think local act personal

Individual Service Funds (ISFs) and Contracting for Flexible Support

Practice guidance to support implementation of the Care Act 2014

Department of Health

directors of adass adult social services

Local Government Association

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SUMMARY

The Care Act 2014 offers councils the opportunity to transform their relationship with local people and local partners. It aims to increase innovation and to release capacities, not just of those entitled to support, but also of the organisations that provide support. This practice guidance offers councils a way to promote personalisation by working differently with their local partners in the provision of more flexible support.

In recent years an increasing number of people have used direct payments to manage their own support, while others have received council managed services, often organised using contracts with private or voluntary organisations. While both can work well, there is often an unnecessarily wide gulf between direct payments, which have high levels of choice and control, plus high levels of responsibility; and council managed services, with low levels of choice and control, and where responsibility remains with the council.

There is a middle option, which although much less well developed, might suit anyone who wants flexible support, but without all the responsibilities that come with managing a direct payment.

WHAT IS AN ISF?

An ISF is an internal system of accounting within a service provider that makes the personal budget transparent to the individual or family. This helps provide flexible support by making the organisation accountable to the person.

This option has been called an Individual Service Fund (ISF) and it refers to an arrangement where the service provider works with the person to provide flexible support.

WHAT THE CARE ACT GUIDANCE SAYS ABOUT ISFS

Clause 11.30 of the Guidance:
There are three main ways in which a personal budget can be deployed:

- As a managed account held by the local authority with support provided in line with the persons wishes
- As a direct payment
- As a managed account held by a third party (often called an individual service fund or ISF) with support provided in line with the persons wishes;

Clause 11.32 of the Guidance: Where ISF approaches to personal budget management are available locally, the local authority should:

- Provide people with information and advice on how the ISF arrangement works and any contractual requirements
- Explain how the provider(s) will manage the budget on behalf of the person
- Provide advice on what to do if a dispute arises

Consideration should be given to using real local examples that illustrate how other people have benefitted from ISF arrangements

Clause 11.33 of the Guidance: Where there are no ISF arrangements available locally, the local authority should:

- consider establishing this as an offer for people
- reasonably consider any request from a person for an ISF arrangement with a specified provider

This arrangement is explicitly advocated in the statutory guidance for the Care Act on personal budgets. In the context of the Care Act, it is a principle contention of this paper that if councils can get better at contracting providers more flexibly, and providers can become more adept at deploying ISFs, then in the future, if someone does not want, or is not able, to manage a direct payment, the next option should be to organise support using an ISF.

Providing flexible support means working with the person to design, develop and manage the best possible support, and being able to alter that support with minimal fuss when changes are needed. Using an ISF is a way in which a service provider can work in partnership with the person – to respect their needs and wishes.

WHY USE AN ISF?

Decision-making: is located with someone who has the right information, motivation and expertise to make the best possible decisions – the people closest to the individual

Responsive services: decisions can be made quickly and easily, as problems and opportunities occur. There is no undue delay or contractual restrictions.

Resources: can be used flexibly and creatively in order to build on the person's assets and community. Resources are not tied into particular kinds of service or support.

Clarity: can be established about everyone's rights and responsibilities. There is no confusion, unnecessary dependence or undue complexity in the arrangements.

So far, there has only been limited progress in offering people the ISF option, and it is poorly understood by people, families, service providers and councils. Current data suggests that only 1% of council spending is organised using ISFs (ADASS 2014). There are many reasons for this slow up-take of ISFs, in particular many providers are not contracted by councils in ways that allow them to offer this kind of flexible support, and there has been some confusion about how ISFs can be made consistent with the law and with contracting practice.

This practice guidance aims to help councils promote the use of flexible support through ISFs. It shares the lessons from current best practice, in the context of the Care Act 2014, and it clarifies the meaning of key terms in a way that will enable councils to make progress.

In outline this guide proposes the following:

1) Individual Service Funds (ISFs) are systems, established by providers, to help them to be accountable to the people they work with and to help them provide more flexible support. They are not in themselves contractual arrangements; but they do imply the need for particular kinds of contracts for support. It is time to see the development of more **flexible contracting arrangements** between councils and providers that will, in turn, enable service providers to provide more flexible person-centered support.

