

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

HC 1458 SESSION 2010-2012

15 SEPTEMBER 2011

Department of Health, and Local Authority Adult Social Services

Oversight of user choice and provider competition in care markets

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Department of Health, and Local Authority Adult Social Services

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Amyas Morse Comptroller and Auditor General

National Audit Office

9 September 2011

This report examines the oversight of user choice and provider competition, where care users receive state funding as a personal budget (including direct payments) or use their own funds (self-funders).

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Contents

Key facts 4

Summary 5

Part One The social care landscape **12**

Part Two User choice in social care **17**

Part Three

Competition between care providers **26**

Part Four Transition and oversight **33**

Appendix One Methodology **36**

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Key facts

340,000 £1.5bn

Number of personal budget holders Money allocated for personal budgets Estimated annual spend by those funding their own care

£6.3bn £23bn

Estimated size of care sector in the UK, including direct commissioning by local authorities

1 million	Number of eligible users receiving publicly funded care in England.
30 per cent	Projected increase in the population of those aged 65 and over by 2021.
63 per cent: 37 per cent	Estimated current split of public to private funding for care.
£520 million	Social Care (Transformation) Reform Grant to support increased user choice (3-year grant over 2008-09 to 2010-11).
£1 billion	Projected taxpayer's liability by 2035 for those who fund their own care running out of money and falling back on the state.
£23,250	Private capital threshold for residential care.
£28,000	Typical average annual care home fees.
63 per cent	Percentage of users reporting improved mental well-being from having a personal budget.

Summary

1 The term 'social care' covers a huge range of services from residential care homes and 'meals-on-wheels' to drop-in centres for disabled people and adult placement services. Social care supports people of all ages with certain physical, cognitive or age-related conditions in carrying out personal care or domestic routines, and supports people in building social relationships and participating fully in society.

2 The Department of Health is responsible for setting the overall policy framework for social care in England, and local authorities have statutory duties to provide or fund social care for those eligible for means-tested support. Total spending on social care services in the UK is approximately £23 billion annually, with approximately 63 per cent being publicly funded and 37 per cent privately funded.

3 Local authorities have traditionally provided or commissioned publicly-funded care services directly, on behalf of users. However, since the early 1990s successive governments have sought to improve outcomes for users by introducing market type mechanisms into the delivery of care. Initially, this was by outsourcing care provision to independent and voluntary providers to stimulate competition. Then, from the mid-1990s, publicly-funded users were increasingly given greater choice and control over their own care services (often called the 'personalisation' of care).

4 By March 2011, out of a total of one million eligible users, around 340,000 people had a personal budget, representing £1.5 billion of the overall spend on care services.¹ Of those, 125,000 received this as a direct cash payment (where the user receives cash to purchase care services of their choosing), and the other 215,000 as a managed budget (which allows the user choice, but where the spending is managed by a third party, either the local authority or a provider). The current Government intends to extend personal budgets, from 35 per cent of all eligible users at March 2011 to all eligible users by April 2013, and to increase the proportion of these budgets taken as direct payments.

5 As well as a policy move to increase market mechanisms in the delivery of publicly-funded care, demographic and funding shifts mean that the private care market, currently covering around £6.3 billion of the care sector, is likely to continue to become increasingly prevalent. Demand for care, overall, is projected to increase from 1.3 per cent to 1.9 per cent of gross domestic product by 2050, largely because of the increase in the proportion of the older population (Figure 1 overleaf).

Figure 1 Projected increase in the number of elderly in the UK

United Kingdon 65 years and older population, 1901-2081



Source: Care of Elderly People UK Market Survey 2010-11, Laing & Buisson

6 The introduction of user choice and provider competition into the delivery of publicly-funded social care, has far reaching implications for the roles of the Department of Health, and local authorities, in making sure value for money is achieved. The Department has responsibility for setting the overall policy objectives, the legislative and delivery framework, and taking remedial action where its policy objectives are not being achieved. The local authority role moves from one of delivering services directly or commissioning them to one of overseeing local care markets to ensure that they are delivering the required outcomes. Furthermore, the Government has an interest in the effective operation of private care markets, where self-funders risk falling back on state provision if they run out of money, or if they make poorly informed decisions.

7 This report examines the oversight of user choice and provider competition, where care users receive state funding as a personal budget (including direct payments) or using their own funds (self-funders). It does not look at publicly-funded care where the Local Authority purchases care. Achieving effective user choice and provider competition in both publicly funded (via personal budgets) and private (self-funder) markets rests on two key factors:

- On the demand side, whether users can engage with the market and can purchase services that help them achieve their care outcomes (see Part Two).
- On the supply side, whether there is adequate competition within care markets to make sure providers are responsive to users' requirements, and quality of services is maintained (see Part Three).

This report also evaluates the arrangements in place locally and at the national level for building market oversight capability (Parts Three and Four). It does not examine the value for money of individual institutions' performance, such as individual local authorities or the Care Quality Commission (the body responsible for licensing care providers and regulating the quality of care they deliver), or local authority commissioning where users do not receive a personal budget or a direct payment. The National Audit Office is currently carrying out a separate study on the Care Quality Commission.

Key findings

Increasing user choice

8 The majority of users report a positive impact on their well-being from having personal budgets, although there is a small minority who feel worse off. We also found many examples of users finding innovative ways to use their budgets to achieve care outcomes, for example, by pooling their budgets to pay for a personal assistant to help with care needs. Figure 2 shows the percentage of users who felt that personal budgets had had a positive effect on various aspects of their well-being. In aggregate, between 3 and 8 per cent of users stated that they were worse off.

Figure 2

The extent to which a personal budget has had a positive impact on well-being

	Percentage
Being supported with dignity and respect	76
People staying as independent as they wanted to be	75
Being in control of their own support	72
Getting the support they need when they need it	72
Having control over the important things in life	68
Relationships with those paid to support them	67
Mental well-being	63
Physical health	59

Source: The National Personal Budget Survey, June 2011, In Control and Lancaster University

9 Users find purchasing care difficult. Personal budgets pass more responsibility for identifying and purchasing services to the user. Around 50 to 58 per cent of users found that their local authority had made it 'easy' or 'very easy' to get service information and advice. Where such services exist, they are highly regarded by users. A growing number of users employ a personal assistant to help them with their care. Thirty-one per cent were finding it difficult to cope with being an employer, and there have been some instances of employment tribunals or county court judgements made against individual users. The Government is now working with the National Association of Adult Placement Schemes to raise awareness and issue advice.

