



Department
of Health

directors of
adass
adult social services

Local
Government
Association

Supporting implementation of the Care Act 2014

Practice guidance to support Local Authorities to facilitate access to independent financial information and advice under the Care Act 2014

March 2015

About the Care and Support Reform programme

The Care Act represents the most significant reform of care and support in more than 60 years. It aims to create a modern system that focuses on preventing people from needing care and support and that puts them in control of their lives.

In partnership with the Association of Directors of Adult Social Services and the Local Government Association, the Department of Health has commissioned a range of resources to support councils and those providing care with making these reforms a reality.

Each resource is being developed in response to needs identified by those responsible for commissioning and providing care. This suite of materials includes practical tools, best practice standards and frameworks and learning and development resources.

To find out more, visit www.local.gov.uk/care-support-reform.

This practice guidance has been produced for the programme by SVARfair Ltd.

Practice guidance to support Local Authorities to facilitate access to independent financial Information and Advice

This practice guidance has been developed to help local authorities meet their duty to facilitate access to independent financial information and advice under the Care Act 2014. It covers what is expected of the local authority, the role of financial information and advice, how to provide it, to whom and how to help people may benefit. It also addresses some common barriers and perceived risks and gives some examples of existing practice.

In meeting this duty under the Act, local authorities are expected to understand, co-ordinate and make effective use of other statutory, voluntary and/or private sector information and advice resources available within their local area and nationally. The statutory guidance requires local authorities to ensure that information and advice is given at an early stage so that people can plan and make the best informed decisions for their particular circumstances.

Some local authorities may have had limited past experience of offering a financial Information and advice service and will be looking for examples of what has worked for other local authorities. In particular, experience of working with regulated financial advisers. Many local authorities, especially those who have historically had a greater number of people self funding care in their area, may already have processes in place to signpost or support people's access to regulated financial advice. Examples of this and illustrative case studies are used throughout this document along with a range of existing practice.

A wealth of resources has been produced to support the implementation of the Care Act 2014 and these are referenced where they add additional practical perspectives on developing an information and advice service.

This practice guidance reproduces sections of the statutory guidance for the Care Act where necessary to bring out points of particular relevance to financial information and advice, but it does not replace the statutory guidance and as such it does not negate the need to refer to the statutory guidance and the Care Act itself. Where the statutory guidance is quoted, this will be in italics and the paragraph referenced. Links to other materials to support implementation of the Care Act, are also provided in each chapter. Anything underlined is hyperlinked to further sources and applicable references.

Particular attention is drawn to the following regulations when using this document:

Care Act 2014
Data Protection Act 1998
Equality Act 2010
Financial Services Act 2012
Mental Capacity Act 2005
Privacy and Electronic Communications Regulations 2003

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Part 1 - Defining financial information and advice

Key points in this section cover:

- Definitions
- What financial information and advice includes
- What 'independent' from the local authority means
- Regulated financial advice
- How financial advisers are qualified and regulated

Definitions

1.1 Information and Advice

Chapter 3 of the Care and Support statutory guidance defines Information and Advice as:

'Information' means the communication of knowledge and facts regarding care and support

'Advice' means helping a person to identify choices and/or providing an opinion or recommendation regarding a course of action in relation to care and support. 3.8

1.2 Independent financial information and advice

The statutory guidance states that *where it would not be appropriate for a local authority to provide it directly, the local authority must ensure that people are helped to understand how to access independent financial advice 3.38*

Independent means independent of the local authority and will be reflected in the way the financial information and advice service is provided. These services could be provided by through partners such as charities, voluntary sector organisations, and commercial organisations¹.

Financial information and advice can help people manage their money, regardless of how much they may have. Helping people to understand the financial implications of having care and support needs might include help with completing benefit applications, debt advice and money management/budgeting. The local authority should ensure that people in their area are able to access all of the types of financial information and advice which can help people manage their finances and pay for their care.

It's important to ensure that the advice offered is appropriate and proportionate to every individuals needs and is clear as to what type of financial advice is needed. In particular where a person is expected to pay for financial advice, the specific benefits should be explained.

1.3 Unregulated Financial Advice

Examples of unregulated financial information and advice might include a commissioned service that where appropriate offers or signposts to regulated financial advice, a national resource such as a free advice line, factsheets produced by a charity, an online budgeting tool or a local citizen's advice

¹ Statutory guidance paragraph 3.36 up to and including 3.50/3.51 which particularly relates to independent financial advice

bureau.

1.4 Regulated Financial Advice

Some financial advice can only be given by providers regulated by the Financial Conduct Authority (FCA) this is called regulated financial advice.

The statutory guidance states when a local authority identifies that a person may benefit from regulated advice then - *Local Authorities should actively help and direct a person to a choice of financial advisers regulated by the Financial Conduct Authority (FCA) with the appropriate qualifications and accreditation.*
3.51

An independent financial adviser can enable people to make well informed choices about how to pay for their care and plan for the present and future.²

Regulated financial advisers must meet standards set out by the Financial Conduct Authority (FCA) their regulator in the FCA Handbook of Rules and Guidance. Depending on their qualifications and permissions they can advise on, recommend and arrange financial products and services, which may include;

- Funding for Care Home fees
- Funding for care in your own home
- Equity release and other property options including deferred payment agreements
- Retirement Planning
- Savings and investment planning
- Tax matters and estate/wealth planning

ONLY regulated financial advisers can give **REGULATED** financial advice and recommend regulated financial products. It is important the local authority do not to stray into areas when describing the benefits of financial advice that could be construed as giving such advice (see section 3.3 for examples). Unregulated information and advice providers will need to understand the boundaries of advice that they can give; thereby directing people to specialist regulated financial advice where appropriate.