2) The greater use of ISFs and the commissioning of flexible support are entirely consistent with the **Care Act 2014**. To meet needs and advance individual well-being councils are encouraged to maximise the flexibility of support. Direct payments are only one mechanism to do this; it is also possible for councils to contract with service providers and to authorise them to provide flexible support.

3) When service providers have used ISFs and begun to provide more flexible support there have been multiple advantages for the person. The available evidence suggests that flexible support can improve **well-being, efficiency and trust** within local communities. This way of working will be attractive to many groups of people who want more flexible support but who do not want to manage a direct payment.

4) However it is important to note that ISFs are **distinct innovations**; and they are at a relatively early stage of their development. Flexible contracting arrangements are needed from councils and their partners to support this initiative.

5) Many service providers will want to provide **flexible support** to increase their accountability to and their partnership with the people they support. There are promising signs that many different kinds of service can adapt to use ISFs and to provide more flexible support.

6) Contracting for flexible support from providers should also offer care managers new options. Many care managers will want to open up the option of moving control closer to the person and enabling service providers to offer flexible support and better outcomes. In the future, if someone does not want, or is not able to manage a direct payment, then the **next option** should be to organise support using an ISF.

7) Contracting with service providers to provide flexible support supports the ongoing shift in the current practice and culture of commissioning. It should help build greater **partnership and respect** between councils and their local community partners.

8) ISFs could make an important contribution to improving the **quality and efficiency** of social care; however, this will require a shift in roles, responsibilities and thinking for all involved. The responsibility to improve quality, plus the authority to bring about real change, will need to be shared with all community partners.

KEY MESSAGE

Although there has been some confusion about the role and meaning of an ISF, now is the time to rapidly move things forward and start offering more people the chance to get flexible support. To do this more flexible contracting arrangements are needed between councils and service providers.

BACKGROUND

The use of direct payments has been one of the most important innovations used to personalise support and advance well-being.ISFs, unlike direct payments, are arrangements between a provider and the people they work with, to provide flexible support under the terms of a contract between the provider and the commissioning authority. ISFs were developed as an early alternative to direct payments, but they are still only used by relatively few people. In future, contracts that support more flexible provider responses should be developed. This will encourage the expansion of ISFs.

Individual Service Funds (ISFs) were developed in 1996 as an alternative to direct payments and originally they were used by people who were unable to take advantage of direct payments (Fitzpatrick 2010). At its simplest an ISF is a commitment by a service provider to respect the integrity of the funding that they receive on behalf of someone they work with, and to make themselves accountable to them or their representatives for how that funding is spent.

However, there have been continuing difficulties which, while easy to identify, are not always easy to overcome. Often councils and service providers have struggled to shift power and control to people. Rigidity, bureaucracy and restrictive contractual arrangements can lead to a situation where people cannot find the kind of responsive and personalised support they really want.

Service providers don't always feel able to innovate, and a culture of mistrust has grown up between them and councils (Baxter et al. 2013). This serves nobody well.

In the past councils have primarily fulfilled their statutory social care duties to individuals by commissioning services from service providers. Commissioning was conceived as the purchasing of a range of services to meet the needs of a community. There is certainly some expectation that this means individual needs will also be met; however, in reality, individual needs have often been re-defined in terms of commissioned services. So, for example, an individual's need for a life of meaning and contribution, something which can only be properly defined by the person themselves, may be redefined into a need for 'day time activities' to be met by the provision of

day services. The definition of need in terms of services has, in the worst case, become primary, while an understanding of an individual's real needs for better outcomes has sometimes slipped into second place. This has tended to distort our understanding of individual need and can serve to undermine individual well-being.

The idea that care and support should be **personalised** has changed things. As the Care Act 2014 makes clear, it is the individual's needs – and these include the need to achieve personal goals and outcomes – that come first. Services – and that means any effective way of meeting those needs – should come second. This is reinforced strongly in the statutory guidance issued under the Act (DH 2014).

In principle this shift does not rule out block contracts, pre-defined services or any other more standardised community response. However, it does suggest that the onus is now on councils to show how any such pre-defined service really does help people to meet their own needs and to achieve the outcomes that are important to them.

