directors of

adass

adult social services

Common
resource allocation
framework

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Putting **People** First
Transforming Adult Social Care

Acknowledgements

Contents

Provided as separate documents:

Executive summary

The allocation of social care resources to people eligible for council-funded care and support has been a core component of local authority care management processes since the mid 1990s. However, the recent move towards personalised services and personal budgets has led to a renewed focus on allocation arrangements to ensure they are able to meet the requirements of the new agenda.

In recognition of the challenges councils face when developing a new resource allocation system, ADASS has commissioned work to explore the potential of a common framework for resource allocation. This work was carried out during 2009. It involved 18 councils working with a group of citizen leaders made up of disabled people and family members. In Control provided expert advice to the project.

ADASS has now published the results of this work. The common resource allocation framework includes:

- Policy advice to support implementation, including advice on resource allocation and the law (see appendix 3).

- A set of practical resource allocation tools (see appendices 4 - 7) for use by councils.

The framework is based on an important set of principles - the social model of disability, the notion of citizenship and a focus on outcomes. It shows how to develop a RAS applying the principles of co-production, equitability, transparency, sustainability and the use of appropriate language.

ADASS recognises that there are many types and variations of resource allocation other than the approach set out in this framework, and not all use points-based calculations for allocating a budget. This framework offers an opportunity to add value to any existing or developing system, or to accelerate thinking in relation to any new arrangements for resource allocation.

The aim of a resource allocation system (RAS) linked to the allocation of personal budgets is to provide a clear and rational way to calculate how much money a person is likely to need to arrange support. At this stage it is suggested that a RAS should be kept relatively simple. The RAS should focus on ensuring that people who are eligible for social care support can meet their on-going needs, rather than incorporating funds for costs associated with things like early intervention, enablement, information and advice services, and support planning. Other funding streams need not be included.

A RAS cannot give a precise estimation of the cost of everybody's needs in every circumstance, but it should be sufficient to produce a ballpark figure for the majority of users that can be adjusted up or down, depending on those individual circumstances.

The approach we suggest here is that the amount of money an eligible person is likely to need to arrange their support is shared with them at an early stage of the self-directed support process. Councils should regard this '**indicative allocation'** as an approximate figure to inform support planning. The final amount of the personal budget should only be agreed[1] once there is a completed support plan that meets eligible social care needs and addresses risks. The decision on the final amount of any personal budget therefore

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[1] In this document the terms "agreed" or "agreement" mean "agreed whenever possible". Agreement should always be sought but in some circumstances may not be possible.

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requires judgement by the council, taking into account the person's overall circumstances, including those of family carers.

The final personal budget may also take account of the person's ability to contribute towards the costs of their support from their own finances. Contribution is covered by other guidance and is outside the scope of this framework[2]. The framework covers how the indicative allocation is calculated, before any contribution is taken into account.

This framework provides advice for councils on **seven key policy issues**:

1. Duty to assess needs

The council's duty can be met as part of the overall process of assessment and support planning. No single part of this process in itself will be sufficient to meet the duty. The key elements of the process that need to be completed are a self-directed assessment, a support planning process[3] and a sign off by the council and client of these activities. This will ensure that councils are meeting their obligations under section 47 of the NHS and Community Care Act 1990. In other words a conventional "community care assessment" is not needed to meet legal requirements. The same advice applies when carrying out reviews and re-assessments.

2. Fair Access to Care Services (FACS) guidance

Eligibility under FACS must be established as a result of an assessment. The decision on eligibility should be separate from the process to decide the indicative allocation. Before agreeing the support plan, the council should check that the plan will ensure all eligible needs are going to being met.

3. Equalities

A RAS is potentially a useful tool in helping councils to identify and reduce unfairness and discrimination, providing it is operated in a way that challenges rather than maintains the existing patterns of spending. It is recommended that councils operate a single RAS for all user groups so that needs are identified in the same way for everyone. Councils may decide to make a financial adjustment to indicative allocations to reflect current market costs of providing support. This should be linked to a strategy for reducing these cost differences over time.

4. People with high support needs

The RAS should be applied comprehensively. Everyone who goes on to need an on-going support package should have been given an indicative allocation. People with high support needs should not be excluded from the RAS. Councils should avoid applying a "cost ceiling" to the RAS. Some people will have very specific needs – for example, some people with sensory impairments need an interpreter or other very specialist service. Councils should always exercise discretion when deciding the final amount of the personal budget.

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[2] *Fairer contributions guidance: calculating an individual's contribution to their personal budget.* July 2009. Available from www.dh.gov.uk

[3] Support plans can vary from very simple to detailed according to user need.

5. Future-proofing

The RAS is part of council policy and should be ratified through the normal processes and published. Councils should consider applying the most appropriate methods for taking account of inflation. Any changes to a person's allocation as a result of a policy change will need to be linked to a new self-directed assessment and support plan. It is unlikely that a council could justify a reduction in resources following an individual review, unless the person's needs had reduced, or eligibility criteria had changed.

6. Informal support

Councils should make sure that the process of assessment and support planning takes full account of the role of carers in providing ongoing support. The assessment questions used to inform the RAS should ask about the person's overall support needs, what proportion of these needs are being met through informal support, and identify the impact on informal carers of continuing to provide this support. The indicative allocation should be adjusted to take into account the level of available informal support, but only after the situation of the informal carers has been fully assessed and it is clear that they are able and willing to continue providing this support. The adjustment should take account of both the level of informal support being provided AND the impact on the informal carer.