10 We found various examples at local authorities of good practice in implementing personal budgets, but these should be more widely shared. Users reported different levels of engagement from different local authorities. Examples of good practice ranged from authorities working together to build an IT system that puts users in touch with providers, to developing a pre-payment card for users to track their budget spending. Practices were, however, very localised. For example, the proportion of personal budget holders offered help by their local authority in planning support ranged from 38 to 85 per cent.

Managing costs to the taxpayer

11 Personal budgets are aimed at improving control and outcomes for users rather than reducing the cost of care, and the overall impact on cost has not been fully evaluated, although the Department of Health did examine costs in its evaluation of pilot schemes² and this informed the roll-out of personal budgets. However, any unspent funds are reclaimed by local authorities, and 36 per cent of local authorities have cited personal budgets as a factor in achieving better value for money.³ These authorities found that users had better outcomes, made better use of the resources they had, and that care packages were structured more effectively.

12 Local authorities are responsible for self-funders once they run out of money, but 60 per cent of local authorities do not know how many self-funders there are in their area, and few offer formal support to help prevent them falling back on state funding. We estimate that the total cost to the taxpayer could rise to £1 billion annually by 2035. At a typical annual cost of £28,000 for residential care, it is better for users, and potentially the taxpayer, if users can stay in their own homes and buy domiciliary care for as long as possible. However, 69 per cent of those paying for their own care do not feel well informed about the financial implications of long-term care.

3 Improving value for money in adult social care, Audit Commission, June 2011, P. 26.

² The IBSEN Evaluation of the Individual Budgets Pilot Programme, October 2008, which found that it was likely that individual budgets would be at least cost-neutral.

Developing and overseeing user choice and provider competition

13 The Department has recognised that delivering care through user choice and provider competition brings different risks to those associated with delivering or commissioning care directly. The Department provided £520 million to help local authorities manage the changes required by increasing personalisation. The 'Putting People First' Consortium (the Association of Directors of Adult Social Services, the Local Government Association and the Department of Health) created milestones to track the progress of local authorities introducing user choice and competition. Most local authorities reported that they had met the five milestones by April 2011, and 83 per cent reported they had achieved the April 2011 milestone that at least 30 per cent of eligible users should have a personal budget, though 25 (17 per cent) did not. The Department has few formal levers over and above legislation, policy advice and the outcomes framework to influence those authorities that are struggling to implement the Department's preferred delivery method although it is working closely with the sector's 'Think Local Act Personal' partnership, and with the sector-led improvement agencies.

14 Quality of service is regulated at the national level by the Care Quality Commission, but responsibility for monitoring whether care markets are operating effectively is devolved to the local level. Care markets are very varied, ranging from small micro- to large national providers which cross local authority boundaries. The Office of Fair Trading found recently that providers felt there was a lack of clear strategic direction from local authorities, and a lack of commissioning and procurement skills – which was leading to market inefficiencies and difficulties in planning. There are no formal arrangements for monitoring, and if necessary intervening in, markets that cross local authority boundaries.

15 The recent financial problems faced by Southern Cross illustrate the need for Government to develop a system to address serious provider failure. Provider failure is a normal feature of a market. Local authorities have statutory duties in providing care, and would normally step in if a provider exits the local market and is not taken over or replaced by another provider, to ensure continuity of provision. In certain sectors of the economy where service providers are dominant, or where service users are particularly vulnerable, national sector regulators have systems in place to minimise the impact of provider failure on the user. There are no equivalent arrangements in the care sector.

Conclusion on value for money

16 Evaluations suggest that, to date, most social care users have gained improved well-being and control from using personal budgets, and some local authorities report they have led to efficiency improvements. The Government intends to extend personal budgets to all eligible users of social care by 2013. For this to deliver value for money, sufficient oversight arrangements must be in place to ensure that care markets operate effectively. Currently, however, there are wide variations between local authorities in the amount of engagement and support offered to personal budget users. In addition, some self-funders do not feel well informed. Market oversight at the local level is very varied, and there are no formal arrangements to monitor markets at the national and regional levels. These shortcomings must be addressed if value for money is to be secured in the future.

Recommendations

17 This report is an early evaluation of market delivery in care. The recommendations are therefore framed at a high level, and are intended to inform Government thinking as it develops proposals for the forthcoming White Paper on the future of social care, and responds to the Dilnot Commission's July 2011 report on the funding of social care.

Improving support for users

a Users report very different levels of support across local authorities, and best practice in implementing personal budgets is not as widely shared as it needs to be. The Department needs to make sure that best practice is shared more widely between local authorities, for example, by using forums such as the Think Local, Act Personal (TLAP) partnership, or the Social Care Institute for Excellence (which is also a member of TLAP) to identify and disseminate any best practice identified.

Managing costs to the taxpayer

b Self-funders need to make well informed decisions to avoid falling back on state funding, but they often feel unsupported. Local authorities should examine the needs of the different care users in their area, and put in place relevant support or signposting to suitable independent advisers. In particular there is a need for good quality financial advice for self-funders, which will help them to delay or avoid falling on means-tested state support. Early evidence suggests that users find support services very useful, in which case, the Department should find ways to encourage local authorities to increase the availability of these services.

Improving market oversight

- c In November 2010, the Department set out its approach to the market in social care in its Vision for Adult Social Care and now needs to translate this into a working strategy. The Department should determine where market oversight of regional and national issues is not sufficient, and whether any more central oversight is necessary. The Government is considering whether Monitor should play such a role, as outlined in the Vision for Adult Social Care last year.
- d The recent financial problems faced by Southern Cross care homes show that Government needs further arrangements at a national and local level to protect users from provider failure. The level of intervention should reflect an assessment of risk and draw on best practice from other regulated areas. For example, if a provider becomes dominant in a particular area, or nationally, there may be a need for regulatory action over and above relying on competition law.

Part One

The social care landscape

1.1 This Part examines the moves towards increased user choice and competition in social care and the implications for the roles of the Department and local authorities in ensuring value for money for users and the taxpayer. It shows that user choice and provider competition is likely to become the main delivery model for care, not only due to government policy, but also because of demographic and financial trends in the sector.

