The policies and procedure database holds the most recent and approved version of this policy or guidance. Staff must ensure they are using the most recent guidance.

**RELATED REFERENCE DOCUMENTATION:**

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<td>SUPPORT PLANNING &amp; VALIDATION POLICY</td>
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<td>Prepared By</td>
<td>Michelle Bailey, Individual Budgets and Development Manager</td>
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<td>DMT</td>
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**Change Record**

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**Summary of changes made to last approved version**

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### Equality and Diversity

The **Equality Act 2010** seeks equal opportunities in the workplace and in wider society; and prohibits discrimination on the grounds of any of the following protected characteristics in relation to goods, services and employee protection;

- Age
- Disability
- Gender Reassignment
- Race
- Pregnancy/maternity
- Marriage/civil partnership
- Religion and Belief
- Sexual orientation
- Gender

The Equality Act aims, and in particular its General Duties, applies across the council and to any organisation delivering services on a contractual, commissioned or voluntary basis on behalf of the Council. Although our legal duties relate to equality, our approach in Luton extends to the promotion of community cohesion and social inclusion. Our commitment to social justice goes beyond anti-discrimination to include fairness of treatment, dignity and respect.

**Feedback:**

Our customers expect first class service and we aim to provide it. We therefore welcome feedback about our policies and procedures. If you have any comments about this document please e-mail: RPRComplaints@luton.gov.uk or author or other as agreed.
### Contents

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**Appendix 1: Wellbeing Principle**
Personal Budget Policy

1. Introduction

1.1. National and local policy context

1.2. Luton Borough Council (LBC) Adult Social care (ASC) has a statutory duty to assess any adult or carer who appears to have needs for care and support and to ensure that their eligible assessed unmet needs are met. Care Act 2014, sections 9 & 10.

1.3. Under the Care Act 2014, everyone whose eligible assessed unmet needs are met by the Council must receive a personal budget as part of the support plan.

1.4. The personal budget represents the public money that the Council would have to spend in order to meet the person’s assessed, eligible needs, where those needs cannot be met from the person’s own assets or informal sources of support from within the community.

1.5. The personal budget, in conjunction with the support plan enables the person to exercise greater choice and take control over how their care and support needs are met.

1.6. The legislative context for personal budgets is set out in the Care Act 2014, sections 26 & 28. The Care and Support Statutory Guidance 2014 (Chapter 11) sets out how the local authorities should go about performing its care and support responsibilities.

1.7. Guiding Principles

1.7.1. The policy aims to promote the independence, health and wellbeing of service users and carers by providing them with greater choice over how they use their allocated funds and how they choose to control their personal budget.

1.7.2. It means: knowing how much money will be available to meet a person’s eligible assessed unmet needs, both before support planning begins and after the support plan is agreed. This includes how much the local authority will pay and how much the person will contribute.

1.7.3. Luton Borough Council has demonstrated commitment to personalisation by signing up to Making it Real. Our goal is that people with eligible needs for care and support, both adults and carers have access to personal budgets and direct payments and can determine the support they need and when and how they receive it.
1.7.4 The Council is committed to providing person centred support and services to improve the outcomes of service users and carers.

2. The personal budget

2.1. Everyone whose eligible unmet needs are met by the Council must receive a personal budget as part of their support plan.

2.2. The personal budget is the money that is allocated to meet the eligible unmet needs identified in the assessment and recorded in an approved support plan. It excludes any needs that will be met by a carer or through other sources of support.

2.3. At all times the wishes of the person must be considered and respected.

2.4. The method of allocating the personal budget should be decided and agreed during the care and support planning process.

2.5. The amount is based upon the rates that the council would have to pay to secure that support. The council is not obliged to pay more than that rate.

2.6. The indicative amount must be shared with the person at the start of the support planning process.

2.7. The detail of how the budget will be used is set out in the support plan and the final amount is agreed through development and sign off of the plan.

2.8. The personal budget must be a sufficient amount to meet the persons’ eligible unmet care and support needs and must reflect the cost to the council of meeting the needs that the council is under a duty to meet.

2.9. The Council will be entitled to reduce the initial amount of the indicative budget if it is deemed the level of need has changed.

2.10. Individuals will be required to undertake a financial assessment to establish whether they will be required to make a financial contribution towards the cost of meeting their eligible assessed needs.

2.11. The personal budget must show the amount the person must pay, following a financial assessment. The remainder of the budget will be paid by the Council.