7. Needs of family carers

Councils should make sure the assessment process includes or leads on to a full carer's assessment (unless this is refused by the family). This may result in a direct payment to the carer, provision of services, or access to advice and information. This can be non-means-tested and available in situations where a person does not meet the council's eligibility criteria. The aim of this support is to make sustainable the contribution of an informal carer to the support needs of a disabled person. At this stage there is no policy requirement to extend personal budgets to include support for carers. Funding for support to carers need not be included in developing a RAS.

The common resource allocation framework is made up of the following components:

Principles and policy advice: This document sets out underlying principles and policy advice on issues which councils are likely to face when developing a RAS.

Personal needs questionnaire: Councils can use this tool as the basis of their RAS. It asks about the needs of the person and the support provided by informal carers.

Questionnaire scoring sheet: This provides a way to convert needs into points.

Financial framework: This sets out a process for calculating indicative allocations using the personal needs questionnaire and the questionnaire scoring sheet.

System map: This shows how these components fit into the council's social care operating system.

These tools have been developed to be consistent with the policy advice set out in this framework. Councils who have yet to develop a resource allocation system may want to make use of the tools. Other councils may want to continue using their existing RAS tools, but make use of the policy advice set out in this framework.

What is the common resource allocation framework?

Early on in the implementation of personal budgets, it became clear that councils faced a number of challenges when developing a RAS. These included technical, financial, legal and policy issues.

During 2009, ADASS led a project in which 18 councils have worked together with a group of citizen leaders, made up of disabled people and family members with experience of self-directed support. In Control provided expert advice to the project.

The purpose of the project was to develop:

- policy advice for councils on how to develop a resource allocation system

- a set of practical tools that councils can use, which are in line with the policy advice.

The working group has produced advice on seven key issues:

Policy issue 1 - Duty to assess needs

Policy issue 2 - Fair access to care services (FACS) guidance

Policy issue 3 - Equalities

Policy issue 4 - People with high support needs

Policy issue 5 - Future-proofing

Policy issue 6 - Informal support

Policy issue 7 - The needs of family carers

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System map: This shows how these components fit into the council's social care operating system.

Under *Putting People First*, councils are expected to offer personal budgets using social care money. This framework provides advice on how councils can develop a resource allocation system in order to give people an indicative allocation. The framework reflects current law and policy guidance applying to social care. The framework does not cover how to allocate other sources of money such as NHS continuing care and Supporting People funding.

The framework assumes that personal budgets are offered to people once any immediate or urgent needs have been met, for example following intermediate care or a period of enablement.

Principles

The working group of councils and citizen leaders that developed the common resource allocation framework agreed that it should be based on the following principles:

Co-production: We agreed that all aspects of this work should be produced by citizen leaders and statutory organisations working together. This was challenging but essential to the success of the framework. It meant working with citizen leaders on both development and delivery, and getting access issues right (for buildings and for materials used). We also worked to ensure that everyone had an equal say in decision making, and that everyone took equal responsibility for the work.

Citizenship: This is the fundamental outcome for people receiving support from adult social care and other public services. Resource allocation should be part of a system that promotes citizenship, and enables people to achieve their goals and aspirations.

Social model of disability: All aspects of self-directed support including resource allocation should be built upon the social model of disability, recognising where society fails to include disabled people by "disabling" attitudes and barriers and aiming to reduce and remove those barriers. Resource allocation systems should not reflect a medical model of disability, which emphasises deficits and dependency.

Language: It is important to use language that is respectful, dignified and easy to understand. This is particularly important in key documents that are to be used by older and disabled people and their families, such as questionnaires used to identify needs.

Outcome-focused: A system of self-directed support should be based on outcomes and available to any citizen who has social care needs. Where the citizen is eligible for support under FACS the outcomes are agreed between the council and the person making clear what is expected to be achieved with the personal budget. Crucial elements include:

- An indicative allocation – an amount of money to plan with.

- An agreement between council and citizen about the outcomes that the money can be used for to meet identified needs.

- The opportunity to reshape those outcomes to be meaningful for the person

- Flexibility about how those outcomes are met.

Equitable: Resource allocation systems need to be equitable and fair across the different groups of people eligible for social care support. This means that the process should treat people with equivalent levels of need in the same way unless there are legal and legitimate reasons supporting a different approach. Advice on equality impact assessment is included in the framework.

Transparency: Resource allocation systems should be transparent, which means being clear how decisions are made and making the system public. This should include how informal support by family members is taken into account.

Sustainability: It is essential that any resource allocation process should be sustainable. This means that councils should enable older and disabled people to meet their needs and stay safe, in ways that can be maintained. In doing so, it is legitimate to take account of the council's overall financial position[4].

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[4] Councils may legitimately alter their view of what is lawfully appropriate by way of a response to eligible assessed needs, subject to judicial review and compliance with diversity and equalities duties.

Introduction

This document looks at a number of policy issues that councils need to address when developing a resource allocation system. For each of these issues, we have produced advice for councils on how they can develop a RAS.

The suggestions were developed by the working group of councils and citizen leaders, taking into account the legal advice received by ADASS and the learning so far from operating resource allocation systems. For some of the issues the group did not feel there was enough learning from implementation of personal budgets to reach a consensus about the best option to take. In some sections we have therefore included more than one option in the advice to councils.

The RAS tools provided with this guide have been developed in line with this advice, and illustrate how it can be applied in practice.

What are personal budgets?