The primary method for individualising funding and shifting control closer to the person is now personal budgets, and increasing numbers of people have benefited from taking these as direct payments; particularly as policy has shifted to open up direct payments to more groups (The Strategy Unit 2005). Today direct payments are recommended for anyone who is willing and able to take on the responsibility of managing them (DH 2014). It is also particularly important to note that, as the Care Act 2014 clarifies, it is often possible to enable an appropriate representative to manage a direct payment for someone else. It should also be noted that Councils provide good direct payment support services, and if people have the right support, mental capacity should not be an obstacle to the use of direct payments.

However, there are a number of reasons to think that direct payments, on their own, are not the only way, or always the best way, to provide someone with support (Moran et al. 2013). For example:

- Some people may have the technical capacity to manage a direct payment, but they simply **do not want** to take on that responsibility.
- Some people may not have an **appropriate representative** who is willing to take on the responsibility of managing a direct payment
- There may not be a suitable support service available to provide the right level of support. Even if there is a support services available, there may not be anyone with the right skills mix to work with a particular individual

ISFs were developed to provide support to people who needed responsive and flexible support, but where a direct payment was an inappropriate method of delivering a personal budget (Fitzpatrick, 2010). The Individual Service Fund offered service providers a different way of thinking about their role. Instead of providing fixed support to a pre-determined specification, their role was to

provide flexible support, and this included making best use of someone's available budget. Instead of being accountable only to the council, their role was to be accountable to the person and family, and this includes ensuring they were accountable for how any available budget was spent.

However, ISFs have only been used by a small number of organisations and there have been several misconceptions about what an ISF is and what it requires. In particular there has been a tendency to treat an ISF as if it were a contract between the council and the service provider, but this can create some confusion. An ISF is not a contract, it is an arrangement, developed by a service provider, to make itself more accountable to the person, as part of providing more flexible support.

So, to bring clarity to this situation, it may be helpful to make a clear distinction between two different ideas:

1) **Contracting for flexible support** – The way a council contracts a service provider that enables the service provider to offer flexible support by delegating to the service provider the responsibility to design, deliver and change the support necessary to meet someone's needs.

2) **Individual Service Fund (ISF)** – An ISF is an internal system of accounting within a service provider that makes the personal budget transparent to the individual or family. This helps provide flexible support by making the organisation accountable to the person, and freeing up the discussion around how their needs might be met.

Of course these ideas are connected. Without the right contractual agreements, service providers may believe that they lack the necessary authority and flexibility to work in this way. These issues will be explored in more detail in Chapter 4.

At this stage we can build on this distinction to identify different methods councils can use to meet their statutory duties in relation to personal budgets under the Care Act 2014 (see Figure 1):

1) **Direct payments** – the individual or their representative is responsible for meeting their own needs.

2) **Council managed service** – the council has responsibility to meet needs, to provide (or contract for the provision of) support.

When councils contract flexibly for an ISF they do so under the legislation as an aspect of a council managed service. The key message of this report is that councils can do this in a way that promotes flexible provider responses, which in turn enables people who use their services to have greater choice and control. With subsequent benefits to their health and wellbeing