2.12. The personal budget may also set out other public funds or benefits that the person is receiving, such as a personal health budget, if the person wants to present their budget in this way.
2.13. The regulations set out the cases or circumstances where costs of meeting needs of care and support do not have to be incorporated into the personal budget.

3. **Calculating the personal budget**

3.1. The process used to establish the personal budget must be transparent so that people are clear how their budget was calculated and the method used is robust, so that people have confidence that the personal budget allocation is correct and sufficient to meet their eligible unmet care and support needs.

3.2. A robust assessment of the individual’s eligible assessed unmet needs for care and support from the Council provides the evidence for calculating the individual’s personal budget. The *Assessment and Eligibility Policy* covers this element of the process.

3.3. The points or units of eligible assessed unmet need will be converted into an estimated budget. This is done by multiplying the points or units by an agreed rate.

3.4. The rates used are based on the cost of meeting eligible support needs, having regard to the available Council resources.

3.5 **Resource Allocation System**

3.5.1 Luton Borough Council’s resource allocation system (RAS) calculates an estimate of the amount of resource required to meet eligible unmet needs. This allocation system provides the individual with an indicative personal budget to guide the development of their support plan.

3.5.2 The purpose of the RAS is to provide an equitable and transparent way of allocating resources.

3.5.3 Individuals will be provided with an indicative personal budget - an estimate of the amount required - at the start of the support planning process. This will enable the person to plan how their eligible needs will be met.

3.5.4 The indicative budget amount will be adjusted based on decisions made during the development of the support plan to be the final amount of the personal budget recorded in the plan. It may go up as well as down.

3.5.5 Under the Care Act, the personal budget must be sufficient to meet the person’s needs that have been assessed as eligible and are not being met by a carer or other source of support.
3.5.6 The personal budget must be an amount equivalent to the cost to the local authority of meeting the person’s eligible unmet needs. The personal budget must reflect local market intelligence and the costs of local quality provision to ensure that care appropriate to meet people’s needs can be obtained for the amount specified in the budget. Where someone wishes to use a service or type of support to meet an eligible need that costs more than the Council would normally pay to meet that type of need, they are free to do so but will be expected to cover the difference themselves.

3.6 Exceptions

3.6.1. Complex cases that involve a high level of eligible unmet need will require careful consideration to ensure that the person’s eligible unmet needs are met appropriately. These cases are likely to reach the maximum threshold in the RAS and should be treated as an exception.

3.6.2 This does not mean the Council will not fund support above this threshold as the council’s statutory duty to meet the individual's eligible unmet needs remain. However these complex exceptional cases will need to be referred to the Council’s Resource Allocation Panel for discussion. The framework and process is set out in the Resource Allocation Policy.

3.7 Support Plan

3.7.1 During the support planning process, individuals will be given an indicative personal budget – an estimated amount – to assist them in planning their support. Once the support plan is validated, the amount of the personal budget will be confirmed and the individual can use the money to meet their eligible assessed unmet care and support needs.

3.8 Validations

3.8.1 The Council must be satisfied that the support plan will meet the individual’s assessed eligible needs in order to confirm the final amount of the personal budget, taking into account of any needs that will be met by a carer or through other sources of support.

3.8.2 The support plan will provide the evidence to establish the true cost of meeting that individual’s eligible assessed needs.

3.8.3 No money will be released to the individual until a validated support plan is in place. The Support Planning, Review and Validation Policy covers this element of the process.

3.8.4 People need to know the amount of their budget, be able to choose how it is managed, and have maximum flexibility in how it is used to achieve the best outcomes.
3.9  **Top Ups**

3.9.1 A “top-up” is where a person or a third party on their behalf makes an additional payment to secure a service of their choice. If this costs more than the council would pay for such care, the top up does not form part of the personal budget.

3.9.2 The sufficiency top up will be recorded on the person’s care and support plan.

3.10  **Review**

3.10.2 The personal budget will be reviewed along with the support plan on an annual basis or sooner if circumstances change. Refer to the *Support Planning and Review Policy*

3.10.3 If there is a surplus in direct payment accounts of more than 6 weeks money this must be returned to the council and the personal budget adjusted for the following year. The same level of support can still be provided often with a reduction in personal budget. The worker must ensure eligible unmet needs and contingencies are still met.