Personal budgets were introduced in England under the *Putting People First* policy concordat. The local authority circular *Transforming Adult Social Care* makes clear that personal budgets should become the norm for people who are eligible for an on-going package of social care: "Everyone eligible for statutory support should have a personal budget - a clear, up-front allocation of resources"[5]. 'Up-front allocation' means that that the person is told, before a support plan is agreed, roughly how much money is likely to required to fund such support. Councils should not require personal budgets and support plans to be expressed in terms of "hours of support". This could reduce flexibility and result in service-led solutions.

What is a resource allocation system?

All councils have arrangements to allocate resources to eligible people in respect of their ongoing care and support needs. In the past two years many councils have begun to develop new resource allocation systems (RAS) to assist their move towards self-directed care and personal budgets. The aim of a RAS is to provide a clear and rational way to calculate how much money a person is likely to need to arrange support. The RAS makes clear the outcomes for which the council is able to provide funding, and for which the person is able to use the personal budget to achieve. This approach helps the person understand how the amount of money has been arrived at, and to make choices and direct the way their support is provided. Transparency is an essential element of the self-directed support process.

We believe that at this stage of the transformation process personal budget allocations should be kept as simple and straightforward as possible, focusing on ensuring that people who are eligible for on-going care and support can meet their needs. Money set aside in council budgets for personal budgets (through the RAS) should ideally reflect this, excluding other costs, such as spending on early intervention services, information and advice, and support planning.

It is important to understand that the purpose of a RAS is not to predict the amount of money that would be spent on a conventional social care package. This would risk reproducing the way money is allocated in the current social care system. The section *Policy issue 3 – Equalities* explains this issue in more detail.

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[5] LAC (DH) (2009) 1 *Transforming Adult Social Care*.

What is an 'indicative allocation'?

At an early stage of the self-directed support process, the person is told roughly how much money it is likely to cost to obtain the support their needs require. In this document we call this sum of money an **indicative allocation**. Councils should regard the amount of money suggested by the RAS calculation – the indicative allocation – as an approximate figure to inform support planning. The final amount of the personal budget should only be agreed once there is a completed support plan that meets eligible social care needs. In certain circumstances, the indicative allocation could be substantially different to the sum finally allocated. This is because:

- the council has a duty to meet eligible assessed needs

- the person may be able to meet their own needs through universally available services, or through unpaid informal support

- under current rules, social care is means-tested, and people may need to contribute some or all of the costs of support from their own finances.

A test of reasonableness of the indicative allocation is that it is sufficient to develop a support plan to meet the identified outcomes. If councils take the view that the indicative allocation is a final figure with no flexibility, this could be open to challenge. The decision on the final amount of the personal budget therefore requires judgement by the council, taking into account the person's overall circumstances including that of family carers.

The final personal budget may also take account of the person's ability to contribute towards the costs of their support from their own finances. Contribution is covered by other guidance[6]. It is outside the scope of this document which explains how the indicative allocation is calculated, before any contribution is taken into account.

A RAS cannot give a precise estimation of the cost of everybody's needs in every circumstance, but it should be sufficient to produce a ballpark figure for the majority of users that can be adjusted up or down, depending on those individual circumstances.

The factors explained above make it less important to ensure that the RAS gives a very accurate prediction of the final personal budget. This could be a very onerous requirement and could work against transparency. In any case, there need to be good checks and balances in place.

Policy advice

The remainder of this document sets out seven policy issues relating to resource allocation, giving advice on each based on current legal requirements:

Policy issue 1 - Duty to assess needs

Policy issue 2 - Fair access to care services (FACS) guidance

Policy issue 3 - Equalities

Policy issue 4 - People with high support needs

Policy issue 5 - Future-proofing

Policy issue 6 - Informal support

Policy issue 7 - The needs of family carers

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[6] *Fairer contributions guidance: calculating an individual's contribution to their personal budget.* July 2009. Available from www.dh.gov.uk

Policy issue 1 - Duty to assess needs

Description

How does a RAS fit with the duty to provide an assessment?

Key issues

Councils have a duty to offer an assessment to people who may need support. This duty is not altered by the introduction of self-directed support. Councils have asked for advice on how to meet this duty when operating a RAS within a system of self-directed support. *Putting People First* encourages councils to move towards an approach based on "self-assessment". This change is reflected in the updated guidance on Fair Access to Care Services.

In this document we use the term **self-directed assessment**. By this we mean a simplified assessment that is led as far as possible by the person in partnership with the professional and focuses on the outcomes that they and their family want to achieve in meeting their eligible needs. Assessment looks at the situation as a whole and takes account of the situation and needs of family members and others who provide informal support. The council's duty to assess needs can be met through proportionate self-directed assessment and support planning processes.

Self-directed support aims to enable people to have choice and control over their support arrangements rather than being passive recipients of services. A RAS helps to achieve this by providing an up-front indication of the amount of money that it is likely to cost to arrange support.

In practice, the approach taken by councils has varied. Some councils use a self-directed assessment questionnaire linked to the RAS as the only form of assessment. Some use a self-directed assessment questionnaire, alongside other assessment processes. Other councils are continuing to operate a professional-led assessment process, modified to collect specific information needed for the RAS.

Even when the approach is described as "self-assessment", in practice the views of the social worker or other professionals are usually also recorded. Some councils have described this as "supported self-assessment".

Councils have asked whether a self-directed assessment questionnaire, when combined with a written support plan, which identifies and addresses needs and risks, is sufficient to meet the duty to provide an assessment.

Advice to councils

- The council's duty to assess needs can be met as part of the overall process of assessment and support planning. No single part of this process in itself will be sufficient to meet the duty. An assessment is therefore a process not a form.