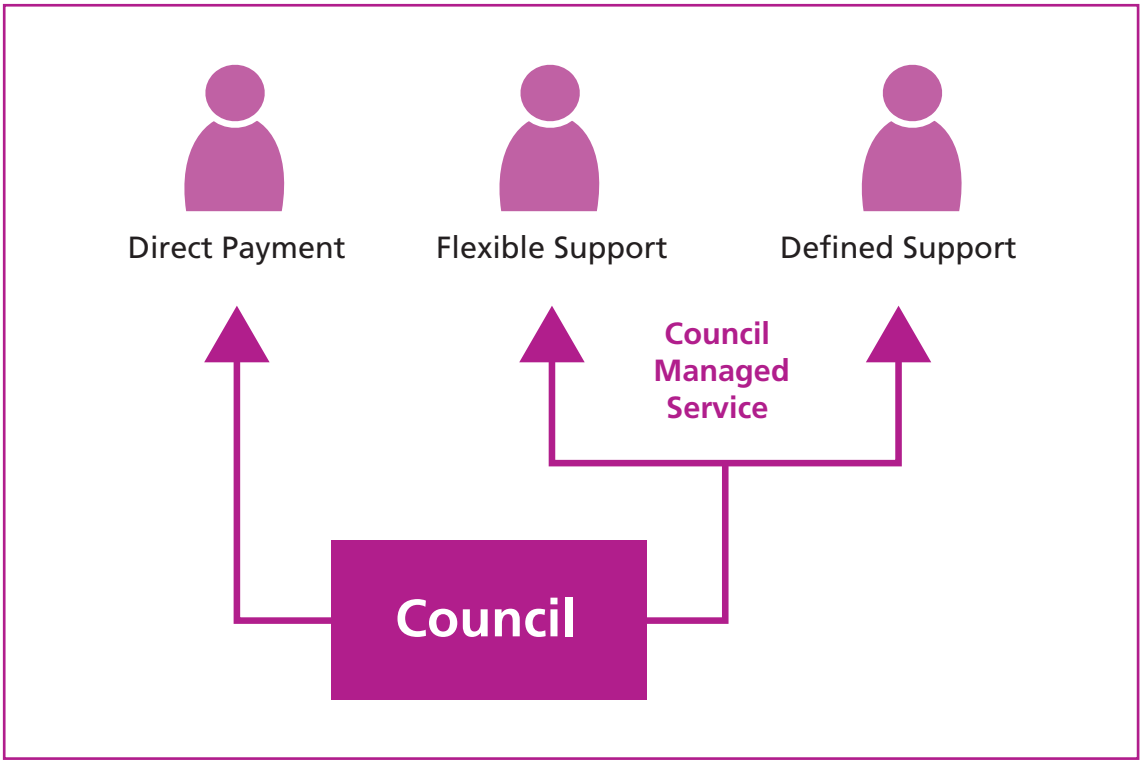


Figure 1 – Three methods of managing a Personal Budget

As we will set out in the rest of the guide, there are good reasons to think that a greater use of flexible contracting techniques should be a priority for councils. More flexible contracting could help deliver significant improvements for people and communities and reduce waste and inefficiency in the current system. Indeed, any contract could be altered to introduce more flexibility for providers. A key message from this report is that each council should look hard at their existing contractual arrangement to ensure that they are set up in the most flexible way that they can be.

Currently only a very small number of people are using ISFs, and often the term ISF is not employed in a way that is consistent with best-practice. Research carried out as part of the development of this practice guidance suggested that, when councils use the term ISF, they (a) do tend to refer to an ISF as if it were a contract and (b) those contracts often significantly limit the flexibility of the service provider. This is contrary to the spirit and purpose of ISFs.

In the future, contracts must be developed that clearly delegate **the authority to change how support is offered** to the

WHAT IS THE DIFFERENCE BETWEEN DIRECT PAYMENTS AND ISFs?

ISFs are similar to direct payments because:

- The personal budget is clear to the person or their representative.
- People have a high degree of flexibility in how support is defined and provided.
- Decisions can be made and changed immediately, without the permission of the council.
- Rights and responsibilities of the person are clear. It should be noted that these rights do not extend to terminating the contract, unless the Third Parties Rights Act is used in the contract.
- Councils must accept that the service providers will charge for their management costs for delivering ISFs.

However ISFs are unlike direct payments because:

- The council is delegating service provision that meets assessed needs to the service provider. It is important to recognise that this is not the same as delegating care and support planning. This is something that is legally different and must be carefully distinguished. Delegation of care and support planning is possible, and it might or might not be part of an ISF arrangement within the terms of a flexible contract set up between council and provider. But the decision to do so is conceptually distinct from the decision to meet need in a particular way. (It should be noted that the Care Act Guidance warns specifically against delegating care and support planning out to providers because of the potential for a conflict of interest).
- An ISF must be contracted for using clauses that enable providers to be flexible in how they meet needs.

service provider so that the provider can offer flexible support. For example, the following practices, which are quite common, **are not consistent** with flexible support:

- A care and support plan which is passed onto the provider which specifies the services to be delivered (for example, by reference to a number of hours, a model of service etc.) rather than outcomes that need to be achieved
- A provider needing permission from the council to change how support is provided.

The benefit for service providers of implementing ISFs is that they will be able to improve the quality and efficiency of their work, by focusing on needs and well-being, in partnership with people and families. There is growing evidence that this is achievable, and that the benefits can be considerable.

But this will only happen if there are significant changes in the relationship between councils and service providers.

