, see 'Smart Commissioning,' In Control 2008. Many Councils have also found CSED's TRACs tool helpful for costing their in-house services. See www.csed.csip.org.uk/workstreams/better-buying/tool-for-rapid-analysis-of-care-services-tracs.html?keywords=TRACS

Options for deployment

Simply put, the deployment options can be described as either:

- direct payments⁹ or
- directly provided services arranged by your local authority/partnership¹⁰

People may choose to use **any** combination of these 2 approaches.

Direct payments

In summary, a direct payment has the following key features:

- Individual receives and manages the money.¹¹
- Arrangements are made by the individual to achieve their agreed outcomes.

In addition, direct payments follow three guiding principles:

- 1) **Self-determination:** The mechanism is chosen by the individual with an understanding of the benefits, limitations and other choices available.
- 2) **Transparency:** The individual should know the sum of money available to them to meet their outcomes.
- 3) **Choice and control:** The emphasis is on flexibility, and the focus is on outcomes.

The individual named as the recipient of the direct payment takes on the responsibility for making the necessary arrangements, with support as required, to meet those aspects of the support plan for which the money has been made available to them. The individual receives a cash payment (into a bank or other approved account) in lieu of services.

Importantly, currently "...the person to whom the direct payment is made must have control over how services are delivered."¹²

9 For those individuals or their representatives who are eligible (see page 3 regarding the Bill currently before parliament taking powers intended to enable direct payments to be made to a suitable person who can receive and manage the payment on behalf of a person who lacks capacity)

10 'Partnerships' are here defined as those organisations or arrangements through which the local authority fulfils its Community Care responsibilities, such as integrated Mental Health Partnership Trusts, or commissions services, such as Primary Care Partnerships or other Integrated/Joint Commissioning arrangements

11 Where the term individual is used it should be noted that in some instances this can be a 'suitable person' acting on behalf of the individual.

12 Direct Payments Guidance: Community Care, Services for Carers and Children's Services (Direct Payments) Guidance England 2003 Department of Health, p15.

However the scope of the Direct Payments Guidance (2003) also enables the widest possible range of support for individuals in managing a direct payment. So whilst the person must retain control over '...how services are delivered' there is a clear remit for individuals to delegate significant activities which in turn create this control. These activities include: receiving the payment, and/or keeping records, and/or recruitment and management of staff and/or completing a payroll.

Some people will chose to manage these activities themselves, accessing support as they require to enable them to do so. Others will delegate some or all of the management of the money, and its associated activities, to a third party (nominee). This could be an individual (such as a relative, friend, or a paid agent) or an organisation (such as a support service, Centre for Independent Living, or other voluntary or independent organization) or a combination of two or more of these.

Aside from User Controlled Trust arrangements (see below), the management activities undertaken in a voluntary capacity by relatives or friends, will, where necessary, be through specific local arrangements, such as letters of agreement, to suit the individual circumstances as required. These are not illustrated here.

Arrangements which involve paid individuals or organisations are either funded directly as part of support provision or through amounts included in the direct payment. As these are developing all the time, the examples of arrangements currently in use in councils featured below are indicative of the range of options that may already be available locally.

- Supported Managed Accounts
- Provider Managed Accounts
- User controlled trusts
- Pre-loaded Cards and Vouchers

Supported Managed Accounts (Credit Unions, Independent Living Agencies, Personal Assistant Support / Brokerage Scheme, Voluntary Organisations etc)

Benefits

- Supports people who do not have a bank account
- Can be a transitional arrangement on the way to receiving a direct payment into a personal bank account
- These organisations often provide payroll and record keeping facilities.
- The ILF also make payments into these type of accounts
- Can also receive and manage funding for Continuing Health Care
- Enables collective purchasing for any number of individuals

Issues to Consider

- Individuals will need to be kept informed of their balance regularly and verify bills and time sheets submitted for payment.
- Some people may wish to have a supported

managed account for part of their budget and may use other resource deployment option/s for the remainder of the budget.

- Organisations that provide supported managed accounts require funding to provide this facility.

Under these arrangements, part or all of an individual's direct payment is paid into a third-party's account at their request. This can be of value to people who may not wish to receive the funds themselves, or who have not been able to access the facilities of the main banks and building societies. In addition this method can be useful to enable consortium or collective purchasing. Some council/partnership organisations and individuals have developed consortium or collective purchasing schemes.

Examples where supported managed accounts have been used include for instance: when an individual may not be able to provide the identity information required; may have a poor credit rating; may previously have been declared bankrupt; may be overdrawn in their current account; or may require support to manage their account and not have a network of family or friends who can help them. Alternatively this may simply be the preferred option of the individual.