Examples of different types of financial information and advice	
Unregulated	Regulated
<ul style="list-style-type: none">• Welfare Benefits	<ul style="list-style-type: none">• Care Fees planning
<ul style="list-style-type: none">• NHS Care Funding	<ul style="list-style-type: none">• Tax Planning
<ul style="list-style-type: none">• Budgeting	<ul style="list-style-type: none">• Pensions/Pension Transfers
<ul style="list-style-type: none">• Local Authority Care Funding	<ul style="list-style-type: none">• Financial Planning
<ul style="list-style-type: none">• Housing Options	<ul style="list-style-type: none">• Investments/Savings

² Skills for Care Handout on Financial Information and Advice

• Deferred Payment Agreements	• Wealth Management
• Understanding Ways to pay	• Equity Release
• Money Management	• Mortgages
• Understanding Care Charges	• Property Options
• Debt Management	• Health/Life Insurances

Qualifications

All regulated financial advisers must have a level 4 financial planning qualification and hold a Statement of Professional Standing (SPS). However, not all FCA-regulated advisers will have an in-depth understanding of the care and support system unless they have chosen to specialise in this area of advice.

Where an adviser chooses to specialise, then specific additional regulatory qualifications and permissions from the FCA are required. This is the case for advising on long term care insurance and care fees planning and other areas such as equity release advice. These require the adviser to have additional examinations such as a certificate in long-term care insurance, CeLTCl, CF8, and for equity release ER1 and CeRER. A list of the qualifications that a regulated financial adviser must have depending on the areas they advise on and can be found on the FCA's website³.

It is also important to note that not all regulated advisers have training or will necessarily have an understanding with regard to the Mental Capacity Act 2005. The FCA makes reference to the MCA and related guidance only in relation to debt and regulated credit advice.⁴ Good practice might be to ensure any regulated advisers within an information and advice service have a good understanding of the impact of the Mental Capacity Act 2005⁵.

Accreditation

Accreditation is not a mandatory requirement of the FCA in order for a regulated financial adviser to give advice. Accreditation relates to an individual adviser not a financial services firm and should be seen as an added layer of quality assurance, provided by a recognised organisation and help to identify those regulated financial advisers who have made a voluntary commitment to higher standards. The quality assurance required in the statutory guidance is that the accreditation is appropriate. This means looking at whether advisers are signed up to any scheme or organisation that demonstrates that their ongoing knowledge, skills and experience are beyond the minimum regulatory requirements in the areas relevant to care and support.

³ <http://fshandbook.info/FS/html/handbook/TC/App/4/1>

⁴ <http://fshandbook.info/FS/html/FCA/CONC/2/10>

⁵ See part 5

Part 2 - Identifying those who would benefit from independent financial information and advice

Key points in this section cover:

- Factors that may determine who would benefit from independent financial information and advice
- How changes in circumstances can be a trigger when identifying when people may benefit from independent financial information and advice
- Examples of various customer journeys and profile types
- Cases that illustrate who might benefit from accessing independent financial information and advice

The statutory guidance states that the:

duty to establish and maintain an information and advice service relates to the whole population of the local authority area, not just those with care and support needs or in some other way already known to the system.

3.3

There are national resources and tools⁶ available to assist in identifying those that may need financial information and advice, including those who would benefit from access to regulated financial information and advice.

2.1 Factors that may determine those who would benefit from independent financial information and advice

Most people's lives follow a path of 'life stages', some of which are common. However unexpected events happen and often cannot be planned for. These stages or events may influence the need for independent financial information and advice.

Identifying the staff and agencies that could play a particular role in identifying those who would benefit from information and advice is important. These might include first contact staff, front line social work and hospital teams, voluntary sector providers of information and advice, local authority finance teams and care providers. Local authorities then need to ensure these teams are aware of and can explain the benefits of financial information and advice and are clear on the pathways to help people to access it.

Often people make contact when their circumstances change and this may provide opportunities to identify and engage with people who would benefit from financial information and advice. Developing specific information and advice materials relevant to care and support needs would be useful. An example of this might be providing an information pack for someone being discharged from hospital or helping registrars to signpost to the service when someone is registering a death.

Annex C includes some examples of key trigger/crisis points for changes in a person's life and possible indications of a need for financial information and advice. Many of these are set out in the statutory guidance as areas that the local authority should consider in providing their service. Examples include moving into permanent care, becoming a carer and trying to balance a caring role with work or other responsibilities, losing a loved one, facing a disability or illness.

⁶ see Appendix I

2.2 Customer journey and profile types

In identifying someone's need for financial information and advice it is important to recognise that no one's circumstances will be the same. The various starting points on a person's journey will affect what is required and should influence the way a financial information and advice service is set up.

The following groups in particular are likely to need independent financial information and advice:

- those individuals and families paying for care (self-funders)
- people affected by the care cap (when it is introduced in 2016)
- informal / unpaid carers
- people accessing preventative services
- people considering a deferred payment agreement
- someone paying a top up fee or entering into a financial agreement
- those making decisions on behalf of another person.