The care sector

1.2 The term 'social care' covers a huge range of services from care homes and 'meals-on-wheels' to drop-in centres for disabled people and adult placement services. The social care sector is diverse, with over 40,000 separate organisations delivering services ranging from large national providers to small businesses employing just a few people, and cover the voluntary, charity and local authority sectors. There is also a large and growing workforce of over 100,000 personal assistants.

1.3 The Department has overall policy responsibility for social care, with funding mainly coming from the local government formula grant, which is not ring-fenced. Local authorities provide means-tested funding to those in need of care (**Figure 3**), and oversee or deliver directly, care services in their area. The Care Quality Commission is the independent regulator of all health and adult social care in England. It registers providers of care homes and domiciliary care, except where the care is arranged by the recipient, (**Figure 4**) and is currently the subject of a separate National Audit Office study.

1.4 The care sector as a whole is estimated to be worth up to $\pounds 23$ billion annually. The care home and nursing home market is valued at $\pounds 14$ billion (of which private sector providers represent approximately $\pounds 10$ billion) and the domiciliary care market, that is care delivered in the user's home, is worth up to $\pounds 9$ billion (of which private sector provision represents approximately $\pounds 4$ billion).

Figure 3 Eligibility for Social Care services

Assessment of need: Local Authorities have a statutory duty to assess any person who appears to be in need of care services. They have discretion over the level of care and support required, but the assessment must accord with the description of need outlined in the Department's guidance:

- Critical where life is in danger, or serious abuse or neglect has occurred or might occur.
- Substantial where abuse or neglect has occurred or might occur, or the individual is unable to carry
 out the majority of personal care or domestic routines and there is no-one available to assist.
- **Moderate** where the individual is unable to carry out several personal care or domestic routines, or engage in routine family or social activities.
- Low where the individual is unable to carry out one or two personal care or domestic tasks, or engage in one or two routine family or social activities.

Means testing: To be eligible for local authority funded support for residential care a national means test applies requiring total assets to be below the set threshold (currently £23,250). For non-residential care services, a person's home cannot be taken into account by the local authority. What local authorities charge for also varies greatly from authority to authority.

Source: Based on Department of Health guidance

Figure 4

Existing regulation of adult social care



NOTE

1 Funding for social care is passed from the Department of Communities and Local Government to councils, augmented by council tax receipts (excluded from this figure for simplicity).

Source: National Audit Office

1.5 Publicly-funded spending on social care was £14.5 billion in 2009-10, which included grant funding from the Department of £1.2 billion (an additional £2.3 billion was raised by local authorities from user charges for social care). The rest of the funding is not separately identifiable and comes from a combination of government grants, re-distributed non-domestic rates and council tax receipts. Spending on social care represented just over 30 per cent of the total local authority budget in 2009-10. As part of the grant funding, the Department of Health provided a Social Care Reform Grant of £520 million over three years (2008-09 to 2010-11).

The move to personalisation

1.6 Until the mid 1980s there was a broad expansion of publicly-funded residential and non-residential care services for elderly and disabled people, almost exclusively provided in publicly-owned facilities. From the early 1990s, however, local authorities increasingly purchased care from independent providers. Between 1992 and 2010, local authority direct provision of care home places fell by over 70 per cent from 105,000 places to around 30,000 places, while private care home places increased by over 17 per cent to 191,000 places. Private providers now supply over 80 per cent of both care home beds and domiciliary care nationally.

1.7 At the same time that local authorities moved away from providing services directly, Government gave users greater choice and control of care. In 1996, the (then) Government legislated so that disabled people could receive cash (known as a 'direct payment') in lieu of community care services, to give them greater control over choosing their care. Government subsequently offered these to other groups including older people, those with mental health conditions, and carers in 2001 and introduced 'personal budgets' from 2008. A personal budget allows the user choice in the same way as a direct payment, but the cash is managed by a third party, either the local authority or a provider (**Figure 5**).

1.8 In December 2007, the Association of Directors of Adult Social Services, the Local Government Association, the Department, and a number of other bodies committed to the then Government's policy for transforming social care (called 'Putting People First'). This policy was designed to give people control of their own care to deliver better outcomes for individuals, often called the 'personalisation' of services. The policy was not specifically aimed at achieving equivalent outcomes for less resource.

Figure 5 Personal budgets

Personal budget holders choose how their care needs are met. Users of non-residential care may choose to take their personal budget in cash as a direct payment as long as they (or their representative) have been assessed as able to manage their own budget. Those choosing the local authority 'managed' budget will generally have less freedom over choice of service provider due to councils needing to procure within existing contracts for efficiency and quality assurance reasons. A group of direct payments users may also pool their budgets, for example to pay for hiring a room for a social activity, or transport for a social visit. Many use their direct payment to employ a paid support worker (known as 'personal assistants').

Source: National Audit Office

1.9 The current Government has set out its aims to extend personalisation of care services in its 'Vision for Adult Social Care'. To support delivery of this, the Department helped establish the 'Think Local, Act Personal partnership' in April 2011, which comprises over 30 organisations from the care sector. Local authorities must now provide all users of community-based social care with a personal budget by April 2013. Currently around 340,000 of the one million users receiving ongoing local authority funded support receive this via a personal budget, amounting to some £1.5 billion of the total funding for care.

The growing role of user choice and provider competition

1.10 Our analysis shows that user choice is becoming increasingly prevalent in the delivery of care. This comes from, not only Government's policy of using choice and competition to deliver publicly-funded care, but also large demographic shifts, the increasing number of self-funders, and the overall levels of funding for the sector. Demand for care is projected to increase from 1.3 per cent to 1.9 per cent of gross domestic product by 2050, largely because of the increase in the proportion of the older population (Figure 1 on page 6). By 2031, the population of those aged 85 and over in the UK is projected to more than double to nearly three million.

1.11 The number of younger adults with learning disabilities and or physical and sensory impairments is also expected to rise significantly (**Figure 6**).



Figure 6 Projected increases in demand for care by 2041

Source: Personal Social Services Research Unit, Future Demand for Social Care 2005-41

1.12 Public funding for care is not, however, projected to increase in line with demand in the short term, and local authorities have been tightening the eligibility criteria for funding. In 2010-11, 82 per cent of authorities funded only those whose needs were assessed as 'substantial' or 'critical', up from around 60 per cent of authorities in 2005-06.⁴ Furthermore, the Government estimates a reduction of 4.7 per cent in local authority budgets in 2011-12. Both these factors mean that more individuals may have to fund their own care.