- It is in line with policy to move towards an assessment and support planning process that is simple and led by the person. Assessment should be proportionate. A short self-directed assessment questionnaire is more in line with this than a complex, professional-led assessment form.

- A questionnaire used as the basis of the RAS is therefore part of the assessment process, although not the whole story. Other information will also need to be gathered, though this can be done as part of the support planning process.

- This questionnaire should not aim to be a comprehensive assessment of all aspects of the person's situation. It should focus on the key information needed to inform the RAS. It should include an additional information section for observations or comments about the person's situation which are not included in the domains. The council can use this information to decide whether further specialist assessments are needed.

- The council has a responsibility to sign off the assessment. It is therefore important in assessment and support plan documents to clearly record the views of the person about their needs and show where the worker responsible for the assessment has a different view. The reasons for any differences should be recorded.

- Assessment and recording systems should avoid duplication. The assessment and support plan should be recorded in the council's record system and provide clear auditable evidence of how the assessed eligible needs are being met.

- It is possible to meet the duty on assessment using a combination of a short self-directed assessment along with information gathered as part of the support planning process. In practice, councils will need to make sure they have looked at the person's situation as a whole, using a proportionate approach. This will include taking into account the views of the person, family members and professionals, looking at the person's situation as a whole (including health and housing needs) and collecting basic data such as information needed to meet statutory equality duties.

- To attempt to achieve all the above within one assessment questionnaire could result in a very long and cumbersome document, which would not promote choice and control.

- By following this advice councils can ensure they are meeting their obligations under section 47 of the NHS and Community Care Act 1990. In other words, a conventional "community care assessment" is not needed to meet legal requirements. The same advice applies when carrying out reviews and re-assessments.

Policy issue 2 - Fair Access to Care Services (FACS) guidance

Description

How can councils ensure that they implement a RAS within the FACS guidance?

Key issues

In 2003 the Department of Health published guidance on Fair Access to Care Services, in response to concerns about the variations in access to social care in England. Updated guidance taking into account the *Putting People First* policy changes is currently under consultation[7].

Councils need to take into account the FACS guidance when implementing personal budgets. The guidance covers how councils should carry out assessments and reviews. The guidance sets out how councils should decide eligibility for publicly-funded social care. The decision should be based on the level of risk to independence, health, safety and well-being in the person's life. The FACS guidance sets out four levels of risk to independence (critical, substantial, moderate and low). Councils make a local decision about their eligibility criteria - the level of risk at which a person will become eligible for support.

The information about a person's needs which must be taken into account in a decision on eligibility is broadly similar to that which is used in a RAS to decide an indicative allocation. However, the purpose of a RAS is not the same:

- Eligibility criteria assess the risks and consequences of not meeting these needs to independence, health and well-being. The decision on eligibility establishes which of the person's needs are eligible and must be met.

- Domains in the self-directed assessment questionnaire identify level and frequency of support required to meet an person's needs and achieve defined outcomes. The RAS determines how much money is likely to be required to meet these needs. The purpose of the RAS is only to decide the indicative allocation. This allows the RAS to be kept as simple as possible.

Some councils have attempted to develop a RAS that builds in a process for deciding eligibility under the FACS guidance. This approach appears to offer a way to simplify processes by having one form of assessment of needs. However, in practice it is unlikely that a RAS, which is usually based on a small amount of specific information about needs, could be used as the only process to determine eligibility. The FACS guidance makes clear that councils need to make assessments "proportionate to individuals' presenting needs and circumstances". This will include taking account of the circumstances of family carers.

While in practice all the information can be collected as part of a single system of assessment, there are two separate decision-making processes: to decide eligibility and to decide the indicative allocation.

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[7] *Revised guidance on eligibility criteria for social care.* Department of Health, 2009. Available from www.dh.gov.uk

Advice to councils

- Eligibility under FACS must be established at an early stage, but will still need to be checked at any subsequent assessment or review.

- Councils should provide information about eligibility criteria, how the council has applied these to the person's situation, and how to challenge the council's decision.

- The overall assessment must establish whether a person's needs are eligible, that is, the level of need and the risks of not meeting them. The RAS needs to be considered as one of the tools for helping to establish the type, level and frequency of needs as part of the assessment (or review). Domains in the self-directed assessment identify the level and frequency of support required to meet a person's needs and achieve defined outcomes.

- The decision on eligibility should be separate from the process to decide the indicative allocation, although the information to inform both decisions can be collected as part of a single assessment process.

- People may choose to include needs in addition to eligible needs in their support plan. However, the support plan must show how eligible needs are met. Before agreeing the support plan, the council should check that all eligible needs are being met.

Policy issue 3 - Equalities

Description

How should councils develop a RAS is a way that promotes equalities? Should the RAS apply in the same way to everyone or can councils have separate systems for different groups of people?

Key issues

In most councils, adult social care is organised by "client group". There is evidence that this has led to differences both in the ways councils operate their eligibility criteria[8] and in the level of support and funding provided to older people and younger adults[9]. SCIE is producing more detailed advice for councils on the implications for social care of proposals in the Equality Bill on age discrimination.

Councils that have begun to implement personal budgets have found that this leads to a much greater degree of transparency about the needs the council is able to meet, and how social care money is spent.

However, this will not happen overnight. Introducing personal budgets needs to be accompanied by active stimulation of the provider market, and development of creative approaches to planning support arrangements that reduce reliance on intensive high cost services.