The key to success of ISFs for Councils lies in creating flexible care and support plans that are outcome focused and which enable providers to respond in creative and innovative ways, and then supporting this flexibility with contracts that enable innovative and creative provider responses.[1]

1 *See the TLAP care and Support Planning practice Guidance for more details on care and support planning good practice: www.thinklocalactpersonal.org.uk/Latest/Resource/?cid=10464*

WHERE DID THE TERM ISF COME FROM?

The term ISF was first used by an organisation providing support to people with learning disabilities in Scotland – Inclusion Glasgow – in 1996 (Fitzpatrick 2010). The term was then adopted by In Control in England in 2003, while developing its first model of self-directed support (Poll et al. 2006). There is much to be learned from these early innovations, but the legal context is different, and these earlier innovations may also include additional elements that may not be essential. In particular it is not helpful to use the term ISF as if it describes a contract between the council and the service provider. A flexible contract is needed, to enable the provider to set up an ISF arrangement with the person, but this is separate to the ISF.

THE CARE ACT 2014

The Care and Support Statutory Guidance (DH 2014) suggests that councils may seek to use ISFs:

- To promote flexible support (DH 2014 paragraph 11.29, p.194);
- To offer people choice over who provides them with support (DH 2014 paragraph 11.8, p.188) and
- As a legitimate method for managing a personal budget (DH 2014 paragraph 11.3, p.188).

However the Care Act 2014 also offers councils just two methods by which it can fulfil its fundamental duty to meet a person's needs and to ensure their well-being:

1) **Meet needs directly** – In this case it is the council – or whomever this responsibility has been sub-contracted to, who has a responsibility to "meet an adult's needs for care and support" (Care Act 2014 s.19). Importantly from a legal point of view, any money provided by the Council (maybe via a contracted provider) to meet need, is owned by the responsible organisation and not to the individual whose needs are being met.

2) **Make a direct payment** – In this case the council fulfils its obligations by "making direct payments to the adult or nominated person in an appropriate way to meet the needs in question" (Care Act s.31). In this case the responsibility to meet need, and the money to meet those needs, belongs to the person receiving the direct payment.

This means that some of the technical language that has become associated with personalisation, like the term 'Individual Service Fund', must be defined carefully to ensure it is consistent with the law. First, it is important to note that "meeting needs directly" can include various kinds of contracting or sub-contracting. If a council is not arranging a direct payment then it must be meeting needs **directly**, and this means that the service provider

or "third party" is being contracted to provide support to "meet an adult's needs for care and support." They are not being contracted to manage a direct payment.

It is for these reasons that we have carefully defined what an Individual Service Fund (ISF) does mean, within the spirit and the framework of the Law:

An ISF is an internal system of accounting within a service provider that makes the personal budget transparent to the individual or family. This helps provide flexible support by making the organisation accountable to the person.

An ISF: is distinguished from a connected idea, – the way councils (or their partners) contract flexibly with providers so that an ISF can be delivered:

Contracting for flexible support: the way a council contracts a service provider that enables the service provider to offer flexible support that better meets the needs of the individual.

It should be noted that it is still quite possible for someone to receive a direct payment and then to seek a service provider who might then manage that direct payment for them, as an ISF (figure 2). But it is important to note that from a council's perspective, its legal duty to meet need is dispensed via the direct payment.

Given this legal framework provided by the Care Act, there are two fundamental questions to consider about ISFs:

1) What do councils have to do differently to support providers to respond more flexibly to people who need care and support, and to encourage ISFs as advocated in the statutory guidance?

2) What do providers need to do differently with people who need care and support to make ISFs work?

Before answering both questions it is worth spending some time considering why using ISFs is a good idea, this is the subject of the next section.