1.13 Medium- and longer-term projections for the proportion of the market that is self-funded are uncertain because the Government is currently considering new funding arrangements. However, as the Government is committed to personalisation as its method of delivery, the publicly-funded proportion of care, whatever its eventual size, is also likely to be delivered through user choice and provider competition.

⁴ Self-funded social care for older people: an analysis of eligibility, variations and future projections, PSSRU Discussion Paper 2505, Oct 2007. And Association of Directors of Adult Social Services budget survey, May 2011 (available at www.adass.org.uk).

Part Two

User choice in social care

2.1 Where user choice is the preferred route to deliver public services, the actions of users are a vital determinant of value for money. Well-informed choices by users will help lead to good outcomes, but poorly informed choices, or an inability to purchase services effectively, will lead to poor outcomes and higher costs, some liability for which may sit with the public purse. This part examines:

- whether users think that greater choice, delivered through personal budgets, leads to good outcomes;
- whether users can identify and purchase services effectively; and
- the potential costs to the public purse of poor decision-making by users.

2.2 This Part shows that users have reported a high degree of control and well-being from having personal budgets, although they find aspects of purchasing, such as finding information on care services, difficult. If users make poor choices, it is bad for individuals, but also for the public purse. The cost to the public purse of self-funders running out of money is around £0.5 billion annually.

The different user groups

2.3 There were around one million users receiving ongoing local authority-funded social care services in England in 2009-10, the latest year for which figures are available. The total number of self-funders is not known precisely, but there are an estimated 170,000 care home residents who do not qualify for publicly-funded care, and a similar number of self-funders who receive care at home.

2.4 Users make up a variety of care groups and ages. For the purposes of our analysis, we have used the same classification of user groups as the two main research evaluations that have been done to date. These are the Individual Budgets Evaluation Network's research of 2008 (referred to as IBSEN), and a 2011 survey of 1,114 personal budget holders conducted by In Control, a national charity for people needing additional support. We reviewed the robustness of each research project in order to place reliance on the results, alongside our own qualitative research, which we commissioned through Ipsos-MORI. **Figure 7** overleaf gives the classifications, and the number of users who received services in 2009-10.

Figure 7

Number of care users receiving public support between April 2009 and March 2010



2.5 As well as care users, the carers supporting them can receive state support, for example, to pay for respite from their caring responsibilities. Some 48,000 carers of adults aged 18 and over currently have a direct payment.

2.6 Our evaluation of user experiences and outcomes draws on the work of IBSEN and In Control, a recent survey by Carers UK, and our own qualitative research of 48 personal budget holders across six local authorities.

User views on achieving outcomes

2.7 Our qualitative research, and our review of third party research, found that users have a high level of satisfaction with greater choice and control. In particular, users regarded highly their ability to stay independent and remain in control of their care. Seventy-two per cent of personal budget users responding to In Control's research stated that choice had given them control of their own support, and 63 per cent that it

had had a positive impact on their mental well-being (Figure 2 on page 7). **Figures 8 and 9** show user views on the impact of personal budgets on their overall mental well-being and getting the support they need. Our qualitative research and that of In Control found that users' positive comments most often related to support being tailored to the individual's needs, and having greater independence, choice and flexibility.

Figure 8



User views on mental well-being from using personal budgets

Source: The National Personal Budget Survey, June 2011, In Control and Lancaster University

Figure 9

User views by care group on getting the support they need from using personal budgets



Source: The National Personal Budget Survey, June 2011, In Control and Lancaster University

2.8 Between 3 and 8 per cent of care users, in aggregate, reported personal budgets having a negative impact on their lives⁵, although there was some underlying variation by user group (Figures 8 and 9). For example, 18 per cent of those with a mental health condition stated that the personal budget process had made their condition worse. The overall results are broadly in line with earlier smaller scale evaluations, which indicate that not all people feel they are better off with a personal budget.

2.9 Seventy-three per cent of carers considered that the care they purchased with a direct payment was better at meeting their needs than their previous service.⁶ Carers also reported a positive impact on various aspects of their own lives resulting from the person they cared for having a personal budget; in particular, support for them to continue caring (68 per cent), and their quality of life (60 per cent).

Finding and purchasing services

Identifying services and planning support

2.10 Local authorities usually provide in-house advice and support to help users find services that meet their assessed needs. Indeed, our qualitative research found that an important aspect of achieving good outcomes is the extent to which the local authority supports personal budget holders in incorporating their views into the support plan that sets out how the budget will be used. Users reported very high satisfaction with this process, with 87 per cent of both users and carers saying that their views were 'very much' or 'mostly' included in the support plan.⁷

2.11 User satisfaction with more general information on care services was much lower. Local authorities typically have listings of local care homes, care providers and other activities in their area. But our qualitative research found that for some, in particular older people, there could sometimes be a reluctance to change homecare provider, despite some dissatisfaction with the service offered. Similarly, only around 50 per cent to 58 per cent of respondents to In Control's survey of personal budgets felt that their local authority had made it 'easy' or 'very easy' to get information and advice and less than 50 per cent found it 'easy' or 'very easy' to complain, choose their services or change their support.⁸

2.12 Until summer 2010, the Care Quality Commission published quality ratings for care providers including care homes, which some local authorities include in their own listings. However, recent research on care home users suggests that users either do not use quality of service information for care homes, or do not have much confidence in it. Research commissioned by the Office of Fair Trading found that three in ten self-funders considered just one care home before purchasing a place, while a further 38 per cent considered just two or three homes.⁹ A report by the Office for Public Management¹⁰ in

10 Delivering personal budgets for adult social care: reflections from Essex, OPM, July 2010.

⁵ The National Personal Budget Survey, June 2011, In Control and Lancaster University, P.3.

⁶ Carer's UK 2008 'Choice or chore? Carer's experience of direct payments.

⁷ Delivering personal budgets for adult social care: reflections from Essex, OPM, July 2010, P.7.

⁸ The National Personal Budget Survey, June 2011, In Control and Lancaster University.