Supported managed accounts have also been used to enable people to continue to manage their existing personalised arrangements where they move from social care support to continuing health care eligibility, for example NHS funds are held by a third party organisation. This can be facilitated through an SLA or other contractual vehicle, and the

third party organisation then manage the funding and pay the invoices from providers such as Coventry Personal Care Bank (see page 23).

Provider Managed Accounts

Benefits

- May enable people to receive a direct payment who may otherwise not be able to manage one without this assistance.
- Supports people who do not have a bank account
- Can be a transitional arrangement on the way to receiving a direct payment into a personal bank account and/or becoming an employer
- These organisations directly employ or contract with the individual providing the service
- Provider arranges payroll/record keeping facilities.
- Can also receive and manage funding for Continuing Health Care.

Issues to Consider

- Formalised arrangements between the individual and the provider may be necessary to ensure clear understanding of the roles and responsibilities regarding surplus/transparency and record keeping
- Some people may wish to have a supported provider account for part of their budget and may use other resource deployment option/s for the remainder of the budget

- The provider may need to hold individual budgets separately from its company business account.

These types of examples involve individuals electing for their direct payment to be received directly by a provider of their choice, in what would be categorised as a Provider Managed Account. These examples are similar to Individual Service Funds¹³ (ISFs), but are two way, often informal agreements, between the individual(s) and the provider and not three way ones involving the council/partnership organisation.

User-controlled trusts

Benefits

- May enable people to receive a direct payment who may otherwise not be able to manage one without this assistance
- Enables family/carers to be involved in supporting a relative to self direct their own support/services
- Can formalize the role of members of a 'circle of support'.

Issues to Consider

- Involves legal responsibilities for Trustees
- Some authorities and voluntary organizations have developed schemes which develop potential trustees.

Some people who choose to use direct payments find it difficult to manage their own money, or arrange their own support/services, without some assistance. Setting up a trust fund is a way of enabling someone in this situation to benefit from the choice and control that direct payments bring. A group of people, who are prepared to act on their behalf, can take on the responsibility of managing the money and organising the support/services.

The individual getting the direct payment cannot be one of the trustees, but as the person getting the support/services, should be central in any planning meetings, and their wishes always consulted. The individual may only be able to demonstrate their wishes through their behaviour¹⁴, and this makes it very important that at least two of the trustees should know them well. It is also strongly recommended that someone from a wider circle of contacts be appointed a trustee, to ensure objectivity.

Pre loaded cards and vouchers

Pre-loaded Cards: Benefits

- Supports people who choose not to or are unable to receive money in a personal bank account
- Removes the need to provide financial records to the local authority
- Can enable internet or telephone purchasing.

13 See page 15 for further information on ISFs

14 The individual must of course be able to consent to a direct payment and be capable of managing with such assistance as may be available

Issues to Consider

- Can restrict how the money can be used, for examples only useable with visa enabled suppliers and for cash withdrawal
- Charges are made to the council by the card supplier for each card issued and for cash withdrawals
- Consideration could be given to enabling visa payments through a third party organisation such as a user led organization to enable the pre-loaded cards to be utilized more widely, for example a personal assistant, gardener and some providers will be unable to accept a visa payment

Pre-loaded cards are a straightforward way of managing the money. Functioning as a debit card, loaded with credit by the council, they remove the need to open a separate bank account. As they provide the council and the individual with full transaction records, they can also simplify record keeping and financial monitoring.

However they can also limit the choice that individuals have over how to spend their money, depending on the authorized 'spending categories' determined by the council. One recent development has been the issuing to people of pre-paid cards for use with selected taxi firms and gym membership.

Vouchers

Benefits

- Supports people who choose not to

receive and manage the money in a personal bank account.

- Removes the need to provide financial records to the local authority.
- Supports people to access membership of specific community services where annual or monthly passes are required such as a gym membership and vouchers can be used to secure annual/monthly/membership.

Issues to Consider

- Vouchers can only be redeemed at specific locations
- Can vouchers provide transparency in terms of their monetary value?
- The limitations of vouchers will need to be illustrated very clearly to individuals considering receiving all or part of their direct payment in this way.

Vouchers of different denominations can be made available to individuals for the value of all or part of their personal budget. These are presently available for use with registered providers of traditionally defined services, such as day care, home care or residential care. The individual is able to exercise flexibility in when to claim the support to which the voucher entitles them and where to redeem it, though this is usually from a limited list of approved providers.