4  **Delivery and Use of the personal budget**

4.1. A person may choose to take their personal budget in a number of ways. These are:

- **Direct Payment** - Cash payments in lieu of services. The person takes the personal budget as a cash payment and arranges their support in line with the agreed support plan

- **Managed Services** – Commissioned care, the personal budget is held by the Council with support provided in line with the person’s wishes.

- **Individual Service Fund (ISF)** – The personal budget is held by a third party who manages it on the person’s behalf and arranges support in line with the person’s wishes. Eg: a trust fund or nominated lead provider. (The Council is currently exploring this option).

  Or a combination of these options.

4.2. A person may choose a mixed package which includes some or all of the three delivery methods.

4.3. The decision in how the budget will be used must be recorded in the support plan.
4.4. Intermediate care services, including reablement must be excluded from the personal budget.

4.5. **Direct Payments**

4.5.1. Direct payments are the preferred means of delivering allocated resources to service users and carers within the Self Directed Support (SDS) model. The framework for direct payments under SDS and the support available to obtain them is set out in the *Direct Payments policy*.

4.5.2. The Council must inform the person which of their assessed eligible needs could be met through provision of a direct payment at the start of the support planning process.

4.5.3. Direct payments must be used to meet the assessed eligible unmet needs of the person, in line with their validated support plan and personal budget agreement. Payment and use of direct payments must also be in accordance with requirements set down in relevant legislation and regulations. Further guidance on permitted and prohibited uses of direct payments can be found in the *Direct Payments Policy*.

4.5.4. If a person chooses a direct payment, they will assume responsibility for organising and managing their own care in line with the agreed support plan. LBC will no longer be responsible for the direction or day to day organisation of these services.

4.5.5. The Council will review care needs to ensure they are being met by any services chosen by the individual. The council reserves the right to request alternative support if it is felt that the services do not meet the individuals assessed need and does not keep them safe and well.

4.6. **Carers Personal Budget**

4.6.1. The budget must be an amount that enables the carer to meet their eligible assessed carer’s personal unmet needs and help them continue to fulfil their caring role and takes into account the outcomes that the carer wishes to achieve in their daily life.

4.6.2. It can include their wishes in relation to employment, education, training or recreation as well as funding for replacement care to allow the carer to take a break to maintain their physical, mental or emotional wellbeing.

4.6.3. Under the Care Act, a carer’s need for support can be met by providing care to the person they care for.

4.6.4. Decisions on which services are provided for the carer and which services are provided for the person they care for will have implications for whether a service is chargeable and who has to pay.
4.6.5. Where the adult being cared for does not have eligible assessed unmet needs, so does not have their own personal budget or care and support plan, the carer must still receive a support plan which covers their needs and how they will be met and a personal budget.

4.6.6. The Council will consider a joint support plan and personal budget for an adult and their carer where their eligible unmet needs can be met concurrently, if both parties agree.

5. **Audit and monitoring**

5.1 **Audit and monitoring requirements**

5.1.1 The deployment of personal budgets will be monitored and audited by the council.

5.1.2 The auditing and monitoring of personal budgets will be proportionate and risk based.

5.1.3 Auditing and monitoring will focus on outcomes as identified in the support plan and Personal Budget Agreement.

5.1.4 It will provide assurance to both the Council and to the individual that funds are being used effectively in accordance with approved support plans.

5.2 **Misuse and fraud**

5.2.1 It is a requirement that personal budgets are used to meet the assessed eligible unmet needs of the individual, in accordance with any conditions imposed in the validated support plan and/or Personal Budget Agreement and relevant policy and guidance.

5.2.2 In cases of misuse or fraud relating to the personal budget or direct payment, LBC will take action to recover all or part of the monies where appropriate. In serious cases, the individual may no longer be eligible for a direct payment in the future.

5.3 **Suspension and termination of personal budgets and direct payments**

5.3.2 The Council may terminate a personal budget and/or direct payment if they believe that the recipient is no longer in need of the service, in line with a review against the Eligibility Criteria.

5.3.3 The Council retains the option of taking over the management of the individual’s care and support arrangements either at the individual’s
request or in the light of a change in circumstances. This may be necessary if the individual is no longer able to manage their direct payment; is admitted to hospital for a significant period or it is in their best interests, in line with Mental Capacity Act criteria.

5.3.4 The Council must ensure there is no gap in the provision of care support. In such cases the council will initiate a review of the individual's needs which will include a review of the Personal Budget arrangements. The Council will have due regard for any contractual obligations on the part of the individual and the promotion of continuity of support arrangements.