⁹ Evaluating the impact of the 2005 OFT study into care homes for older people, OFT 1322, P.57.

2010 found that users had difficulty in judging the quality of service in a care home until they were resident, and the lack of information on alternative providers meant they had little option but to stay with a provider, regardless of the quality of the service provided. The Care Quality Commission no longer provides ratings, and is instead moving towards reporting only on essential standards of safety and quality in real time, based on hard data and the user/carer experience.

2.13 Two of the local authorities we visited were considering online customer feedback websites for care services to improve information for users. However, these authorities are proceeding with caution due to the potential risk of a care provider suing for defamation. The other authorities we met had either rejected the idea of setting up customer feedback mechanisms for similar legal reasons, or had not yet considered such a mechanism.

2.14 Instead of offering advice and guidance directly, local authorities may direct users to independent or voluntary support services in their area. During our visits we found these support services (often referred to as brokerage services) varied but could cover, for example, help recruiting a personal assistant, preparing a contract of employment for personal assistants, or putting users in touch with each other to combine their budgets to purchase services. Personal budget holders who had used a brokerage service commented positively in both our and In Control's research.

Employing personal assistants

2.15 An increasing number of direct payment users employ a personal assistant to help meet their care needs, thereby taking on much greater responsibilities than if they bought services through a care home or domiciliary care provider. Their responsibilities include, for example, payment of tax and national insurance contributions, public liability insurance, sick pay, health and safety and other employment-related legislation. Only 8 per cent of direct payment users who employ a personal assistant reported concerns over their ability to fulfil their administrative responsibilities or felt there was a lack of support received from their local authority.¹¹ However, around a third of respondents found the experience of being an employer daunting (27 per cent) or difficult to cope with (31 per cent). Our qualitative research also found that whilst some users welcome having choice, many did not want the responsibility of organising and coordinating their own care, and they were therefore prepared to trade off choice in favour of convenience. Furthermore, cases have emerged where users' lack of awareness of their legal responsibility as an employer has resulted in awards against them at employment tribunals, and County Court judgements.¹² In response to these problems, the Government is now working with the National Association of Adult Placement Schemes to raise awareness and issue advice on these issues, and intends to disseminate this to local authorities and third sector groups nationally.

¹¹ Workforce Implications of Direct Payments, Skills for Care Report, 2008, P.45-48 (prepared for Skills for Care by IFF Research May 2008).

¹² Written evidence from Unison (September 2010) to the Health Select Committee.

Costs to users and the state of poorly informed decisions

Self-funders

2.16 The cost of care to both individuals and the state can be very high. Fifty per cent of those aged 65 face lifetime care costs of up to £20,000, while 10 per cent can expect to spend over £100,000.13 Users are responsible for funding all of their own care if they have assets (including their home) worth more than the statutory limit, currently £23,250 for residential care. For non-residential care, the capital threshold applies (but the value of the home is not included). The state will pay part or all of the costs of care to meet their assessed needs if or when a user's assets drop below £23,250. We modelled the impact on private and state funding for a range of different scenarios, and found that those funding their own care can fall back on state support very quickly.

Figure 10 An illustration of costs to the state of self-funders who run out of money

Scenario 1: A 75-year-old man who sells his own home on going into residential care, and receives the basic state pension. It assumes his home is worth the mean for the United Kingdom, and residential care costs £28,000 annually.



- Individual care costs funded by state - Probability of a 75-year-old man being alive at year end across the entire population

NOTE

1 Life expectancy for those entering a care home varies; analysis by the Personal Social Services Research Unit (PSSRU) of BUPA data suggests that the median length of stay in care homes for all users, including self-funders, was around 1.5 years (the mean length of stay was 2.5 years). Around 27 per cent of people lived for more than three years in a care home. (Length of stay in care homes, PSSRU Discussion Paper 2769, January 2011)

Source: National Audit Office

2.17 Figure 10 models two scenarios for a male self-funder aged 75 going into residential care. It shows that if this individual owns a home worth the average for the United Kingdom and has a state pension, he will run out of money and fall back on the state at the age of 83, if he is still alive. If the same individual did not own his own home, but had a private pension and a state pension he would fall back on the state almost immediately. At a typical average cost of £28,000 per year for residential care, it is beneficial for users and the public purse if users can stay in their own homes and buy domiciliary care, which is usually cheaper, for as long as possible. It is therefore important for value for money that self-funders make well-informed decisions when choosing how they structure their care to protect their own funds, and those of the state.

Scenario 2: A 75-year-old man going into residential care, who does not own his own home, but receives private and state pensions. It assumes his private pension is worth 50 per cent of the median income for a male in the United Kingdom, and residential care costs £28,000 annually.



2.18 Local authorities are responsible for making sure all care users can get the information and advice they need. However, 69 per cent of those funding their own care do not feel sufficiently informed about the financial implications of long-term care. The Dilnot Commission's report¹⁴ also indicated that people do not understand the system and do not know where to go or who to talk to for advice. Most authorities provide some basic advice and information, but we found that this is most often only a list of care homes and other social care services. A recent survey of local authorities found that only 39 per cent told self-funders of other services or providers of advice.¹⁵

2.19 Figure 10 also shows the strong incentive for users to dispose of their assets before needing care, thereby using public funds sooner. Despite this risk, and the overall financial impact on the state of self-funders running out of money, 61 per cent of local authorities are unaware of how many self-funders fall back on state funding in their area.¹⁶ Those authorities that did know (39 per cent) indicated that the average annual cost is 3.5 per cent of their residential care budget. The Local Government Information Unit has calculated that the annual aggregate cost of self-funders running out of money is some £0.5 billion. We projected these figures forward and found that the overall annual cost to the public purse could rise to £1billion by 2035, and to £1.5 billion by 2055 (Figure 11).

Publicly-funded users

2.20 Government policy on personal budgets is not aimed at reducing the costs of care, but rather at delivering better outcomes for users. Neither the Department nor local authorities have systematically evaluated personal budgets to see whether they have had an impact on the cost of meeting care outcomes. However, the Audit Commission recently found that 36 per cent of all authorities reported personalisation as a factor in achieving better value for money in 2009-10, and 45 per cent considered that it would be a factor in their spending plans for 2010-11.¹⁷ Better value came mostly from improved outcomes, but savings had also come from:

- close analysis of financial data leading to, for example, decommissioning some poorly structured high-cost care packages;
- people making better use of resources therefore needing less money to meet their needs; and
- improving methods to increase reclaiming unused funds, and rationalising the range of care packages.