For examples and further information see Appendix 2

Directly provided services

These services are provided or arranged by the council/partnership organisation. The council/partnership organisation or other nominated organisation manages the money.

The council and any external provider agency/agencies involved are responsible for making the necessary arrangements, on behalf of the individual and in the manner chosen by them, to meet those aspects of the support plan for which directly provided services have been requested.

For example, the council might arrange 'in-house' services, utilizing spot or block contracts, or commission services from providers, voluntary/community sector organizations, businesses or other community resources on behalf of an individual. Typically, this involves minimal (or 'no') money-management obligations for the individual or their appointed representative.

In summary, directly provided services share the following common features:

- The council/partnership organisation manages the money;
- Arrangements are made on behalf of the individual and in the manner requested by them;
- The range of 'services' available depends on the council's commissioning arrangements (*see above*).

In addition, in the context of self-directed support, directly provided services follow three guiding principles:

- 1) Self-determination:** they are the deployment mechanism chosen by the individual or their appointed representative with full knowledge of the benefits, limitations and other choices available.
- 2) Transparency:** the sum of money that is being spent on an individual's behalf, though not paid directly to them (sometimes called a 'virtual budget'), should be fully known by them ('transparent') and remain under the control of the individual or their agreed representative.
- 3) Choice and control:** the choice must be real, even when the budget remains virtual.

Examples of directly provided services which have emerged from the existing practices of local councils and partnership organisation(s), In Control and Individual Budget pilot sites are set out below. The list of options is not exhaustive but includes:

- 'Virtual' Managed Accounts
- Individual service funds (ISFs)

Entirely new as well as subtly different ways of directly providing services are emerging all the time that involve the individual and the council in increasingly innovative

arrangements. Each of these must ensure that choice and control are 'real' even when the budget remains notional.

'Virtual' Managed Accounts

Benefits

- Supports people to manage financial risk
- Can be a transitional arrangement on the way to a direct payment
- Opportunities created for councils to develop flexible and responsive purchasing services

Issues to Consider

- Simple ways of tracking budgets and informing individuals of their balance are essential e.g. texts/on-line statements
- Can virtual accounts managed with online banking style facilities enable a switching between direct payments and directly provided services? (Personal budgets could provide much greater flexibility for individuals around how much of their budget is used at any one time as a direct payment and/or directly provided service, with emerging systems and financial platforms developing that can deliver and provide the greatest degree of flexibility and choice).

This involves the council/partnership as a purchasing service working on behalf of the individual, acting as a bridge between their decisions and the services they wish to buy.

It involves no transfer of funds or delegation of money-management responsibility to the individual, but aspires to offer a similar degree of choice and flexibility as a direct payment. This option may appeal to those that do not wish to manage a direct payment or who are not eligible to receive one. Services can be arranged through a combination of 'in-house' services, and/or services commissioned from providers, voluntary/community sector organisations, businesses or other community resources on behalf of an individual.

Individual Service Funds (ISFs)

Benefits

- Provides an approach to personalising existing pre purchased services
- Improves flexibility, choice and control for individuals
- Encourages providers to account individually for the services they provide

Issues to Consider

- Development of Individual Service Funds requires detailed preparation
- Work together with providers to develop them
- Include the costs of money management (5-10%?)
- Allow subcontracting that makes Individual Service Funds more flexible
- Check legal and contractual details

There are various different models for Individual Service Funds. These may involve a new commission of services by the council on an individual's behalf, or the individualisation of existing block contract arrangements around the citizens supported within the block.

Common characteristics are:

- the budget is held by the provider on behalf of the individual
- the support plan is the key driving document behind the provider/citizen relationship
- the individual is in ultimate control of how the money is spent

Individual Service Funds involve the individual and the service provider working together to determine the best fit of services to meet their objectives. Under this approach the provider is directly accountable to the individual in receipt of services. The council may retain a role in proportionately monitoring and reviewing the contract to ensure quality and value and that outcomes are being met if this is requested by the individual.

These arrangements are often formalised through three way contractual arrangements, between the provider, the individual and the council. These describe the supports to be provided, set out the responsibilities of all parties and explain how the agreement can be dissolved. An Individual Service Funds can be arranged for all or part of the budget available.

Maintaining personalised arrangements under Continuing Health Care

This is an area where councils should be actively engaged with their health partners in working to ensure that changes in funding arrangements do not deny individual's the maximum possible degree of choice and control.

