



## Request

1. With regard to supported living clients, who have care and support delivered to them in their own homes occupied under tenancies signed by either them or their authorised representatives or by administrative order from the Court of Protection, what percentage receives their budget via a direct payment, directly or indirectly under sections 31 or 32 of the Care Act, as opposed to receiving a commissioned service?
2. Do you provide any general advice or information to those interested in the welfare of people for whom supported living is regarded as an appropriate way of meeting their needs, about the possibility of receiving their budget via a direct payment? Please link us to it if so.
3. Does your council have any kind of a policy or practice whereby people who are tenants in supported living, whether it counts or not as 'specified' accommodation, are not permitted to receive their budget by way of a direct payment?
4. In an individual's situation if he, she, they or their advocate or informal supporter were to enquire about the possibility of their having a direct payment for their budget in supported living, how would the care plan/budget sign-off officer or officers approach that question with regard to the fact that one is allowed to refuse a direct payment on the basis that it is not an appropriate way of meeting a need?
5. In supported living households where you make a contract for the meeting of needs of the people sharing the house with one care provider, how do you achieve compliance with s25(11) of the Care Act if the occupants or any one of them does not have sufficient mental capacity to consent to sharing their care plans and the budgets required to meet each person's individual needs? Please provide a prose answer if none of the following apply:
  - a. you believe you can make a best interests decision as the council responsible for meeting the needs and that that is sufficient to comply with the very specific contents of that particular section?

## Response

1. We do not record this information so that it can easily be viewed without looking case by case.
2. We provide general information on Direct payments on the council website. This is the link –  
  
[Personal budgets and direct payments](#)
3. No
4. All requests to consider a personal budget delivered via a direct payment would be considered on an individual basis but we would always wish to promote someone to be as independent as possible
5. In circumstances where one or more individuals in a supported living arrangement lack the mental capacity to consent to the sharing of their care plans and associated budgets, the local authority must ensure compliance with Section 25(11) of the Care Act 2014 by adhering to the principles and procedures set out in the Mental Capacity Act 2005.

This includes:

**Capacity Assessment:** A formal assessment must be conducted to

- b. you believe that the consent of people's best interests consultees is sufficient to comply with that section?
- c. you believe that a registered finance and property power of attorney or deputyship is sufficient to comply with that section?
- d. you believe that only a registered welfare power of attorney or deputyship is sufficient to comply with that section?

determine whether the individual lacks capacity specifically in relation to consenting to the sharing of their care plan and budget.

**Best Interests Framework:** If the individual is found to lack capacity, any decision to share their care plan or budget must be made in their best interests, following the statutory checklist in Section 4 of the Mental Capacity Act 2005. This includes considering:

- a. The person's past and present wishes and feelings.
- b. The views of family members, carers, or anyone else interested in the person's welfare.
- c. The least restrictive option.

**Independent Advocacy:** Where there is no appropriate person to consult, or where the individual would benefit from additional support, an **Independent Mental Capacity Advocate (IMCA)** must be appointed under Section 67 of the Care Act 2014.

**Proportionality and Necessity:** The sharing of care plans and budgets must be limited to what is necessary and proportionate to achieve effective care delivery, and must respect the individual's right to privacy and dignity.

**Safeguards and Documentation:** All decisions and the rationale behind them must be clearly documented, including how the decision complies with both the Care Act and the Mental Capacity Act. This ensures transparency and accountability.

**Review and Reassessment:** The decision should be subject to regular review, especially if the individual's capacity may fluctuate or improve over time.