People may also benefit from and seek financial information and advice relevant to care and support when they are planning for their retirement, making decisions about their pensions or purchasing products like life or health insurance.

Profile types

Those requiring information and advice could be anywhere along their journey and often fall into one of two categories;

a) Information and advice seekers who might need a specific piece of information or advice or a response to a research type of enquiry

People in this group might be dealt with on a reactive basis such as a request on a specific question or topic; this may well lead to other queries or may be fulfilled with web based information, a printed leaflet and/or audio information. Helping a person to access further information, advice or support may also be appropriate.

b) Complex requirement for information and advice that needs a more managed ongoing and targeted approach

People in this group may be faced with complicated financial decisions, often at a time of crisis. Sometimes several people are involved, trying to: organise care, arrange a move, sell a property, and gather information and advice from several agencies.

This group may need a more targeted approach such as providing 'bite sized chunks' of information giving opportunity to deal with one thing at a time and the ability to come back for more help later on, as a step by step approach.

2.3 Cases illustrating when people may benefit from accessing independent financial information and advice

The self-funder

Jean is caring for her husband Jack who has been diagnosed with Dementia. She is his main carer and has some help for 5 days a week which they pay for. Jack has £200,000 of his own savings and does not qualify for any financial support from the local authority. The couple also pay for Jack to attend a day centre twice a week which gives Jean a break too. In total, they are spending over £2000 per month on care.

Jean is concerned that their money is being used up quickly and is starting to worry about what she will do if it runs out. The local authority should help Jean access information and advice to help her to work through her concerns and put a plan in place to meet Jack's needs for the future. A regulated financial adviser could then help them look at their options for housing and ways of paying for Jack's care.

Selling the family home and legacy worries

Mr and Mrs Smith are in their late 80's and still living in the large house where they raised their family. They still manage to get out and about, but as their health deteriorates they are finding it harder maintain the house and garden. They have been thinking about whether to move, either to a smaller house or to live with their son and his wife. They worry though about the repercussions of making such life changing decisions at their age. If they moved to their sons' house they would need to fund an extension where they could live independently. They want to be able to leave an inheritance to their grandchildren and are worried that if they need to move into a care home later on, this would use up their savings. Equally if they lived with their son, they fear they might become a burden on the family. Paying for their care as well as leaving an inheritance to their family are their main concerns. In this situation Mr and Mrs Smith could potentially benefit from regulated financial advice on their housing choices, paying for care and leaving an inheritance.

Care options at home

Ken's health is deteriorating but he is very keen to remain in his own home with paid carers who call on him twice a day. Ken feels lonely. He used to attend a day centre and a local church on a weekly basis but is no longer able to make the journey and is also now struggling to maintain his large garden. His monthly costs for care total around £800 and he is concerned that if he stays in his own home his money will eventually run out. He has been considering selling his house to pay for care and knows of a local residential home where he knows a couple of people but ideally he wants to stay put. The local authority could help access help to find a volunteer gardener which would save him some money and perhaps membership of dial-a-ride to get him to the day centre. Facilitating access to financial information and advice could help him to claim any benefits he may be entitled to. As in Ken's case, financial information and advice (not necessarily regulated financial advice) can help people stay at home if this is what they want. The local authority here have a role in helping Ken to get the financial information and advice he needs to plan how he will continue to pay for his care at home

Part 3 - Facilitating access to independent financial information and advice

Key points covered include:

- Facilitating access
- National initiatives that may drive people to seek financial and information advice from a local authority
- Actively describing the benefits of independent information and advice
- Making financial information and advice accessible
- Directing to regulated advice
- Seeking financial information and advice for others

3.1 Facilitating access to independent financial information and advice

The statutory guidance states *that 'Facilitating Access' may include:*

- *making people aware of specific sources of information and advice that are available and giving information about how to use them.*
- *making people aware which independent services may charge for the information and advice they provide.*
- *being able to actively describe the general benefits of independent information and advice and*
- *being able to explain the reasons why it may be beneficial for a person to take independent financial advice based on what is known of their circumstances to an individual. 3.50*

Ways of making people aware of sources of information and advice might include:

- Face to Face care advice clinics/events/seminars
- Developing signposting/referral procedures, training and monitoring for effectiveness
- Local awareness raising including for example; leaflets, posters, parish magazines adverts, inserts into applications for blue badge and other correspondence.
- On-line explanations and detail, which provide contact details of a choice of advisers available locally.
- Targeted information on accessing financial information and advice could be provided as an attachment to a care and support plan, when a person is opening a care account or at care home admission and hospital discharge

Facilitating access to regulated financial advice

Some people may benefit from access to regulated financial advice. Where this is the case the statutory guidance makes clear that making a direct referral to a single regulated financial adviser is NOT a requirement, but, where appropriate, local authorities *should actively help and direct a person to a choice of advisers regulated by the Financial Conduct Authority (FCA) with the 'appropriate qualifications and accreditation'* 3.51.

3.2 National initiatives that may drive people to seek financial information and advice

The Department of Health (DH) in partnership with Public Health England (PHE) developed a public information campaign to promote what is changing to people and to support local councils in their implementation of the Care Act. A suite of flexible campaign materials and tools has been developed for

local authorities to assist them in communicating about the reforms with their local communities and can be found on the PHE campaign resource centre⁷.