Individual Service Funds arrangements can also be used to ensure that people moving onto Continuing Health Care (CHC) continue to have choice and control in how they receive their support. The provider receives the funding and either recruits the individual's existing PAs so they become employees of the provider, or provides the means for the individual to choose which personal assistants are recruited by the provider to work solely with them. Ultimately the provider ensures as part of its service that the person for whom the funding is received retains full control over the day to day arrangements.

A quite distinct alternative to this is the Independent User Trust

Independent user trusts

An Independent User Trust (IUT) is a trust set up for the purposes of delivering a complex care package funded by a primary care trust. In 2005, the High Court¹⁵ ruled that an IUT could be set up by a Primary Care Trust to deliver services.

15 *Gunter v SW Staffordshire Primary Care Trust* (2005). The judgement (para 25), states that 'In addition, Paragraph 12 of Schedule 5A to the 1977 Act, which deals with Primary Care Trusts, provides: 1) A Primary Care Trust may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its functions. 2) That includes, in particular ... (b) entering into contracts''.

Benefits

- The NHS has powers under the NHS Act 2006 (which consolidated the NHS Act 1977 and its many amendments) to make such arrangements through a voluntary organisation. An IUT according to the High Court Ruling, amounts to a voluntary organisation (Gunter v SW Staffordshire Primary Care Trust)
- Enables family/carers to be involved in supporting a relative to self-direct their own support/services
- Could provide a vehicle to ensure an individual can maintain their personalised arrangements if they latter become partly/ fully eligible for continuing health care

Issues to Consider

- Involves legal responsibilities for Trustees
- This is a power and not a duty within the NHS Act.
- Requires the establishing of a voluntary organisation

For examples and further information see Appendix 3

Appendix 1: Choosing how to manage the money – practical examples

User Led Organisations Project – Policy 2007, ULO values, organisational characteristics and minimum services

A ULO should adhere to a minimum set of values:

- works from a social model of disability perspective
- promotes independent living
- promotes people's human and other legal rights
- shaped and driven by the initiative and demand of the organisation's constituency
- is peer support based
- covers all local disabled people, carers and other people who use support either directly or via establishing links with other local organisations and networks
- is non-discriminatory and recognises and works with diversity in terms of race, religion and belief, gender, sexual orientation, disability and age
- recognises that carers have their own needs and requirements as carers
- engages the organisation's constituents in decision-making processes at every level of their organisation.

A ULO should have the following organisational characteristics:

- provides support to enable people to exercise choice and control
- is a legally constituted organisation
- has a minimum of 75 per cent of the voting members on the management board drawn from the organisation's constituency
- is able to demonstrate that the organisation's constituents are effectively supported to play a full and active role in key decision-making
- has a clear management structure
- has robust and rigorous systems for running a sustainable organisation (e.g. financial management/contingency planning)
- is financially sustainable as there will be no ongoing central government funding
- has paid employees, many of whom must reflect the organisation's constituency
- identifies the diverse needs of the local population and contributes to meeting those needs
- is accountable to the organisation's constituents and represents their views at a local level
- supports the participation of its constituents in designing, delivering and monitoring of the organisation's services

- works with commissioners to improve commissioning and procurement.

The minimum ULO services to support independent living are defined in Improving Life Chances as:

- Information and advice
- Advocacy and peer support
- Support in using direct payments and/or individual budgets
- Support to recruit and employ personal assistants
- Assistance with self-assessment
- Disability equality training
- Support the implementation of the Disability Equality Duty by public sector organisations in the locality (including consumer audits).¹⁶

Choosing how to manage the money: Barking & Dagenham

A key aspect of our original Individual Budget Pilot Project Plan had indicated a clear “commitment to work in partnership with all stakeholders, but particularly the voluntary and community sector and services users; wherever possible involve these groups in all stages of the projects planning, development and implementation”.

In an attempt to stay true to our word, our governance arrangements included our local Centre for Independent Living participating as a key local stakeholder on the Project Board, with a number of other local voluntary sector providers and service users making up our Steering Group.

We were fortunate in this borough to have such a proactive and robust Centre for Independent Living; a consortium of local voluntary sector providers, with a passion to deliver new and innovative services – our governance arrangement allowed for interested parties from within the consortium to drop in and out of the steering group. This brought great depth and knowledge to the group and allowed individuals with specialist knowledge to inform streams of work, including resource deployment, as and when needed.

Much, if not all the success attributed to the Individual Budget pilot within this borough, would not have been achieved without the true partnership working and trust of the various voluntary sector organisations involved.

Choosing how to manage the money: Widening the options in West Sussex

A number of local voluntary and community organisations, especially those that offer home visiting as part of their existing work, have accepted invitations to work with West Sussex County Council on a support planning pilot project.