Councils have taken different approaches to this problem. Some have developed separate systems for each "client group". This means that support needs are identified in a different way, often with a different set of outcome domains. This makes it easier to reflect cost differences, but does not provide a way to even out differences in the current distribution of spending. It may be open to legal challenge. Other councils have developed a single RAS for everyone. This has the advantage of being more obviously fair, but is more likely to give indicative allocations that do not reflect the actual costs of arranging support. This may lead to more variations between the indicative allocation and the final personal budget.

Councils have asked for advice on how they should develop RAS systems that treat everyone fairly, and enable people to meet their needs in a system where the costs of support are currently higher for some groups of people than for others.

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[8] *Cutting the cake fairly: CSCI review of eligibility criteria for social care,* 2008.

[9] Forder, J. *The costs of addressing age discrimination in social care.* PSSRU discussion paper 2538, April 2008.

Advice to councils

- Focusing on outcomes means all citizens are clear about what they can expect and can control their support to achieve this in a way that is suited to their own individual identity. This is a significant contribution toward ensuring equality.

- Introducing personal budgets may help councils to reduce unjustified differences in access to social care and differences in the cost of support. It is important to understand that the aim of a RAS is not simply to predict the costs of care packages under the existing social care system. A RAS is potentially a useful tool in helping councils to identify and reduce discrimination, providing it is operated in a way that challenges rather than maintains the existing patterns of spending.

- Councils should operate a single RAS, so that needs are identified in the same way for everyone. This means using the same set of outcome domains, questions, and scoring or weighting system, and a single approach to calculating indicative allocations.

- Councils may decide to make a financial adjustment to indicative allocations to reflect current costs of providing support. This can be achieved by calculating a separate table of allocations for each "client group", based on data about support package costs for that group. This will provide evidence that the differences in indicative allocations are based on actual differences in the costs of support.

- Where this is the approach being taken, councils should make clear how a given level of need results in an indicative allocation, for example by publishing the tables showing indicative allocations for each "client group". This should be linked to a strategy for reducing cost differences over time.

- An alternative approach is to have only one set of allocations, with a single allocations table. This approach will mean accepting that there will be more variations between indicative allocations and the final amount of the personal budget.

- Councils should carry out a regular review of the RAS using information on actual costs of support packages for people taking up personal budgets.

- Councils should have a robust process for agreeing support plans, making sure that the final personal budget and support arrangements will meet the agreed outcomes, and address the person's assessed eligible needs. Councils should record reasons for variations between the indicative allocation and the final personal budget.

- Councils should carry out an equalities impact assessment on their approach to self-directed support, including resource allocation (see section on equalities impact assessment).

Policy issue 4 - People with high support needs

Description

How should councils design a RAS that works for people with very high support needs?

Key issues

There are relatively few people with high support needs and their circumstances vary widely. This makes it harder to predict the cost of support. For a small number of younger adults, the costs can be many times the average cost of social care and support. These variations are not simply linked to a person's support needs – high costs for some people relate to a lack of planning, with support being organised at the point of crisis, and a lack of supply in the market which allows providers to set prices. For other people, costs are artificially reduced. For example, day services are often costed at a fixed price per day unrelated to a person's needs. Some people will have very specific needs – for example some people with sensory impairments need an interpreter or other very specialist service.

There is a risk that including the cost of support for people with high support needs will inflate the indicative allocations for other people. However, by excluding people with high support needs, there is also a risk that the imbalances in spending in the current system will be maintained.

The RAS only provides an indicative allocation. This can provide a useful benchmark against which to check the cost of a proposed support plan. The final amount of the personal budget is decided only at the point when the support plan is agreed. The support plan shows how the person's needs will be met, and the actual cost of providing that support. Councils will always need to exercise some discretion in deciding the amount of a personal budget.

Some councils have decided to not provide an indicative allocation for people with high support needs (for example people where the RAS would provide an indicative allocation above £60,000 p.a.) Other councils have set a "cost ceiling" or maximum figure for an indicative allocation. These approaches are not recommended and may well be open to legal challenge. Excluding any group of people is not in line with the policy expectation that everyone who needs on-going support should be given an up-front allocation.

Advice to councils

- The RAS should be comprehensive. This means that everyone who goes on to need on-going support should be given an indicative allocation. People with high support needs should not be excluded from the RAS.

- Councils should always apply discretion when deciding the final amount of the personal budget. Negotiation and moderation should happen in the support planning phase, with subsequent sign-off of the agreed personal budget.

- The RAS should be regularly reviewed to take account of actual support costs, so that over time it becomes possible to make indicative allocations that are better able to predict the costs for people with high support needs.

- Councils should avoid applying a "cost ceiling" to the RAS. However, it is acceptable to exclude extreme costs for people with very high (or very low needs) when developing an allocation table. This will reduce the risk that indicative allocations are distorted by a small number of people with very high or low costs.

Policy issue 5 - Future-proofing

Description

How should councils take account of changes in social care budgets and support costs, and how should the RAS be applied to people who already receive a service?

Key issues

Councils have asked for advice on how to take account of budget constraints and cost inflation in developing a RAS. Councils also need to decide how to apply the RAS to people who already have a support package, including people who have a personal budget set under an earlier version of their RAS. Rolling out personal budgets to people who already receive services will create potential winners and losers.

Even when budgets are under pressure, it is important to make the design of the RAS transparent so that people can understand the calculations and see how these factors have been taken into account. However the RAS is calculated, the council will still need to show that it has provided the resources to meet assessed eligible needs. When councils update their RAS, this can have the effect that people new to the system will be given a different indicative allocation than people with the same needs who already have a personal budget. This may attract political, press or legal challenge.