The Government has introduced wide ranging pension reforms from April 2015. The new pension options introduced through these reforms means that those with defined contribution pensions can access their money more flexibly. People will need to understand how decisions they make about their pension income may affect their choices and entitlement to means tested support should they need care and support as they grow older. The Pension Wise service has been established to provide free and impartial guidance to help people understand their options⁸.

3.3 Describing the benefits of financial information and advice

To describe the benefits of financial advice requires an understanding of what this may involve and why it may be appropriate. It also requires an understanding of when paid for regulated financial advice might be required in addition to free information and advice sources.

The ways someone might benefit from receiving financial information and advice may include:

- Making a fully informed decision by accessing the right advice at the right time
- Help with navigating a complex care funding system
- Widening choice by understanding how income and assets can be used flexibly to fund a range of care options
- Ensuring continuity of care by making sustainable and affordable financial decisions at an early stage

Describing the advantages of taking regulated financial information and advice

Some people may benefit from regulated financial advice to help them make well informed choices about how to pay for their care.

- **Example;** *“Talking to a regulated financial adviser may help you to choose an option that allows you to stay in your own home for longer or help you to afford the care of your choice.”*
- **Example;** *“I’m very sorry but I can’t advise you on equity release, you will need to speak with a specialist regulated financial adviser to help with that, they will be able to explain all of your options“*
- **Example;** *“A regulated financial adviser would be able to advise you as to how renting out your home may affect your taxation status.”*

Identifying circumstances when independent financial advice might be considered

The statutory guidance states *that the local authority should consider a person’s need for financial information and advice when they make first contact with the local authority as well as throughout the assessment, care and support planning and review processes.* 3.39

Using frequently asked questions

⁷ <http://campaigns.dh.gov.uk/2014/12/30/care-support-public-information-campaign-materials>

⁸ <https://www.pensionwise.gov.uk>

Frequently asked questions can be useful to highlight a need for financial information and advice. The following might indicate where financial information and advice including regulated financial advice may be appropriate, if they or the person they are enquiring about is already or will be;

- Arranging/paying for care privately, part self-funding/full cost payer
- Considering permanent placement in a care home
- Asking for advice on options of paying for care
- Asking for information and advice on how to pay for care and support
- Asking for advice on choosing/increasing care or support
- Worried about how long their money will last should they need long term care
- Looking for help to arrange care or choose a placement
- Entering into a financial contract for example top ups, deferred payment agreement
- Requesting financial information and advice

Examples:

Deferred Payment Agreements (DPA)

The statutory guidance states that if an authority identifies someone who may benefit from or be eligible for a DPA or a person approaches them for information, the local authority must tell them about the DPA scheme, any charges involved and how it works and suggest that people may want to consider taking independent financial advice (including flagging the existence of regulated financial advice). Where a person is initially accommodated under the 12-week property disregard, the information should be given and arrangements made during this 12-week period.

Property Options

The statutory guidance also makes clear that local authorities should advise people (where appropriate) that they will need to consider how they plan to use their property if they enter into a Deferred Payment Agreement (DPA), whether they wish to rent, prepare for sale, or to leave the property vacant for a period and the potential impact on other people living in the property if a sale is required after their death. It may be appropriate to help people to access regulated financial advice to help inform their decision.

When paying for regulated financial advice maybe appropriate

A specialist regulated adviser would be expected to help someone compare all the financial options available to them before they decide which one is most suitable. This would involve clearly explaining all the costs and risks involved with each advised option and where appropriate a financial product might be recommended which could help for example fund their long-term care which would :

- Be suitable for their care and support needs
- Seeks to ensure affordability both now and in the future
- Fits with someone's attitude to risk and financial priorities
- Includes making provision for dependents

- Helps to manage property
- Makes best use of income/savings/capital

3.4 Making financial information and advice accessible

Accessibility must consider all people and their differing communication needs. There may be a cognitive impairment such as Dementia, learning disability, or a language issue where someone's first language isn't English⁹. Further guidance on accessibility is provided in the statutory guidance.

Being able to access unregulated free financial advice may be a good starting point, even where someone would benefit from taking regulated financial advice. It may help someone understand why they might benefit by paying for regulated financial advice. A regulated financial adviser may offer some time to have an initial discussion without charging. As part of facilitating access to paid for advice, local authorities might explain this so that a person knows they can take advantage of this to speak with a several advisers and choose the one they feel suits them best. A regulated financial adviser is required to explain their terms of business, including the services they offer, how they charge and how someone can seek redress if there is a need to complain. Adviser's fees should only be paid when someone has formally agreed to them.

Helping people to access fee based services from the private sector may be a relatively new concept for a local authority. There may not be a complete understanding of what financial advisers do or how they get paid. The idea that regulated financial advisers are 'incentivised' and only sell products to receive the highest 'commission' is still common. To promote and build staff confidence there is a need for training about this as well as complete transparency regarding any financial arrangements for facilitating access to a financial advice, especially when this is a fee based service.¹⁰

A financial services retail distribution review (RDR)¹¹ (see Annex B) was carried out in 2012 by the FCA which clarified the level qualifications required to be a financial adviser, how they describe themselves, what products they sell and how they get paid.