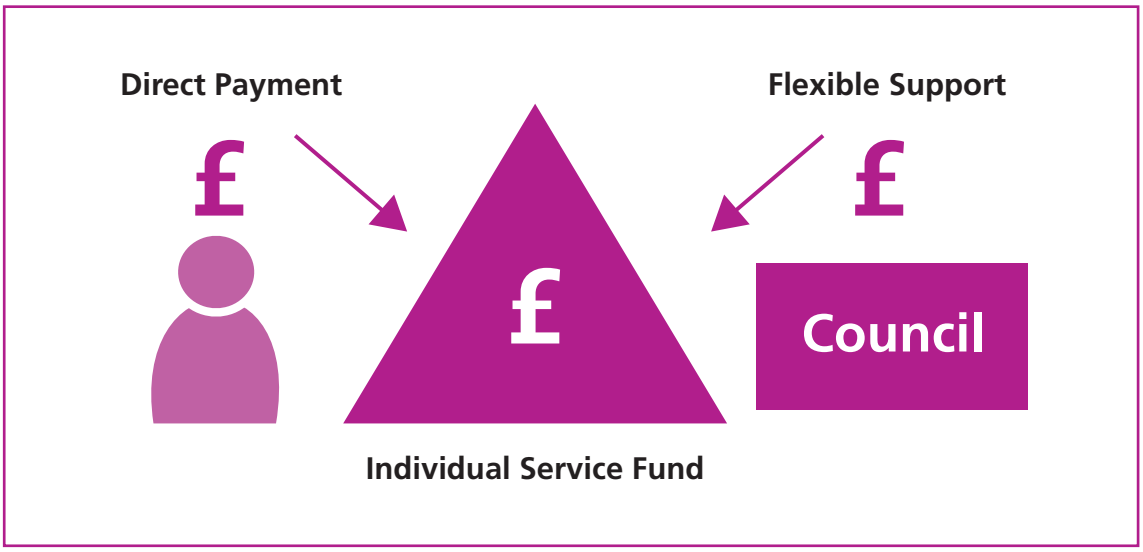


Figure 2 – Two routes to an ISF

WHY FLEXIBLE SUPPORT WORKS

The available research on ISFs suggests that it is a positive and efficient innovation that increases well-being across a wide range of areas.

ISFs seem to work because they enable resources to be used flexibly, quickly, and in partnership with the person and their allies.

Although ISFs are at an early stage of development they seem likely to benefit many different groups of people.

There is growing evidence of the positive impact of the use of ISFs to deliver more flexible support. This evidence also helps us understand why ISFs can be useful and which groups are most likely to benefit from them.

Research on ISFs

Personalisation is a matter of rights – the person's right to determine their own life and shape any support they need to their own life. But it is also a matter of good management. Councils, who have a duty to meet people's needs and advance their well-being, can only do so effectively if the person, those closest to them and those with the most relevant expertise, have the ability to act, react, seize opportunities and avoid unnecessary problems. This is a process which needs to be led by the person, it cannot be effectively managed at a distance.

There already exist a number of different examples of the effective use of ISFs and the evidence suggests that their success has been dependent on ensuring all of these elements are in place. TLAP's Minimum Process Framework[2] contains an ISF 'tile' which will provide several case studies of how ISFs have been implemented. There is also a recent publication from Sanderson and Miller (2015) which details a lot of practice examples for how ISFs can be implemented. In addition, the report Better Lives describes the largest

2 *www.thinklocalactpersonal.org.uk/Personal-Budgets-Minimum-Process-Framework/*

independent research on the use of ISFs to date. It focused on the transformation of a block contract in Southwark into 83 ISFs with a cost reduction of 30% (Ellis, Sines and Hogard 2014). Another independent evaluation describes the longest standing use of ISFs in Glasgow, where they have been used for 19 years, and where there have also been significant reductions in cost (Animate 2014).

Other substantive research on the use of ISFs has also shown improvements in outcomes and improvements in efficiency (Haworth 2009; Wands-Murray and Pearce 2012; Reekie 2014). Moreover, none of this research has measured the reduced costs for care management that should go hand-in-hand with more effective delegation (Duffy and Fulton, 2010).

As it stands, the available evidence on ISFs supports the following hypotheses about why their use, and the use of flexible support, seems to create such significant improvements in outcome and efficiency:

1) **Clearer focus** – When people have more control over their own support they are able to agree exactly what support is most helpful, and also when less support might be possible. An ISF enables people, families and professionals to develop a more trusting and positive conversation about how to make best use of someone's available resource.

2) **Greater capacity** – When people know what they are entitled to, and can use it flexibly, then it encourages self-development and greater independence, especially when this is in the context of some reasonable degree of security about the future. Support which is conditional on immediate need can encourage people to become unnecessarily dependent on others. It is more empowering to know that support will not be immediately withdrawn, even if you start to increase your independence; this then gives you security and an incentive to test out greater independence. There is an important balance that needs to be struck here, to encourage independence without creating uncertainty and insecurity.