¹⁴ Fairer Care Funding, The report of the Commission on funding of care and support, July 2011.

¹⁵ Independent Ageing: Council support for self-funders, Local Government Information Unit and Partnership, March 2011, P. 13.

¹⁶ Independent Ageing: Council support for self-funders, Local Government Information Unit and Partnership, March 2011, P.8-9.

¹⁷ Improving value for money in adult social care; Audit Commission; June 2011, P.26.



Figure 11 Potential contingent liability to the state of self-funders running out of money

Source: Local Government Information Unit report and National Audit Office analysis

Part Three

Competition between care providers

3.1 User choice depends on good competition on the provider side. This is normally seen when new providers enter the market, poor performers are taken over or exit the market, and in product and service innovation. Markets can often fail to function effectively, needing some form of intervention. This Part examines the provider side of the various different care markets, and whether oversight is effective.

3.2 This Part shows that the care sector is varied, ranging from large national care home providers, to small businesses and sole traders. Market conditions are similarly varied, and range from areas where a single provider has a large market share which may extend well beyond the boundary of one single local authority, to areas with a very competitive market with multiple providers, and to areas where there is virtually no provision at all. The extent to which the Department and local authorities are actively engaged with remedying market problems and developing the provider side is, however, very mixed.

The provider side

3.3 For the purposes of our analysis, we have split care markets into two categories – care homes and domiciliary care.

Care homes

3.4 The care homes sector has seen rising levels of provider concentration, although occupancy rates have been falling. According to leading market analysts' (Laing & Buisson) figures, in total there were over 21,000 care homes in 2010 in England, of which nearly 5,500 were owned by providers with three or more homes. The market share of the four largest providers is around 20 per cent of the total market for older people and for people with physical disabilities (and nearly 24 per cent of the 'for profit' only sector), up from 10 per cent in 1990 (**Figure 12**). This is below the 40 per cent market share, which, according to the Office of Fair Trading's criteria, indicates potential dominance of a provider.

Figure 12 The largest four providers of care homes in the UK

Care Provider	Market share (%)	
Southern Cross	8.7	
BUPA Care Homes	4.9	
Four Seasons Health Care Ltd	3.9	
Barchester Healthcare Ltd	2.6	
Source: Care of Elderly People UK Market Survey 2010-11, Laing & Buisson		

3.5 At a national level, occupancy rates in the care home sector have continued to reduce, under successive governments, over the long term, and in 2010 were at virtually their lowest level over the last decade.¹⁸ A major contributory factor has been a decrease in the number of people referred by local authorities, who nationally account for approximately 52 per cent of care home places.¹⁹ Lower occupancy rates should decrease the market power of any particular provider, as there is more competition between providers to sell spare capacity. However, lower occupancy rates can also weaken care home providers, whose businesses typically have high fixed costs and can be very sensitive to small changes in income.

3.6 An evaluation commissioned by the Office of Fair Trading of its market study of care homes for older people found that financial barriers to entry into the care home sector are fairly low (although less so for the nursing home sector), compared with other sectors of the economy, though restricted access to credit in the wake of the financial crisis has had an impact.²⁰

3.7 The national care homes market appears not to have problems of dominance, but the picture is different if the market is segmented geographically. This is important because care home users are likely to want to be in a home either near where they lived previously, or near relatives, so the market may be local or regional, rather than national. For example, within certain parts of the North of England, the UK's largest provider (Southern Cross) has a greater percentage of the market than it does nationally, and there is little spare capacity in certain regions of England.

- 18 Laing & Buisson, Care of Elderly People UK Market Survey 2010, P.110.
- 19 Laing & Buisson, Care of Elderly People UK Market Survey 2010, P.175.
- 20 Evaluating the impact of the 2005 OFT market study into care homes for older people', OFT 1322, May 2011, p.53.

3.8 From a consumer perspective, the care homes market has some characteristics of an inefficient market:

- Entry into a care home is often unplanned and can be made in response to a specific event (such as a hospital admission or the death of a spouse).
- By definition, switching rates (choosing to switch care home) are very low, and consumer research commissioned by the Office of Fair Trading suggests that it is considered to be a last resort by most residents (it can often adversely affect residents' health).
- As is the case with most care services, buying a care home place is inevitably an 'experience good', meaning that the consumer cannot really tell their satisfaction until it has been experienced.

Domiciliary care

3.9 The domiciliary care (or home care services) sector has a more fragmented structure than the care homes market, with a few large providers (the top ten businesses in terms of market share represent 15 per cent of the market) and many small ones. There are an estimated 5,400 providers overall, as well as many thousands of personal assistants. There has been some consolidation in the market, with the four largest providers now holding around 9 per cent of market share. Local authorities are the largest buyers of domiciliary care and account for approximately 50 per cent of the market, although spending by direct payment recipients is likely to grow, which will reduce the authorities' purchasing power.

3.10 Financial barriers to entry are lower for domiciliary care than for care homes, as the capital investment is substantially less. Market entry is not, however, necessarily straightforward because of procurement and accreditation processes, difficulties in recruiting staff (due to low-pay rates, unsocial hours and required flexibility). Modest profit margins may also act as a deterrent to entering the sector.

Market oversight to ensure value for money

3.11 Paragraphs 3.3 to 3.10 show that the risks to value for money from market delivery are varied, for example, ranging from potential dominance, to having virtually no supply at all. It is not possible to give a definitive list, because different challenges to value for money will present themselves in different places or for different services at different times. To deal with potential market or provider failure effectively, local authorities and the Department need to know what a successful market looks like, have a strategy for monitoring the care market against this (including knowledge of self-funders) and for intervening, where necessary, to make sure outcomes are delivered and users' and public funds are used efficiently. The Department outlined its vision of a plural market, stimulated and shaped at a local level by local authorities, and with a possible role for Monitor in overseeing social care markets in its 'Vision for Adult Social Care'.

3.12 We assessed the oversight systems and capabilities that exist regarding:

- Whether market oversight is based on a risk assessment and an understanding of market conditions.
- How exits from the market, or provider failures, are managed.
- How entry to the market is facilitated and managed.