3.5 Proportionality and accessibility

The statutory guidance states that *Local authorities should help ensure that information and advice is proportionate to the needs of those for whom it is provided 3.34*

The right level of information and advice at the right time will vary depending on circumstances. It is important to remember that there are different types of financial information and advice, regulated and unregulated (see definitions in part 1), and that there may be times when a person may benefit from receiving both. The type, extent and timing of information and advice provided should be appropriate to the needs of the person. There is a whole spectrum of need and what matters is making sure response is proportionate to / appropriate to meet the need as more complex issues may require more intensive and personalised information and advice.

The following are examples of providing accessibility and proportionality of information and advice.

⁹ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

¹⁰ See quality assurance framework in part 4

¹¹ <http://www.fca.org.uk/firms/firm-types/sole-advisers/rdr>

Example - Someone may contact their local authority with what they believe to be one simple question, “I have seen on the news something about a Care Cap. My Mum has been in a home for 3 years now and has paid out a total of £85,000 so does this mean she doesn’t have to pay for her care anymore?” A proportionate approach may simply require an explanation of and information and a leaflet or web link on the Care Cap and extended means test that explain that the new system comes into force from April 2016. However this contact may also lead to an assessment of care and support need and the start of a Care Account. In this case the need for more specific information and advice would be proportionate including facilitating access to financial information and advice which help people plan and pay for their care including regulated financial advice if their mother is self funding for all or some of her care.

Example - Eve was admitted into hospital having been found on the floor at home by her son, she had fallen during the night and although nothing was broken she was suffering from malnutrition and hypothermia.

Having been in hospital for 8 weeks she is now ready to be discharged and is considering a move into a care home. Eve owns her property and wants to sell it to pay for her care. With £12,000 in non- housing assets she may be eligible for a deferred payment agreement (DPA) but is unsure what to do Eve’s son who is her attorney asks for advice regarding her options.

The local authority provides Eve and her son with a fact sheet explaining how DPAs work. They explain that they may wish to seek further independent information and advice about DPAs and other options available to her. The local authority also makes it clear that she may have to pay for this advice and that a regulated financial adviser would be able to advise her of all of her options including where appropriate financial products.

Eve’s son asks to speak with a regulated financial adviser and the statutory guidance allows for a local authority to adopt a variety of proportionate methods of facilitating access, providing that a choice of regulated, qualified and accredited advisers has been offered in a transparent way.

3.6 Obtaining financial information and advice for others¹²

A person’s mental capacity must be considered in giving financial information and advice. Any financial information and advice should be presented in a way that is easy for people to understand, clear and without jargon. Support may be needed to help someone access financial information and advice.

The statutory guidance *states that the Local Authority should check before providing Information and Advice to a third party whether the person has Court of Protection or Lasting Power of Attorney acting on their behalf.* 3.42

Often those requiring information and advice may not actively seek it themselves. Attorneys and Deputies often need to act at critical moments in people’s lives, where care planning advice will be highly relevant. [\(see part 5\).](#)

Using online information will often be the primary way of making information accessible to the wider public as well as to people who have care and support needs, their carers, family and friends. However the statutory guidance also makes clear that a disproportionate reliance on information and advice for the public

¹² See Part 5

only made available through the authority's website, or third party websites, is unlikely to meet all the authority's duties under the Care Act or responsibilities under equality legislation.

Part 4 Financial information and advice service models

Key points covered include:

- Establishing a financial Information and Advice service
- Quality assurance and reviewing effectiveness of a service

4.1 Development of plans/strategies to establish a financial information and advice service (See Appendix D)

Local authorities are at different stages in developing their financial information and advice offer as part of their wider information and advice service. As they progress through implementation of these services they will need to review any arrangements made with their chosen partners for Care Act compliance and independence. The statutory guidance suggests that local authorities should develop and implement a plan with regard to their information and advice services and ensure it offers a framework for arrangements with partners based on 4 key elements:

- Engagement and coproduction with stakeholders
- Mapping the range of information, advice and advocacy services available
- Coordination with other statutory bodies with an interest in care and support
- Reviewing the effectiveness of the service.

Engagement and coproduction with stakeholders

In establishing and maintaining an Information and Advice service, local authorities will need to engage widely with people with care and support needs, carers, the wider public and local providers of information and advice and other types of care and support. The purpose of this engagement is to identify what is available locally and establish exactly what is needed.

Key questions for local authorities to consider are:

- What are our population's information and advice needs? (see Appendix E)
- How can we find this out? (see Appendix E)
- Can we identify what is available locally and who provides what? (see Appendix F)¹³
- How and where can it be best provided in the future?

Some local authorities have held or are considering a series of information and advice workshops/ information summits (see - Appendix G)

Mapping the range of financial information and advice services available

Local authorities are expected to understand, co-ordinate and make effective use of other high quality statutory, voluntary and/or private sector information and advice resources available to people within their areas. This may also include provision of a service or parts of a service in conjunction with one or more local authorities, health services, children's services, or reuse of information from other local or national sources.

¹³ <http://www.thinklocalactpersonal.org.uk/Personal-Budgets-Minimum-Process-Framework/> See in particular section on Financial Advice

Considerations may include:

- What contract/ formal agreement/ memorandum of understanding could be put in place? ¹⁴
- What notice is required on both sides to terminate any arrangement?
- What is included in the service being offered?
- What is the business model used (how is it funded)?
- What are the financial costs to those using the service?
- What are the financial implications for the local authority?
- What is the quality of the service offering and do their teams understand what needs to be delivered?
- How often if appropriate, will review meetings of the service take place?
- What happens when people sent to a service provider are then sent on for help elsewhere?