¹⁶ User Led Organisations Project Policy, 2007, Department of Health, paragraphs 23,24 & 25
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_078804

Using introductory training and guidance developed by the Individual Budget Team, these organisations will offer support to people in drawing up their support plans. The organizations can provide independent sources of assistance to people weighing up the major decisions and seeking information about local possibilities for making best use of their individual budget.

West Sussex recognises that one big decision open to the individual with an Individual Budget is deciding which deployment option(s) are right for them. In other words whether to take some or all of their budget as a direct payment and/or require the council to manage and spend all or part of their budget on their behalf.

Those considering direct payments can use the contracted support service in West Sussex, Independent Living Association (ILA). The ILA is a local user-led organisation, which has been able to adapt and extend its advisory and advocacy roles to assist people with drafting and implementing their support plans. With the support services experience of direct payments, they have particular strengths in some of the technical aspects of budgeting and purchasing support / assistance, especially in relation to employing personal assistants.

A substantial number of Individual Budgeteers from West Sussex are choosing not to receive their individual budget as a direct payment, but rather as a 'Virtual' Managed Account, where West Sussex County Council purchases services that the individual has identified in their support plan. These are proving popular, especially among some older people and their family/carers.

The challenge in this approach will be to build on the 'added value' of the Virtual Managed Account option by increasing the range of services and amenities that can be purchased for the individual. The aim is more 'outcome-based commissioning': a flexible purchasing service, supporting the greatest possible degree of customer engagement, choice, and control.

Appendix 2: Managing the money – direct payments, practical examples

Credit union e.g. Hull Credit Union

Hull and East Yorkshire Credit Union have been able to step in and provide the financial services needed to support the individual to successfully administer their direct payments package. The services the Credit Union provides include:

- opening an account with less rigorous ID and being prepared to take confirmation from social services as to the ID/address of the individual
- accepting invoices and wage information on behalf of the service user and making payments, as appropriate, from the service user's account. (Some accounts are simple to manage with just one agency payment a month while others are more complex involving paying several wage bills, posting the wage slip(s) out to pa's, and also sending a cheque to the Hull CVS for payment to the Inland Revenue)
- storing all paperwork and making it available for financial audit (including their electronic records).

In working towards a formal agreement the Credit Union has proposed a charge of £150 per year for each direct payment recipient who uses their service. The estimated cost in the current year, with 7 existing account holders and an

estimated 5 more between now and the end of March, and with charges applying from July 1st, is £1,100. It is expected that the charge will be offset by the Credit Union dividend of around 3.5 per cent to each individual who holds an account with them. This dividend paid on the balance of the DP accounts comes back to Adult Services as financial audits take place. It is estimated that the dividend payments will be around £400 making the estimated net cost to Adult Services £700.

The obligation in law, having determined that an individual is entitled to direct payments, is to meet the reasonable costs of securing the provision set out in their direct payments agreement. (Section 57(4)(a) of the Health and Social Care Act 2001). It is suggested that the costs incurred by using the financial services of the Credit Union are far less than the alternatives.

For further information see direct payment solution set: kc.csip.org.uk/viewresource.php?action=viewdocument&doc=99372&grp=601

Direct Payment Support/ Brokerage Support Services – User-Led Organisations

This example is widely used by many councils that have developed direct payment/brokerage support services, many of which are led and

managed by disabled people/user led voluntary organisations /Centres for Independent Living (CILs). In these examples the council/partnership organisation makes the individual/personal budget payment to the local direct payment support/brokerage organisation who manages the funds on behalf of the person. These examples have also worked well for people who have taken an existing direct payment package into fully funded continuing health care. People are then able to recruit new personal assistants (PAs) as and when required, for example when they need to replace a PA who leaves for example. PCT's have also funded the supported managed account fee (i.e. pay for the money management charges) of the direct payment support organisation and set up a contract to enable this.

Re-energize – Oxfordshire user-led fitness and social group

This is an example of a collective supported managed account Re-energize is run by a group of people who use mental health services. The contributions to Re-energize from people's direct payments are made into a community business account, in the name of one of the group members who manages the money. The collective budget is used to contribute towards running expenses for the group

The role that direct payments plays in Re-energize is twofold: people use direct

payments to enable them to get to the venue, and also to contribute towards the costs of maintaining the group. This group is a unique fitness and social group for people with mental health difficulties. The group is about recovery, relapse prevention and social inclusion. It currently has a membership of twenty, many of whom are using direct payments in order to access the facilities used and activities undertaken by the group.