Advice to councils

- The RAS (including the system for calculating indicative allocations) is a council policy and should be ratified through the normal processes. The RAS should be published on the council's website in a user-friendly format.

- Councils should consider applying the most appropriate methods for taking account of inflation based on their local patterns/trends of spending. For example, personal budgets could be uplifted either according to a corporate inflation percentage adopted by a council or using other recognised measures of inflation.

- It is legitimate to take account of the council's overall budget in the RAS, but any changes to an person's allocation will need to be based on a new self-directed assessment and support planning process (see policy issue 1). A clear audit trail always needs to be established to provide explanations of decisions, and make it possible for people and families to challenge those decisions.

- Councils need to develop ground rules for how they apply personal budgets to people who already receive services. Similar ground rules should apply to reviews of people who already have a personal budget. It is unlikely that a council could justify a reduction in resources following an individual review, unless the person's needs had reduced, or eligibility criteria had changed.

- When updating a RAS, councils should check whether the changes mean that people who are new to the system will have lower levels of personal budgets than they would have done before. Such a change needs to be seen as a policy decision. It needs a clear rationale, include an equality impact assessment, and should be open to scrutiny.

- Reducing the amount of indicative allocations i.e. the pounds per point, or changing eligibility criteria thresholds may not be the best way to manage budget pressures. There is evidence that early intervention and enablement can substantially reduce the number of people who go on to need on-going support. For those that do, creative support planning has the potential to reduce the need for paid support and prevent people's needs from escalating.

Policy issue 6 - Informal support

Description

How should a RAS take account of needs being met by informal support?

Key issues

The current system of deciding eligibility for public-funded social care means that councils are only expected to meet needs that are not already being met by informal support. Informal support is often provided by family members. However, a person may also make use of other forms of unpaid support. This means that the cost of a support package will vary depending on the person's needs and their personal and family situation.

It is important to understand the value of the informal support being provided and to take this into account in the personal budget. A RAS therefore has to be designed to take informal support into account. Any adjustment to the amount of the personal budget needs to take into account two factors:

- How much informal support is actually being provided.

- The impact on family members and other informal carers of providing support.

It is important to offer family carers a separate assessment of their situation, as people sometimes assume that their family can continue providing support. Councils also need to check that other forms of informal support can be sustained.

Before adjusting the personal budget, councils must properly assess the whole situation. The adjustment should take account of the ability and willingness of the family and other sources of informal support to continue providing support and the needs of family carers to have a life including being able to work. An adjustment should only be made after a full assessment of the carer's situation. The council should check that the carer is willing and able to continue providing ongoing informal support, and identify what support a carer may need to continue in their caring role. Where there is more than one informal carer, it may be necessary to carry out more than one carer's assessment.

Taking account of informal support is difficult to do precisely and involves making judgements about the family situation. Councils have taken different approaches. Some councils assess how much informal support is being provided for each domain. This potentially improves the accuracy of the assessment but means that more information needs to be gathered from both the person and family carers. Other councils make a single adjustment. This has the advantage of being simpler, but may lead to large variations between the indicative amount and the final personal budget for some people. Some councils have not recorded in the RAS any needs which are currently being met by informal carers. This removes the need to make an adjustment, but has the risk that the support being provided by family carers is not taken fully into account, and the impact properly investigated.

At this stage there is not enough experience of implementing personal budgets to be certain which approach is the right one. Councils should bear in mind that the purpose of the RAS is to provide an indicative allocation to inform support planning. It is more important to get the overall assessment and the support plan right, than pursue technical accuracy. Moderation and judgement will always be needed, particularly when taking into account informal support.

The resource allocation tools provided as part of this framework provide the simplest possible approach, with a single adjustment made for informal support.

Advice to councils

- Councils should make sure that the process of assessment and support planning takes full account of the situation of family carers.

- The assessment questions used to inform the RAS should ask about the person's overall support needs, including those currently being met through informal support.

- The questionnaire should ask what proportion of these needs are being met through informal support, and identify the impact on informal carers of continuing to provide this support.

- Councils may want to assess in detail what aspects of the person's needs are being met by informal carers, if this leads to a better understanding of the overall situation, and carry out a separate assessment of the carer's needs if appropriate.

- The RAS calculation should keep separate the overall level of need of the person for support and the amount of support that is being provided by family carers. The RAS should make clear the overall level of need and the amount of those needs being met by informal support.

- The indicative allocation should be adjusted to take into account **both** the level of informal care being provided **and** the impact on family members. The amount of any indicative allocation should only be reduced if informal carers have confirmed that they are able and willing to continue providing this support.

Policy issue 7 - Needs of family carers

Description

How should the RAS take account of the needs of family carers?

Key issues

Family carers provide very large amounts of unpaid support to their relatives. Family carers have a legal right to an assessment of their needs. Councils can support family carers through providing advice and information, through specific services or through a direct payment to a family carer in their own right.

Support for carers needs to be linked to better access to universal services. This can include small grants, website presence, information, advice and guidance via a carer's centre, a paid expert carers' group, and easier access to "paid-for" services – such as gardening, decorating and home maintenance - and an approved traders' list. It is important to make support available to family carers, particularly when the 'cared-for' person is not eligible for support.

Some councils have begun to develop personal budgets for family carers. Councils have asked for advice on whether personal budgets for older and disabled people should include amounts for carers, and on whether a RAS for carers should be developed.

Advice to councils

- Councils should make sure the assessment process includes or leads on to a full carer's assessment (unless this is refused by the family).