4.2 Reviewing the effectiveness of an financial information and advice a service

The local authority will need to identify the people and other resources that will be needed to deliver an effective and efficient financial information and advice service. In doing so they will need to take into account the forecast activity levels and when the resources are needed. To help ensure effective implementation and ongoing effectiveness training might be needed for customer- facing staff that facilitate access to independent financial information and advice (see part 3). This might include for example, how they identify need for financial information advice and how to explain the benefits of taking regulated financial advice.

Quality Assurance

It may be helpful to establish a predefined standard/quality assurance framework that can be applied consistently across all resources used to facilitate access to independent financial information and advice, whether internally or as a third party provider. Think Local Act Personal (TLAP) have developed a framework for evaluating ¹⁵ locally funded and commissioned information and advice services. This framework also includes some questions to consider and quality assurance checks.

Feedback

The local authority, where appropriate, could choose to follow up and review the financial information and advice service with an individual who has used the services. This could be done at a later date to assess the outcomes of the advice. This could be through a letter, email, telephone call or follow-up meeting to;

- ensure quality standards are met
- review what actions were taken by the individual;
- assess outcomes and the impact of advice received;
- find out if any further help is needed; and
- find out if signposted organisations delivered what was expected

¹⁴ See 5.1

¹⁵ <http://www.thinklocalactpersonal.org.uk/Browse/Informationandadvice/Information-and-Advice-Strategy-Toolkit/?page=whereAreWeNow-localResources-questions>

Part 5 – Managing local authority risk

THIS DOES NOT CONSTITUTE LEGAL ADVICE, WHICH THE LOCAL AUTHORITY WILL NEED TO SEEK FOR THEMSELVES, BUT IS INTENDED AS A STARTING POINT.

Key points include:

- Working with independent regulated and unregulated financial information and advice
- Impartiality of independent financial information and advice
- Feedback/Complaints
- Considerations for Mental/ Legal Capacity
- Other legal considerations

5.1 Working with independent regulated and unregulated information and advice providers

Independence from the local authority is an important aspect of the provision of financial Information and Advice within the statutory guidance as this minimises the risks to the local authority should a person be unsatisfied with the outcome of financial information and advice. However, Local Authorities need to give consideration to assuring themselves of the quality of financial information and advice provision.

Areas to consider might include:

- Overall quality assurance;
- Impartiality of providers of regulated financial Information and Advice including the role if applicable of incentives;
- Selecting which regulated financial advisers to facilitate access to, based on relevant qualifications and accreditation;
- Role of local authority in quality assuring their partners, for example is there a requirement they be checked by the Disclosure and Barring Service (DBS) and be a member of a local trading standards scheme such as 'Buy with Confidence', Trusted Traders [see part 4:](#)
- Transparency of how the information and advice service is funded (including any potential contributions towards costs from third parties);
- Ensuring that the systems they have in place reflect the 'arm's length' nature of the arrangement;
- Being able to demonstrate the process by which they arrived at their decision as to which services to facilitate access to;
- Keeping local provision under review and considering whether new organisations or advisers might also be appropriate sources of advice to include in the offer; and
- Having a written Memorandum of Understanding with any commercial providers of financial services, for example, regulated financial advisers.

Memorandum of Understanding

Having a memorandum of understanding with any third party partners providing financial information and advice services could help to manage risks by setting out what has been agreed. This might include establishing the way the parties to the Memorandum of Understanding will work together to maintain and promote the service and clarify their respective roles.

A Memorandum of Understanding could ensure for example that a financial adviser does not describe the arrangement between themselves and the local authority in a way that might imply directly or indirectly that

they are recommended by the local authority or are indeed from the local authority.

Key points when considering a Memorandum of Understanding would include:

- How to make clear the nature of the arrangement the local authority has with a third party provider and how they present its service as agreed
- Insurance requirements (for example financial advisers must have professional indemnity insurance)
- Training requirements/quality assurance
- Contract flexibility/review/renewal
- Complaints – quality assurance [see part 4](#)
- Feedback – ongoing data collection (recording and reporting)
- Demonstrate where applicable the commissioning process by which they arrived at their decision as to whom to signpost to
- Local authority strictly keeping independence and impartiality as a key consideration
- Legal / mental capacity training requirements

5.2 Impartiality of independent financial information and advice

Impartial is not defined in the guidance but can be interpreted with its everyday meaning of neutral and unbiased. If you are *impartial*, you are able to act fairly because you are not personally involved in a situation. For this reason and to ensure neutrality, it would not be helpful for local authorities to enter into any arrangement with a financial information and advice provider, either regulated or unregulated, where there was any monetary benefit to the local authority either as a result of the outcome of the advice or as a result of the adviser being a person to whom people were signposted. This could extend to contributions to any marketing expenses involved in promoting a service. The input of the local authority legal department would be essential if any such arrangements were considered.

Referring to regulated financial advice

The statutory guidance states that local authorities *are not required to make a direct referral to a single Independent Financial Adviser but should instead actively help and direct a person to a choice of advisers, regulated by the FCA with the appropriate qualifications and accreditation.* 3.51

By directing the person to a choice of advisers means that it is the person's decision, or their representative, to choose who they may (or may not) seek advice from. This is intended to limit the local authority's liability for the outcomes of any decisions the person may take on the basis of that advice.

5.3 Feedback/complaints

Record keeping and confidentiality as well as making sure that the local authority strictly keeps independence and impartiality, are key considerations in establishing and maintaining the service.