The group meets on three days each week at an Oxford Sports Centre. There they swim, use the gym, play squash and socialise before and after the activities; plus, week by week the group chooses a social activity to go to, such as the cinema, horticultural visits or art galleries.

'One of the main advantages of being user-led is that we are able to be very flexible as well as informal: group members don't have to stick to a structured timetable, and there is no pressure to attend on a regular basis. This seems to work very well with the ups and downs of the recovery process; there is no sense of guilt or failure if people don't feel up to attending; they can just drop back in and carry on where they left off.'

Additionally members are accessing mainstream facilities; exercising and socialising in everyday settings, which according to Serle, 2008, 'feels natural and normalised, and breaking free from the feeling of mental health ghettoisation as patients or clients of the services'.¹⁷

17 Adapted from an article written by Koula Serle, Re-energize published in 2008

Hampshire – Creative Artists

A group of five people used direct payments to attend a creative arts group. The group employs two trained artists who work with a local mental health arts based charitable organisation. The artists work alongside the individuals providing ideas and motivating them to explore their own creativity, and helping them turn ideas into reality. Each individual now receives a direct payment which is then used to collectively fund creative response artists. It would have been impossible for each individual to get the input of trained artists alone.

All group members lived in a rural area on the border of two counties, a location which is quite cut-off and not well served by services or local transport. It is really important to the individuals that the group is local and within walking distance. The group was formed in a local Community Centre and prior to direct payments, the group had to constantly fundraise to just to keep it going. However, this was causing the group considerable anxiety and affected morale.

Since getting funding from direct payments, group members reported that their morale has significantly improved. They still fundraise but this contributes towards exhibitions and other developments of the group. It would have been impossible for each individual to get the input of trained artists alone.

This arrangement has meant that not only has

each individual been able to access support with their creative art, but also the payments have facilitated the development of an environment where individuals can benefit as a group from each other.¹⁸

Coventry – Personal and Care Bank

This example from Coventry is similar to an Individual Service Fund arrangement although it is not a formalized three way agreement between the individual the provider and the local authority. The individual elects for their direct payment to be received by a provider in Coventry – Personal and Care Bank (PCB). PCB then works with and supports an individual and their family / carers to recruit specific personal assistants that become PCB employees. These employees will work just with the individual or alternatively, if an individual is already an employer with their own personal assistants PCB will formally take over the employment of the individual's personal assistants.

Ultimately PCB enables the individual to retain control over the support they receive, and when and how that is arranged, and the management of the money is completed on behalf of the individual. Should the individual want to manage the money in a different way, they are free to do so and either contract with PCB for their personal assistants, or to take those assistants back on as their own employees.

18 Adapted from Spandler, H and Vick, N. (2004) Direct Payments, Independent Living and Mental Health: An Evaluation Full Report. London: Health and Social Care Advisory Service

User-controlled Trust funds

A trust is a commitment made by three or more people (referred to as Trustees), to manage someone else's money. The commitment is made using a written agreement (deed). The Trust Deed creates legal duties and responsibilities for the Trustees. All the trustees, and the individual for whom the trust is being made, are named. The group of trustees must sign the document, and someone who is independent from the trust must witness their signatures. A trust deed needs to clearly state the purposes it is being set up for, and the powers of the trustees.

Some people who choose to use direct payments find it difficult to manage their own money, or arrange their own care, without some support. Setting up a trust fund is a way of enabling someone in this situation to benefit from the choice and control that direct payments bring. A group of people, who are prepared to act on their behalf, can take on the responsibility of managing the money and organising the support/services. The individual getting the direct payment cannot be one of the trustees, but as the individual getting the care, should be central in any planning meetings, and their wishes always consulted. The individual may only be able to demonstrate their wishes through their behaviour¹⁹, and this makes it very important that at least two of the trustees should know them well. It is also strongly recommended

that someone from a wider circle of contacts be appointed a trustee, to ensure objectivity.

The trustees should be drawn from family members, and wider contacts such as friends and neighbours, or people who have worked with the individual and are now prepared to help on a friendly basis. Having trustees who are drawn from a wider basis than family members can help to provide safeguards for the direct payment recipient. Ideally there should be a minimum of three trustees. If someone's ability to understand about direct payments only extends to expressing their preferences through their behaviour, the trustees will need to act on their behalf. However, they must always have that individual's interest at the heart of any decisions that are made. Trustees have a number of duties imposed upon them by law. For example, they must always exercise their powers in the best interests of the direct payment recipient; they must not profit personally or cause a loss to the trust fund due to a conflict with their own interests, and must comply with the terms of the trust. The most important thing is that all the trustees must be committed to making the trust work for the individual who is at the centre of it.