- A carer's assessment may lead to a direct payment to the carer, provision of services, or access to advice and information. This can be non-means-tested, and available in situations where a person does not meet the council's eligibility criteria.

- At this stage there is no policy requirement to extend personal budgets to include support for carers. Councils may want to develop direct payments to family carers, but to achieve this there is no need to develop a RAS for carers.

- Funding for support to carers need not be included in developing a RAS. For people who are eligible for social care, a personal budget can be used to arrange support for the person that may also benefit family members, such as breaks and holidays.

Appendix 1 - Glossary

Indicative allocation	At an early stage of the self-directed support process, the person is told roughly how much money it is likely to cost to obtain the support their needs require. This indicative allocation is an approximate figure to inform support planning. The final amount of the personal budget should only be agreed once there is a completed support plan that meets eligible social care needs
Resource allocation system (RAS)	A clear and rational way to calculate how much money a person is likely to need to arrange support. This helps the person understand how the amount of money has been arrived at, and to make choices and direct the way their support is provided.
Self-directed assessment	A simplified assessment that is led as far as possible by the person in partnership with the professional and focuses on the outcomes that they and their family want to achieve in meeting their eligible needs. Assessment looks at the situation as a whole and takes account of the situation and needs of family members and others who provide informal support. The council's duty to assess needs can be met through proportionate self-directed assessment and support planning processes.

Appendix 2 - Equalities impact assessment

This section covers the following:

- How we have approached equalities impact assessment for the common resource allocation framework

- Advice for councils on carrying out local equalities impact assessments relating to self-directed support including resource allocation

Equalities and the common resource allocation framework

The Local Authority Circulars, LAC(2008)1 and LAC(2009)1 set out the policy framework by which councils in England are implementing self-directed support and personalisation to achieve the vision for future services set out in *Putting People First*. Up-front allocation is a key element of self-directed support, and the concordat made explicit the need for councils to put in place a local approach to do this.

The Department of Health has carried out an equality impact assessment for personalisation to examine the implications of these policies and identify where further action may be needed and will be seeking views on this. This equality impact assessment includes resource allocation as a policy issue.

For the purposes of this project, a simpler process has been carried out to screen for equalities implications. This has shown that:

- Self-directed support has the potential to improve outcomes for groups of people who are poorly served by conventional social care services.

- Resource allocation systems have the potential to reduce inequalities because they provide a clearer basis for making decisions about social care money.

- There is evidence that resource allocation systems are highlighting distortions in spending patterns and evidence of inequalities in the way adult social care is currently operating.

- The framework has taken into account equalities legislation in the advice provided for councils and includes a specific section showing how this applies to resource allocation systems.

- The implementation of self-directed support is carried out at a local level.

- To understand whether equal access and good outcomes are being achieved, data needs to be collected about all six equalities groups. Most of the relevant data is only available at a local level.

The recommendations are listed below:

- The framework should include advice for councils on how to carry out local equalities impact assessments.

- ADASS should consult groups representing the six equalities strands to check whether further work is needed to the framework.

Advice on local equalities impact assessments

- Councils should make sure that they have carried out an overall equalities impact assessment relating to social care transformation, which includes in its scope the introduction of self-directed support. This will therefore include resource allocation.

- Councils should consider how they will monitor the impact of the policy on all six equalities groups. This is likely to include collecting data on uptake of self-directed support and outcomes for the six groups.

- Councils should consider the advice in the equalities section of this common resource allocation framework, and in particular the need to apply the same approach to identifying needs to all groups.

Appendix 3 - Resource allocation and the law

ADASS has taken legal advice on how councils can operate self-directed support within their current legal powers and duties and relevant statutory guidance. The advice in this document reflects the current law. This section sets out a summary of the legal advice that is directly relevant to resource allocation.

Status of the indicative allocation: Councils should regard the amount of money suggested by the RAS – the indicative allocation – as an approximate figure to inform support planning. The final amount of the personal budget should only be agreed once there is a completed support plan that meets eligible social care needs and addresses risks. If councils take the view that the indicative allocation is a final figure with no flexibility, this could be open to challenge. The decision on the final amount of the personal budget therefore requires judgement by the council, taking into account the person's overall circumstances including that of family carers. This makes it less important to ensure that the RAS system gives a very accurate prediction. This could be a very onerous requirement and could work against transparency. Councils can operate a relatively crude RAS providing that there are good checks and balances in place.

Duty to assess need: Councils have a number of duties relating to assessment. The Chronically Sick and Disabled Persons (Services Consultation and Representation) Act) Act 1986 gives councils a duty to assess the needs of anyone perceived by the council to be disabled. The NHS and Community Care Act 1990 Section 47(1) imposes a duty on local authorities to carry out an assessment of need for community care services for people who appear to them to be people who may be in need of such services.

What constitutes an assessment is not prescribed by statute or case law. The Fair Access to Care Services guidance makes clear that assessment should be proportionate to the person's presenting situation. The assessment process must include a decision by the council (or someone lawfully authorised by the council) on whether the person has eligible social care needs.

Section 47 also requires councils to arrive at a conclusion about potential needs for other agencies' services so that the person can be referred correctly for a decision by those agencies. An assessment incorporates both the decision about eligibility and the identification of what the authority thinks it is appropriate to do, provide or arrange for to meet those needs. The assessment therefore refers to the whole process of identifying needs and planning how to meet them.

In an approach based on self-directed support, people take the lead in identifying their needs and the outcomes they want to achieve, and planning how best to achieve these outcomes. This process can involve completing a self-directed assessment and developing a support plan. The assessment, the personal budget and the support plan must be signed off by the council if the outcome is to be regarded as a completed community care assessment. The council must be satisfied that the proposed support arrangements will meet the person's eligible assessed needs.