Local authorities will want to ensure that they make clear the nature of any arrangement they have with third parties and what action a person can take if they are unsatisfied. Regulated financial advisers in particular are required under FCA regulation to make clear to a client at the outset of their dealings what action a person can take if unsatisfied. If a Memorandum of Understanding is used it could also reflect this.

The statutory guidance emphasises that local authorities are not required or encouraged to directly refer to a single adviser but rather to provide options from which to choose. If the local authority signposts to a particular organisation who provides access to a choice of appropriately qualified regulated advisers it is

important to emphasise that the ultimate choice of who a person chooses, and indeed chooses not to use, is that of the person themselves.

5.4 Considerations for Mental/ Legal Capacity – substituted decision making

Before providing financial information or advice directly to a person the local authority should establish whether the person has a deputy of the Court of Protection or a person with Lasting Power of Attorney acting on their behalf. 3.42

In providing or facilitating access to financial information and advice a person's mental capacity must be considered. Presenting information and advice in a way that is easy for people to understand, which is clear and without jargon, and providing support where needed, will help the person to make best use of this information.

The legal framework provided by the Mental Capacity Act 2005 is supported by a Code of Practice (the Code), which provides guidance and information about how the Mental Capacity Act 2005 works in practice. Certain categories of people are legally required to 'have regard to' relevant guidance in the Code of Practice when acting or making decisions on behalf of someone who lacks capacity to make a decision for themselves, and they should be able to explain how they have had regard to the Code when acting or making decisions.

These categories are set out in the Code of Practice and include:

- Those acting with Powers of Attorney
- A deputy appointed by the Court of Protection
- Acting in a professional capacity for, or in relation to, a person who lacks capacity
- People receiving payment for work dealing with people who lack capacity

The last two categories cover a wide range of people. People acting in a professional capacity include for example social workers.

The Code of Practice can be found at;

<https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>

The issue of the capacity of the person who is receiving information and advice is therefore something that a local authority providing the information and advice service either directly or through a third party arrangement should consider. Training on the key aspects of the Mental Capacity Act 2005 for those within the financial Information and Advice service would help to evidence compliance with this requirement. It might be helpful to highlight this requirement to any organisation to whom people are signposted.

Where a person lacks mental capacity the local authority must establish whether the person has any of the following people with legal powers to act on their behalf, as the appropriate person will need to be involved:

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA) for Property and Affairs
- Lasting Power of Attorney (LPA) for Health and Welfare
- Property and Affairs Deputyship under the Court of Protection
- Any other person dealing with that person's affairs (e.g. someone who has been given appointeeship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).

Attorneys and Deputies are very often appointed at critical moments in people's lives, where care planning advice will be highly relevant. It is common for Attorneys and Deputies to have significant assets to manage. They may well be in self-funding situations, and so getting good investment advice may be key to not only continuing self-funding, but also in meeting the duty to act in the best interests. Financial information and advice may well be needed at the point that Attorneys and Deputies are appointed. Advising someone to plan ahead and appoint an Attorney may be crucial in terms of their future ability to manage their care package.

If the request for information and advice is on behalf of a person who lacks capacity but the person making the request does not have formal legal capacity then generic information and advice could still be given as this is not intended to provide a recommendation. It may also be appropriate to facilitate access to regulated financial advice.

However in these circumstances any information regarding the financial circumstances of the person lacking capacity should not be shared with the person requesting the information and advice as to do so could lead to liability under the Data Protection Act 1998. Agreements as to how any financial details could be shared with a third party e.g. a regulated financial adviser could be set out in a memorandum of understanding which reflects compliance with the Mental Capacity Act 2005 with regard to an understanding of delegated decision making [Powers of Attorney etc.] and the Data Protection Act 1998. Reference to the local authority's legal department would be essential.

5.5 Other legal considerations

Reputational risk

Consideration will need to be given to minimising reputational risks to the integrity of the service, for example by avoiding anything that may compromise the perception of the integrity and benefit of the service. For example this could occur if people who used the service felt that they did not benefit from it. Here matters such as proportionality are key i.e. was this the right source of advice at the right time which would benefit the individual. This is particularly important where there has also been a transition from free advice to fee paying advice.

Some elements of establishing service provision are beyond the scope of this guidance such as tendering and commissioning which should be referred to the local authority's legal department.

Part 6 - Examples of existing practice

Key areas include

- [National and local models](#)
- [Examples of existing practice](#)

6.1 Models around the country

Over the past few years, many local authorities have developed various models and processes for supporting people to access independent financial advice. As well as enabling people to make informed choices about their care and the costs involved, the provision of timely information and advice has been a factor in helping to reduce the financial consequences on authorities from self-funders running out of money while still receiving care.

Many national providers of financial information and advice have been developing their services to help with the implementation of the Care Act 2014, most will offer unregulated financial information and advice, some offer online tools and factsheets whilst others are able to offer local partners to deliver more bespoke information and advice services who may also facilitate access to specialist regulated financial advisers where appropriate.

One model some local authorities have adopted is tendering for a national provider of third party unregulated information and advice, whereby if regulated financial advice is required, the third party will signpost/refer a person to a regulated specialist care fees adviser. [\(see Annex K\)](#)

Some authorities have provided the information and advice service themselves, while others have engaged with organisations such as the Society of Later Life Advisers (SOLLA), Paying for Care, My Care My Home, AgeUK, Independent Age and FirstStop.