Examples from Sunderland and Suffolk can be found at: kc.csip.org.uk/viewresource.php?action=viewdocument&doc=99701&grp=601
kc.csip.org.uk/viewdocument.php?action=viewdcox&pid=0&doc=34476&grp=601

¹⁹ See footnote 14 on page 12.

Pre-loaded cards

Kent card

Kent County Council issues the Pre-loaded Card to people who have met the criteria for social care and have chosen direct payments as the method to get their support. Each card is pre-loaded with an agreed amount which can be used to meet their needs. The recipient is then able to spend this cash payment with a range of care providers or even employ their own staff.

The Kent Card is not a credit card but a means for direct payments to be made to the recipients, within a pre-determined limit, giving them the autonomy, control and freedom of a Visa card, without having to apply for any type of credit.

The Pre-loaded Cards mean the recipient (or their carer) doesn't have to manage a bank account, cheque book. It also gives cardholders the opportunity to take advantage of making purchases over the internet or telephone – particularly convenient for those individuals with mobility issues. The Kent Card removes the need for the individual to open a separate bank account and keep financial records.

For more information go to the direct payments solution set: kc.csip.org.uk/viewresource.php?action=viewdocument&doc=99448&grp=601

Milton Keynes pre-payment card for transport

Milton Keynes are working on a joint scheme between the transport and adult social care team, to provide concessionary travel to disabled and older people in their area who cannot use the public bus service. This is based on the card principle and in essence is very similar to the Kent card, but via a different kind of provider (one who specialises in transport solutions).

The process is as follows:

- Individual applies for concessionary travel via the Milton Keynes Taxicard scheme.
- They meet the criteria (some automatic e.g. high rate mobility / blue badge holder etc., some discretionary) to receive concessionary travel and are then
- Provided with a pre-loaded card (£80 value this year) and can spend this with a range of taxi firms in Milton Keynes who are members of the scheme. (All have 'signed up' and received disability awareness training as part of the 'deal')
- The individual pays the first £3 of the trip and can then use the card up to a maximum of £5 to subsidise the rest of the trip. They are free to use the card when and where they wish and with any of the taxi drivers (nearly 100 now) who are part of the scheme.
- They do not need to open a bank account and they do not need to provide audit information as this is generated automatically by the card company.

South Oxfordshire Leisure Facilities pre payment example

An interesting example which combines the use of direct payments with an arrangement made with a provider organisation comes from Oxfordshire.

Annual Leisure Centre memberships are available for all mental health service users via direct payments. The scheme in Oxfordshire has been very successful and is about to be extended to include all groups of disabled people. It is aimed at helping people achieve fitness goals and enjoy a healthy way of life in a relaxed and friendly atmosphere.

The scheme is based on anticipated demand. A provider of a number of leisure facilities run by Soll, which manages leisure activities for local authorities, has agreed to offer an affordable service by charging only for membership and not for each activity undertaken, in anticipation of a certain volume of business arising from the arrangement. South Oxfordshire The mental health teams have agreed to make provides the budget sufficient resources available to meet the anticipated demand, which will be paid to individuals as direct payments or if the individual requests, the direct payment can be made directly to Soll, enabling individuals to purchase leisure membership should they choose to use their budget in this way.

The pre-payment leisure card enables people choosing to take up this option the

opportunity to make use of all the facilities, classes and groups and includes for example access to the gym, pool, group exercise classes, sauna, steam room, racquet sports, café and more.

Vouchers e.g. Surrey

Surrey County Council have introduced Carer Break Vouchers which is a simple and flexible way to provide some short term breaks. The voucher scheme has been designed to offer carers flexibility in the timing of a break and a choice in how alternative care can be provided while you take a break from your caring role. The vouchers are for use with registered care providers which could be Residential or Nursing Homes, Day Centres, Homecare, or voluntary organisations such as Crossroads.

Recipients are able to choose from a list of providers. Once they have received their vouchers and a list of approved providers, they select a provider for a short term break and contact the provider with suitable dates etc. Once the short term break is due to begin they sign the appropriate vouchers where indicated. The provider of the service selected then does the rest of the work to redeem the voucher.

Vouchers are valued at £10, £20 and £50. All vouchers have an expiry date on them.

Appendix 3: Managing the money – Local Authority managed, practical examples

Individual Service Fund: West Sussex residential re-provision

West Sussex County Council is using the closure of two in-house residential homes as an opportunity to personalise the funding arrangements of thirty residents and test a new Individual Service Fund style contractual model.