5.4 Disputes

5.4.1 Individuals have the right to challenge the council on the sufficiency of the indicative personal budget or the final amount. Any disputes in relation to the allocation or provision of personal budgets will be subject to LBC’s statutory complaints process.
Wellbeing Principle
The Council has a duty to promote the wellbeing of the individual, particularly when carrying out any care and support functions and making decisions in relation to them. The wellbeing principle underpins the whole of the Care Act and its associated regulations and guidance. It applies to adults, carers and, in some circumstances, to children in transition, their carers and to young carers. The wellbeing principle applies equally to people who do not have eligible needs if they come into contact with the care system. Commissioners of new services will also need to incorporate/reflect the wellbeing principle in new services which are developed and commissioned.

Definition
The Care Act recognises that ‘Wellbeing’ is a broad concept and describes it as relating to the following nine areas in particular:

- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional wellbeing;
- Protection from abuse and neglect;
- Control by the individual over day to day life (including over care and/or support provided and the way it is provided);
- Participation in work, education, training or recreation;
- Social and economic wellbeing;
- Domestic, family and personal relationships;
- Suitability of living accommodation;
- The individual’s contribution to society.

Promoting wellbeing
Promoting wellbeing means actively seeking improvement in the aspects of wellbeing described above when carrying out a care and support function in relation to an individual. This applies at any stage of the process. It is not always about the Council directly meeting needs, but includes a focus on providing information and advice to delay and prevent needs from developing and support people to live as independently as possible for as long as possible. There is no set approach. Promoting wellbeing will depend on the individual’s needs, goals and wishes. The Council should consider each person’s case on its own merits, based upon what the person wants to achieve and how the Council’s actions will affect their wellbeing.

All the nine aspects of wellbeing are of equal importance. However it is likely that some aspects will be more relevant to one person than another. The Council should adopt a flexible person centred approach that focuses on those aspects that matter most to the person concerned.
In addition to the wellbeing principle, the Care Act sets out a number of other key principles which local authorities must have regard to when carrying out the same activities or functions.

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<th>Key Principle</th>
<th>Interpretation from the Care Act Guidance</th>
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<td>The importance of beginning with the assumption that the individual is best placed to judge the individual’s wellbeing;</td>
<td>Building on the principles of the Mental Capacity Act, the local authority should assume that the person themselves knows best their own outcomes, goals and wellbeing and assumptions should not be made.</td>
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<td>The individual’s views, wishes, feelings and beliefs;</td>
<td>Considering the person’s views and wishes is critical to a person-centred system. Where particular views, feelings or beliefs (including religious beliefs) impact on the choices that a person may wish to make about their care, these should be taken into account. This is especially important where a person has expressed views in the past, but no longer has capacity to make decisions themselves.</td>
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<td>The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist</td>
<td>At every interaction with a person, the Council should consider whether or how the person’s needs could be reduced or other needs could be delayed from arising. Effective interventions at the right time can stop needs from escalating, and help people maintain their independence for longer.</td>
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<td>The need to ensure that decisions are made having regard to all the individual’s circumstances</td>
<td>Decisions should not be based only on their age, appearance, any condition they have or aspects of behaviour which might lead to unjustified assumptions. Local authorities should not make judgments based on preconceptions about the person’s circumstances, but should in every case work to understand their individual needs and goals.</td>
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<td>The importance of the individual participating as fully as possible</td>
<td>By being provided with the information and support necessary to enable the individual to participate. Care and support should be personal, and local authorities should not make decisions.</td>
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<td>The importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual</td>
<td>People should be considered in the context of their families and support networks, not just as isolated individuals with needs. Local authorities should take into account the impact of an individual's need on those who support them, and take steps to help others access information or support.</td>
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<td>The need to protect people from abuse and neglect</td>
<td>In any activity which a local authority undertakes, it should consider how to ensure that the person is and remains protected from abuse or neglect. This is not confined only to safeguarding issues, but should be a general principle applied in every case.</td>
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<tr>
<td>The need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised</td>
<td>Where the local authority has to take actions which restrict rights or freedoms, they should ensure that the course followed is the least restrictive necessary.</td>
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Neither these principles nor the requirement to promote wellbeing require the Council to make a specific decision or undertake a particular action. The steps the Council should take will depend entirely on the circumstances of each case, having regard to these principles, for the purpose of setting common expectations for how the Council should approach and engage with people.