Proportionate market oversight

3.13 All the local authorities we visited understood the need for market oversight and had engaged with providers and user groups about what personalisation would mean to them. However, they all agreed that they needed to do more and that progress in developing care markets in their area was patchy. For example, only one of the six authorities visited had carried out its own market analysis to see what type of care services users would like to see provided in future, the amount they would be willing to pay and the likely level of demand.

3.14 The findings from our visits are reflected in national data. As at December 2010, the Association of Directors of Adult Social Services' figures indicated that 12 per cent of local authorities reported that they had not met the Department's April 2010 milestone of finalising commissioning strategies that address the future needs of the local population. Research by the Office of Fair Trading²¹ found social care providers felt that there was a lack of clear strategic direction from local authorities, and a lack of commissioning and procurement skills, which led to market inefficiencies and difficulties in planning. A survey by the Care Providers Alliance in 2010²² of private and not-for-profit providers found that over two-thirds felt that their local authority had insufficient commissioning or market strategies, and did not create forums or networks to include them in the transformation agenda.

3.15 An approach that some local authorities are using, and which others could potentially benefit from, involves the production of a local market position statement. The Institute of Public Care at Oxford Brookes University has developed and refined this approach through their work with the National Market Development Forum (now part of the Think Local Act Personal partnership) and a number of local authorities.

Coping with failure

3.16 Provider failure is a common feature of markets. The risk of going out of business can act as a powerful incentive on providers to continue to perform well. Our visits to local authorities found that the exit or takeover of care home and domiciliary care providers is a feature of local care markets, and normally other providers step in with little or no impact on the care service users. Local authorities have statutory duties in providing care, and would normally step in if a provider exits the local market and is not taken over or replaced by another provider, to ensure continuity of provision.

- 21 'Understanding commissioning behaviours: Commissioning and competition in the public sector', March 2011, A report for the OFT by PWC.
- 22 'Personalising Care: A route map to delivery of care providers', English Community Care Association, 2010.

3.17 Where switching providers is problematic, however, either because of a lack of spare capacity, or the vulnerable nature of users, failure of a provider can be more disruptive and risk poor value for money. Not only are users affected, as they may have no alternative arrangements, but extra cost could accrue to the public purse if users have to be placed with alternative providers – lower in quality, higher in cost, or both – at short notice. The risks were highlighted by the recent financial difficulties faced by Southern Cross, the largest care home provider in the UK (Figure 13).

3.18 Southern Cross had faced financial difficulties for some time, but these intensified in early 2011. All the local authorities that we visited had assessed their own exposure to Southern Cross in terms of the number of residential placements they had with the company. We also found close working with neighbouring authorities to assess the total exposure to Southern Cross at a regional level, and detailed contingency planning to find places in other local homes where spare capacity existed, in case the company failed.

3.19 However, the Department did not have any existing arrangements or strategy for dealing with the potential failure of a provider of this size (Southern Cross, being by far the largest provider in the UK). It managed the situation reactively, as the financial situation facing the company unfolded, with the Association of Directors of Adult Social Services acting as a coordinator on behalf of social services authorities. This is because responsibility for ensuring continuity of care rests at local level, as local authorities are responsible in law for assessing the needs and managing the provision of care for people. Actions may include making arrangements for alternative accommodation, working with other authorities where markets cross local authority boundaries or taking over the running of a home if no alternative provider is available. But unlike some other regulated sectors, there are no other pre-determined continuity of supply arrangements for essential services. Furthermore, there are no mechanisms for monitoring or intervening in markets that cross local authority boundaries. The Government is considering whether Monitor should play a role in overseeing the market in social care, as outlined in the 'Vision for Adult Social Care' document.

Figure 13 Southern Cross

Southern Cross is a large national care home provider, that had 9 per cent of the market nationally, and a much greater market share in certain areas (for example in the North East). In the early 2000s the business was purchased by Blackstone, a private equity house. The company sold and leased back the property portfolio, thereby becoming highly leveraged. Southern Cross has subsequently been unable to absorb lower income associated with lower-than-anticipated occupancy rates.

Source: National Audit Office case study

Encouraging new entry

3.20 New entrants can encourage existing providers to compete more vigorously, introduce innovative new services, and help make the market more dynamic. Our qualitative research found many examples of personal budget users finding new ways to meet their care needs (Figure 14). The Department, the Association of Directors of Adult Social Services and a sectoral working group (the National Market Development Forum) have recognised the need to encourage new entry, and over the last two years have issued advice to local authorities on how this can be achieved.

3.21 Most local authorities we visited had tried to encourage new entry but resources for this work were limited and few new services or providers had emerged. Typical reasons cited for a lack of new entry were:

- Providers struggling to recruit staff to cover isolated and sparsely-populated rural areas.
- High rent costs in some urban areas.
- The challenging nature of care work, often unsocial hours, and relatively low levels of pay.

3.22 We also found examples where there was a shortage of service providers, and local markets were not developing effectively. In particular, authorities were struggling with shortages of personal assistants, as well as care providers for users with very complex needs, and sources of brokerage advice and support services. The Department issued a Personal Assistant Framework in July 2011 to encourage further development of this workforce.

Figure 14 Examples of innovative use of personal budgets

- A mental health service user who found the local authority's traditional service provision did not meet his needs decided to use his personal budget to attend woodwork classes based at a local farm. He has found they have improved his mental well-being, and he is now a regular volunteer at the farm.
- Three people who were living close to each other in a shared house could not individually afford a personal assistant, but were able to do so by combining their budgets thereby avoiding the need to go into a care home.

Source: National Audit Office and Social Care Institute for Excellence: 'Direct payments: answering frequently asked questions'

3.23 Our visits to local authorities did, however, identify some areas where they had been able to stimulate new provision. We found examples of good practice in using small grants, or targeted support to encourage new providers to enter the market to help provide more diversity. For example:

- Subsidising adviser posts in voluntary sector advice and support providers.
- Helping new small providers and social enterprises to enter the market by making local authority tendering and contracting processes more flexible and less burdensome for small providers.
- Providing advice and in some cases limited financial support to help new smallscale care businesses enter the market (Figure 15).