3) **Stronger relationships** – Most support is not provided by social care services, but by family and friends. However people who are entitled to social care are often fearful that they will lose their entitlement to state support if friends or family start to increase their role. This can often lead to a vicious circle where people become more dependent on paid support than is ideal, simply to ensure they remain entitled to it. ISFs provide a more secure framework, where budgets can be used flexibly, and where the support of friends or family does not lead to the immediate withdrawal of resources. In the long-run this strengthens relationships and can increase efficiency.

4) **More inclusion** – Social care services can sometimes be segregated and leave people with only limited access to ordinary community opportunities. Such services are not in the best position to make use of the support that is available in the community or in mainstream services. ISFs open up opportunities for greater social inclusion or greater collective action, for example, when people pool their budgets.

5) Better incentives – When councils directly manage budgets and services they leave the responsibility for finding efficiencies or savings with themselves. If ISFs are used appropriately they move responsibility forward to the person and to whoever is contracted through the flexible contract. If people release savings by developing their skills, networks or community involvement it is helpful if they can re-invest some of their budget in different forms of support, possibly creating even more efficiencies. Determining the best approach to incentivising these efficiencies and agreeing how they will be released, and to whom, is not straightforward since multiple partners have been involved in their generation:

a) The person themselves. Their claim on any savings lies in the fact that it is their needs that have been met more efficiently, and therefore they are responsible for that efficiency gain.

b) The provider. They have provided the services which have led to the efficiency savings. It is their successful innovation and creativity, with the person using the services that has enabled needs to be met at lower costs.

c) The Council. The claim to the cash from the Council's point of view lies in the duty they have to account properly for the spending of public money. The money was allocated to meet needs of an individual. If the needs can be met with less money, the individual is not entitled to any surplus.

Resolving this contested space is never easy, but at a time of austerity public money must be spent according to need. However, taking a narrow view of this could lead to less effective use of public money, as providers may have limited incentive to work with people who use their services to develop more creative solutions if this means they will lose out on state funding.

A possible solution is for the council to agree, in partnership with providers and people who use services, a three-way efficiency sharing agreement. One which recognises the importance of Councils meeting their administrative duties, but also provides some incentives for providers and people who use services to be creative and flexible.

It is important to note that these different explanations for the efficiency of ISFs are rooted in a rather different model of how social and economic wealth is generated. Typically the drive for efficiency improvements in the public sector has focused, not on increasing social value and innovation and by delegating responsibility but on reducing costs in standardised services and increased contractual compliance. Savings often come from reducing the rate paid to staff or the management fees of care providers.

ISFs have the potential to radically improve the efficiency and effectiveness of social care. However it is important to recognise that the ultimate source of this efficiency is rooted in shifting the point of creativity to the person and their immediate allies.

It is their efforts – over time and underpinned by some security and clarity of funding – which release the potential efficiencies the research describes.

MAKING BEST USE OF RESOURCES

A good source of further information on this area can be found on the TLAP web site in a report titled: "A Problem Shared: Making best use of resources in adult social care" The report and accompanying toolkit aim to help political and managerial leadership in councils tackle their responsibilities for delivering and developing care services by making best use of available resources to promote personalisation in a difficult and challenging context. This involves people remaining independent for as long as possible and building the capacity of communities to support people in new ways.

The report is accompanied by data that analyses national expenditure and activity trends since 2007/8, and a self-assessment toolkit for councils.[3]

This is the opposite of micro-management and at odds with efforts to control and curtail how people spend their budgets. To make it work a profound transformation in thinking will be required.

People who may benefit from an ISF

The available evidence suggests that some groups of people will particularly benefit from ISFs, these include:

1) **People who want to change things** – Many people do not want rigid support, they want to be able to react quickly to problems or opportunities, their lifestyle may be quite flexible and they do not want to work to a fixed care and support plan. Flexible support would allow them to change their plans as needed, and without seeking permission from the council.

2) **People who want choice over who provides support** – Sometimes people have a strong preference for a particular support provider. Contracting flexibly with a provider who can deliver an ISF, can give people who receive services more choice over who provides support and, subject to any agreed sub-contracting rules between council and provider, the right to terminate any sub-contracted arrangements.