Councils have a responsibility to offer advice and support to help people identify the best way to meet their needs. This can include ways to make use of services provided by other agencies and informal support. If there is more than one way seen as appropriate to meet a need, the council can take account in its decision whether the proposed support arrangements are cost-effective. The council also has a responsibility to review the support arrangements to check that they are working in practice and that the agreed outcomes are being achieved.

If all these things are in place it is not necessary to carry out another form of community care assessment in addition to the self-directed assessment and support planning process. The sign-off by the council of the self-directed assessment and the support plan is sufficient.

Fair Access to Care Services guidance (FACS): Councils need to ensure they are acting under the Fair Access to Care Services (FACS) guidance[10]. Councils need to make transparent how they are having regard to applying the FACS guidance and making decisions on eligibility. Councils could provide information at first contact making clear how decisions on eligibility are made. FACS descriptors could be incorporated into a RAS tool but this could make the tool more complex and reduce transparency. The decision on eligibility can be made through a separate process to the RAS. Keeping the decisions separate increases transparency.

Once a person has been identified as having eligible needs, councils have a statutory duty to meet these needs. There can usually be flexibility about how that need is met.

Councils should not state that they will not pay more than the highest possible allocation in their RAS. Nor can they peg allocations to particular ceilings such as the cost of a residential home placement or the maximum funding available from the Independent Living Fund (plus the council contribution). This is because there is an unavoidable possibility that there may be only one feasible and appropriate means for the person to have their eligible needs met.

Councils can refuse to fund one appropriate option for meeting need if another appropriate option is available elsewhere at a lower cost as long as it is available and finance is not the only consideration taken into account.

Informal support and family carers: The FACS guidance makes clear that councils should take into account informal support when making decisions on eligibility. Councils are not required to meet needs that are already being met by family carers or other people providing informal support. Councils can take into account informal support in setting the personal budget so long as the councils is satisfied that the person providing the support is willing and able to continue do so. Otherwise the council cannot consider these needs as being met. Carers are legally entitled to an assessment but this does not necessarily lead to a statutory duty to meet those needs. Carers' assessments can be used to understand the situation of the family carer, what informal support is being provided and what impact this is having on the life of the carer.

Discharge of community care responsibilities: The council needs to ensure that it has discharged its duties under community care legislation. To do this it is essential for the council to agree the support plan and the final amount of the personal budget. This decision cannot be delegated to the person or to another organisation. The decision-making process needs to be proportionate to the complexity of the person's situation. For example, for lower cost arrangements, the sign-off might be by a team manager. High risk situations might require senior people (informed by discussion between from a range of agencies) to make the decision. It is good practice to have a written audit trail of showing how the council has reached its decision.

Decision-making processes: Councils need to make sure they operate fair procedures, adhere to public law principles relating to rationality, avoiding fettering their discretion, and comply with human rights and equality legislation. It is important to have a transparent and

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[10] The Department of Health has recently produced draft revised FACS guidance. The consultation document is available at www.dh.gov.uk

auditable process showing how the council has reached its decisions on the indicative allocation, the final personal budget and the support plan. This should include the reasons for any differences between the indicative allocation and the final personal budget.

Challenging decisions: It is important to make sure there is a clear process for people to challenge the council's decisions – including the decision on eligibility, the indicative allocation, the support plan and the final personal budget. The process should be non-adversarial and aim to resolve issues without conflict. This also makes it important for councils to record decisions well and provide reasons for them.

Review: The ability for people to change their minds and change their support arrangements after trying something out is very important and should be built into to any self-directed support process, along with 'what ifs' that might arise from decisions to use particular means to meet need, followed by a change of mind. It is therefore important for councils to have a robust review process in place which focuses on outcomes, checks that the support is working for the person, and is meeting their eligible assessed needs.

Equalities legislation: Councils need to consider equalities legislation when developing a RAS. The Equality Bill consolidates existing legislation outlawing discrimination on grounds of gender, race and disability; and makes it illegal to discriminate on other grounds, notably religion, sexuality and age, in respect of the provision of goods and services including health and social care services. The effect is to rule out treating people in similar circumstances differently solely on grounds of age, where this is to their disadvantage or detriment. Operating different approaches for younger adults and older people could be open to challenge. Councils need to make sure that their RAS challenges rather than maintains inequalities in the way the social care system operates. This is likely to mean needs should be assessed on the same basis for everyone.

Mental capacity: Councils need to make a judgement about each person's ability to answer questions, take decisions or deal with other aspects of the self-directed support process. The presumption of capacity under the Mental Capacity Act does not over-ride this responsibility.

Councils should make information, including questionnaires, available in a range of formats, including easy read and pictures. This will help people who may not have full mental capacity to take part in the process, and is also required to meet the Disability Discrimination Act. Decision-making process (in particular the sign-off of a support plan) should comply with the Mental Capacity Act. The council should:

- take reasonable steps to support the person to make a capacitated decision

- take account of the views of best interest consultees in the person's circle (not merely their carer or nearest relative).

- consider the appointment of an Independent Mental Capacity Act Advocate where this is required or could be beneficial.

Direct payment decisions in relation to incapacitated people will have to comply with the new law and regulations expected in force in November 2009.

If anyone has a safeguarding concern, councils should make sure that the concerns are investigated in line with local guidelines on adult safeguarding.

Deployment options for people lacking capacity must take account of legal principles which govern whether anyone has authority to act for them.

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