Figure 15 Micro-enterprise development

The National Association of Adult Placement Services (a charity, supported by the Department of Health) has found that start-ups increase provider diversity and increase choice to users, but face significant barriers due to:

- a lack of awareness amongst the relevant professionals of how to set up and sustain social enterprises;
- uneven regulatory burden: some kinds of provision over-regulated, some unregulated and unhelpful
 regulations not designed with social care in mind; and
- procurement rules which limit the choices available for people with managed personal budgets.

The charity works in partnership with a number of local authorities to help support entry by new micro-enterprises. Examples of its work include:

- a service set up by an entrepreneur with Down's syndrome and her personal budget funded personal assistant that offered people with a learning disability dance classes; and
- a local authority which had commissioned an ex-school cook to provide lunches to elderly residents in her block of flats. People pay for the meals with their personal budget. The cook provides a cheaper service than the old Meals on Wheels service that people had stopped using.

Source: National Association of Adult Placement Services

Part Four

Transition and oversight

4.1 The Department has provided £520 million of funding to local authorities during 2008-2011 to help with the transition to a personalised system built around people's individual needs. This Part examines the Department's oversight of the implementation of user choice and competition, and the extent to which good practice is identified and disseminated around the delivery network. It shows that:

- the Department has recognised that local authorities will need to adopt a different role if value for money is to be ensured from user choice and competition;
- the Department has few formal mechanisms over and above legislation, policy advice and the outcomes framework by which to influence how social care is delivered locally. But it worked with the wider social care sector to develop the 'Think Local, Act Personal' partnership launched in April 2011; and
- there is evidence of learning and the spreading of good practice between local authorities, but there are few formal mechanisms to ensure this happens.

Departmental oversight of implementing user choice

4.2 The Department recognised that introducing user choice and competition to the delivery of care means that local authorities need to change their role to one of overseeing and facilitating care markets, rather than delivering or commissioning services directly. The Department provided £520 million to local authorities over three years (2008-09 to 2010-11) to help them enable user choice and control, as well as build community capability to develop and shape the market, and improve information and advice, alongside prevention and early intervention.

4.3 The Department gave local authorities discretion in their use of the grant, but the funding was supported by milestones in five areas against which progress could be measured:

- Effective partnerships with people using services and carers.
- Personal budgets and self-directed support.
- Prevention and cost-effective services.
- Information and advice.
- Local commissioning.

4.4 We found that local authorities had spent the money on a wide variety of activities, ranging from new IT systems, grant funding for local third sector brokerage groups, and workshops on personalisation for frontline staff and providers.

4.5 The Association of Directors of Adult Social Services (ADASS) asked local authorities in December 2010 to project how likely they would be to achieve the milestones by April 2011, since regional reporting structures would no longer be in place after that date. Ninety five per cent of local authorities considered that they would meet the milestones for information and advice, and local commissioning, 93 per cent would meet the milestone for effective partnerships, and 86 per cent that for cost-effective services.

4.6 ADASS reported that the milestone for 30 per cent of eligible users and carers having a personal budget by April 2011 was met nationally by 1 April 2011, although 25 (17 per cent) local authorities projected that they would not. Furthermore, 14 authorities (11 per cent) reported that they had not 'mainstreamed' personal budgets as part of their operational business as usual. In addition, ADASS's analysis of the results indicated that nearly all of the increase in personal budgets in 2010-11 had been in 'managed' personal budgets, with no significant increase in direct payment numbers.

4.7 Despite having policy responsibility for social care, the Department has few formal mechanisms to influence the way care is delivered locally. For example, in evaluating progress of local authorities against the milestones, the Department had to rely on self assessment reporting by local authorities and regional information from the Department's Deputy Regional Directors. However, the Department helped establish the 'Think Local, Act Personal' partnership with the social care sector in April 2011, which comprises over 30 organisations from the sector to lead delivery of the personalisation agenda.

Spreading good practice and learning

4.8 We found a number of good practices in the implementation of user choice and competition during our visits to local authorities (Figure 16).

Figure 16

Examples of good practice in implementing user choice and competition

- One local authority we interviewed had set up a pre-payment card scheme in conjunction with a leading bank. This made it easier for the user and the local authority to monitor spending on the personal budget, and, along with changes to simplify the personal budget contract had led to a considerable increase in the number of users opting to take up a direct payment.
- One local authority we visited had set up a peer mentoring and brokerage scheme where existing
 personal budgets users got together with new users who had similar assessed care needs to share their
 experience and consider effective ways of using their budget and to find suitable providers and services.

Source: National Audit Office

4.9 A number of authorities have joined together to spread the costs and share the benefits of implementing user choice. The best example we found was the development by a number of authorities of a web-based IT system to meet a gap in the information needs of users and of front-line staff. The system is designed to act as an online marketplace in care services, where providers and individuals can advertise new services, and users can show an interest in a service that currently is not available.

4.10 However, we found wide variations in the support and processes across authorities, and we found that good practice was not shared widely. For example, In Control's survey of personal budget holders found that the percentage of users receiving help in support planning from the council ranged from 38 per cent to 85 per cent. Furthermore, our qualitative research found that those users who received support from an authority that had piloted using personal budgets were much more likely to be positive about their experience than those of authorities that had not been in the pilot. This suggests that there is much more scope for identifying and disseminating best practice as the roll-out of personal budgets takes place more widely.

Appendix One

Methodology

Selected Method

1 Qualitative research of personal budget users

We used a stratified sample of personal budget users across six different local authorities. We covered users' views on whether personal budgets were enabling them to meet their care outcomes, the issues they faced in using their budgets, and the level of support from their local authority.

2 Stakeholder Consultation

We took views from a wide range of stakeholders covering public, private and third sector providers, academics, and leading commentators on social care.

3 Literature Review

We reviewed the extensive literature on personal budgets and user choice in public services.

4 Semi-structured Interviews

We interviewed the adult social care professional leads of ten English local authorities, the Department of Health, and social workers.

5 Financial Analysis

We modelled future care costs for people in a variety of scenarios and the projected liability for people who run out of money and fall back on the state.

Purpose

To understand how users exercise choice, manage their budget, and the outcomes achieved.

To obtain stakeholders' views on the opportunities and challenges associated with personal budgets for users, providers and local authorities.

To understand the value for money issues when market mechanisms are used for delivering public services.

To understand their experience of implementing personal budgets in their areas, the challenges and their progress to date.

To illustrate the potential costs incurred by private individuals and the state.



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