Each resident has been allocated a budget through the Resource Allocation System (RAS) and has developed a personal support plan in outline, with the involvement of family and residential services. Plans identify what is important to and for an individual, risk factors and outcomes to be achieved.

The plans have been anonymised and shared with providers who have been invited to tender for the support of between 1 and 30 of the residents. This may be based on specialist function e.g. autism, or location or a particular capacity to meet individual requirements.

The tenders are to include a transparent indication of administration and overheads costs as well as costs associated with developing a detailed support plan co-produced with the individual and their family. All costs are to be met within the indicative

budget. The individuals and/or their families/advocates are to be involved in evaluating and awarding the tender for their particular plan.

Successful providers will work as a consortium, involving the council where appropriate to synchronise closures and keep double running costs to a minimum. The contractual basis for these arrangements is three way, ostensibly between the individual and/or their chosen representatives and the service provider, with the council playing a role in monitoring and reviewing arrangements against the outcomes identified by each individual.

Individual Service Fund: Lancashire/ Castle Supported Living approach to converting a block contract into individual 'restricted funds.'

Lancashire County Council worked in partnership with Castle Supported Living to individualise the funding arrangements and provision of support to twelve individuals in the Ribble Valley. Castle was already committed to a person-centred approach. This initiative allowed funding arrangements to catch up with and enhance their capacity to deliver choice and self-direction.

Individuals were allocated budgets through the RAS, incorporating Community Care and Supporting People monies. Once agreed, Castle worked with the individuals and their families to develop support plans within the agreed allocations.

Castle have developed personal contracts between themselves and each individual and now account for the money individually, with any shared use of support agreed in the respective plans. A 10% management fee is deducted at source and Castle are free to sub-contract with other providers to deliver specific aspects of plans at the individual's request.

This has facilitated the shift from 'hours of support' to more flexible, outcomes focused solutions. Innovative arrangements included taxi fares to drama groups, support to attend dancing classes and use gym memberships, and full use of assistive technologies in place of paid support.

Individual Service Fund: Barking and Dagenham Homecare contracts

Barking and Dagenham used the opportunity during their Individual Budget pilot to test Individual Service Fund arrangements with several homecare providers. Barking and Dagenham negotiated with a number of providers – both local and national organisations – who were open to exploring this new way of working. In each case these providers agreed to hold individual funds, to account for them individually, and to work

with the citizens in receipt of services to develop flexible support plans with their available budgets.

This was viewed both as an opportunity to extend available money management options and to widen the support planning market into new areas beyond care management, family and friends and the voluntary and community sector and has led to new fruitful partnerships. After successful small scale testing this approach was taken forward in the recent substantial Homecare tender.

Independent user trust (IUT)

Rachel Gunter is a 21-year-old who has highly complex impairments – including blindness and a rare form of diabetes – as the result of a brain tumour. She needs 24-hour nursing care and is unable to manage her own affairs.

Since February 2004, Rachel has lived at home with her parents, who have been under increasing strain in providing support for her. They have been in consultation with the South Western Staffordshire Primary Care Trust (PCT) as to the best way to provide support for Rachel in the long term. Despite the fact that it is clear that Rachel benefits from being at home, the preference of the PCT, at least partly on cost grounds, has been to provide Rachel with a residential placement to meet her needs. While the dispute has rumbled on, Rachel's support has suffered.

Her parents suggested an IUT as one way to break the log jam. The trust would administer

the funds to provide the necessary services at home. The main advantage is that profit costs (about a third of the total cost of care) would not need to be paid to a private provider. The trustees would include a representative of the PCT and the parents would be in a minority. All payments would be to the trust which would decide on how to spend the funds on Rachel's support. However, the PCT doubted if this would amount to a lawful use of its powers. Mr Justice Collins held that an IUT would amount to a voluntary organisation, and the NHS has powers under the NHS Act 1977 (superseded by the NHS Act 2006) to make arrangements for the provision of care through such bodies. It did not matter that the IUT was set up to benefit only one individual. Parliament has given PCTs wide powers to make any appropriate arrangements to deliver necessary health services.

The judge highlighted a number of practical problems that may arise. These included the need for proper financial and management accountability. The PCT would have to be the ultimate decision-makers as to an individual's clinical needs.

In Rachel's case the judge was satisfied that the possibility of an IUT with its substantial savings should be explored by the PCT. The ruling is likely to lead to many more requests from other service users for IUTs and the NHS needs to set up local and national frameworks for considering these requests.