The local authority may decide which of these, if any, suits their strategy for financial information and advice provision, paying regard to independence and transparency. Several local authorities are developing internal information and advice provision which includes nominating members of staff to act as 'Care Advice Champions'. This may prove to support implementation and help maintain momentum by reiterating key messages at staff meetings whilst keeping colleagues updated on developments/successes. Furthermore building this practice into annual objectives could mean it becomes part of staff's everyday roles and remains a priority.

6.2 Examples of existing local authority practice

Surrey County Council – As part of Surrey's facilitating access to financial Information and Advice they have created the 'Surrey Hubs' which are local centres that provide information and support to help people stay independent. They are based in the heart of the community and are open and accessible to everyone. There are currently eight hubs in Surrey, with a local Hub planned or each of the eleven district and borough areas.

Teams of experienced volunteers provide a fast, efficient and knowledgeable information service. The Surrey Hubs offer access to advice and signposting to services for disabled people, older people, carers and families

The West Sussex 'Carewise' service is included in TLAP's Gearing for change [\(see National resources in appendix 1\)](#) as an example of how such a service has been developed

Seven Independent Financial Advisers specialising in later-life advice joined the Care wise scheme in August 2011. All were based either in, or within a 20 mile radius of West Sussex. In addition to being accredited by SOLLA, each was subject to an enhanced CRB check (now Enhanced Disclosure & Barring Service), approved under the Trading Standards 'Buy with Confidence' scheme and trained in safeguarding adults.

Carewise partner AgeUK West Sussex, provides non-regulated information and Advice through their free Money Advice Service. The partners in the service are able to refer people between them to ensure people get the right advice.

The scheme is widely promoted to local residents through the implementation of a targeted marketing campaign which includes such channels as films, articles in local publications, adverts on County Council transport, information sent with Blue Badge and bus pass applications, attendance at local events, and poster campaigns in care homes and clubs and libraries.

Learning curves and recommendations for success from Carewise

- 1) Effective governance arrangements in place which includes a lead officer providing a key contact and driving force to maintain momentum
- 2) Strong partnership approach involving regular meetings of a Management Group which allows for ongoing review of the scheme.
- 3) Encouraging contact teams and voluntary sector providers to identify those who may benefit was satisfied with an ongoing training programme, this improved referrals and ensures that by using both, regulated and non-regulated providers the right advice is provided at the right time

Hertfordshire County Council has taken the approach to go out to tender for their information and advice provision for both regulated and non-regulated financial advice. However, they did not want the role to stop there and wanted to see a holistic approach to supporting the people of Hertfordshire.

Their existing website 'Hertshelp' is supported through a third sector organisation. When they went out to tender they particularly specified that the organisation that won the contract would be able to give wide ranging advice around care from the types of care available, benefits, and make links to specially accredited later life financial advisers and other professionals to support the individual with their wider needs such as wills, powers of attorney etc. To be able to make wider links in the community and with other third sector organisations to support further support.

Hertfordshire made the decision to use their existing 'Hertshelp' support line to be the front end of this support with one telephone number for people to ring into. Whoever won the tender needed to present themselves as Hertshelp so that whoever called in, whether their query was about care needs or about equipment, a trusted tradesmen or for financial Information and Advice they would then be seamlessly transferred by the partner organisation.

East Sussex County Council - To meet the requirements under the Care Act 2014 and statutory guidance for facilitating access to independent financial advice, East Sussex County Council Adult Social Care are working with Trading Standards using their 'Support with Confidence' scheme to ensure a quality mark for approved providers.

The scheme undertakes background checks on applicants, which includes both regulated and unregulated independent financial advice provision, it ensures and/or provides training relevant to the market sector (for example: safeguarding and Mental Capacity Act), carries out enhanced DBS checks appropriate to the area of work, and takes references from previous clients in order to ascertain suitability for the scheme.

There is also a recognised need locally to work with solicitors and legal executives to ensure provision of legal advice (Power of Attorneys etc.) and as such the Support with Confidence scheme is currently working with recognised industry accreditation providers to set minimum requirements for scheme approval:



- Regulated financial advisers - working with Society of Later Life Advisers (SOLLA)
- Solicitors and legal executives - working with Solicitors for the Elderly (SFE)
- Property maintenance/rental companies – there is currently no specific accreditation for property maintenance providers, however specific accreditation will be required as appropriate and in relation to the area of service, i.e. Gas Safe – need to establish minimum requirements for scheme approval.

Buckinghamshire County Council's 'In-touch' service is a telephone based Information and Advice team providing telephone support as an additional gateway to Adult Social Care in Buckinghamshire.

'In Touch' is an ongoing access point for those who may otherwise have little or no contact from Adult Social Care, for example self-funders and those who do not meet the Care and Support criteria but may need Information and Advice to help them to identify, plan and pay for a care need and remain independent.

By providing regular phone calls to maintain contact, 'In Touch' provides timely, relevant information and a signposting service that helps people to retain independence by accessing national and local support, including advice from specialist services such as independent financial advice

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This practice guidance is part of a suite of resources commissioned by the Department of Health in partnership with the Local Government Association and Association of Directors of Adult Social Services to support those commissioning and providing care and support in implementing the Care Act 2014. To find out more, visit www.local.gov.uk/care-support-reform.