3 *You will find all the reports and toolkit here:* www.thinklocalactpersonal.org.uk/Browse/UseOfResources/

For example, many of the early uses of ISFs have been focused on giving people more choice over home care provision (Greenwich 2015, Calderdale 2015, Sanderson et al 2012, UK Home Care Association 2013, In Control 2013)

3) **People who want specialised support** – Sometimes people would benefit from support from a particular organisation, perhaps because they have just the right expertise or perhaps because they are in just the right location. Often social workers know which organisation would suit the person best but current contracting arrangements can make it hard to put the person and the right organisation together. Contracting for flexibility can enable a social worker to put in place the right contract, with a hand-picked organisation who can deliver an ISF (Duffy 2010a).[4]

4 *See the section on care management for further discussion of the implications of ISFs for social work roles and responsibilities*

4) **People who want their support simplified** – Sometimes people, may be getting support from several sources, for example a parent with a learning disability. This can create confusion, communication problems or bureaucratic restrictions which can lead to mistakes being made or problems being missed (Duffy and Hyde 2011). Using an ISF can be useful to integrate funding from different sources, and to enable one service provider to take primary responsibility for coordinating any necessary support (Self-Directed Support Network 2007).

5) **People who don't want burdensome responsibilities** – Sometimes people want flexible support at home, but do not want to become an employer or to take on responsibility for managing support or funding, for example, people receiving end of life care. Using an ISF ensures that one individual or organisation can take the lead and work in partnership with the person to minimise stress, but give them control over what really matters (Duffy 2011).

6) **People with complex needs** – Sometimes people need support that is highly personalised, responsive and creative, to be safe and to avoid the hazards of institutional care. For example, those people currently inappropriately placed in Assessment and Treatment Units (ATUs) require highly personalised support to thrive in the community. Using an ISF maximises the chance of success, combining flexibility with clear leadership from a skilled provider (The Association of Supported Living 2011, Hyde 2012, Duffy 2013). Indeed, there is an opportunity to develop ISFs for people receiving personal health budgets and, in future, integrated personal budget holders.[5]

7) **People who want to work in partnership with a service provider** – Often family and friends want to be part of providing support or people want to save their budget when they are with family or friends. Using ISFs gives people the security that their budget will still be safe when they do, and it provides people with greater incentives to build on these relationships when people know that their budget won't be lost when this happens (Greenwich 2015).

8) **People with creative ideas about how to get support** – Sometimes people want to find imaginative new ways to meet their needs and they seek a partner to do this, not so much to provide services, but to broker good solutions for their needs. Using an ISF allows community organisations to act as hubs for creativity and innovation, building on people's skills, interests and natural resources (Leach 2015).

5 *See* www.thinklocalactpersonal.org.uk/News/PersonalisationNewsItem/?cid=10195

Service providers can also act with more freedom, for example, replacing paid support with technology or using the available funding more creatively (Ellis and Sines 2012).

9) **People who want to pool funds and cooperate** – Sometimes people still want to meet up with friends and connections, and do things together, for example, people who have mental health needs and value peer support. Using an ISF can allow people to pool their resources, pay for someone to coordinate things, find community options and make best use of all the available funding (Bolland and Hobson 2012). Sometimes people want to be part of giving and sharing care and support arrangements together – participating in collective and cooperative care, rather than purchasing a service. Using an ISF allows people to put their personal budget into a collective system (Duffy 2012).

Given the advantages of ISFs it would be surprising if these and many other groups of people didn't choose to benefit from it. However it will be necessary to make changes in the organisation of contracts, the provision of support, the role of care managers and in commissioning strategies. The following chapters will explore what is involved in each of these changes.

HOW DO ISFs HELP?

Sam Sly works with people who are described as having challenging behaviour, many of whom are currently placed in Assessment and Treatment Units, but where better community support is now being provided (Duffy 2013a). Here she describes why the use of ISF has been so important in this work:

"ISFs give us the flexibility to be creative in designing bespoke services and the ability to work in true partnership with people and families. It means that services can quickly adapt to ensure the person has exactly the right support through the highs and lows of life. Without an ISF it would be very difficult to provide the kind of tailored services that people who've suffered for years with the label of 'challenging behaviour' deserve."

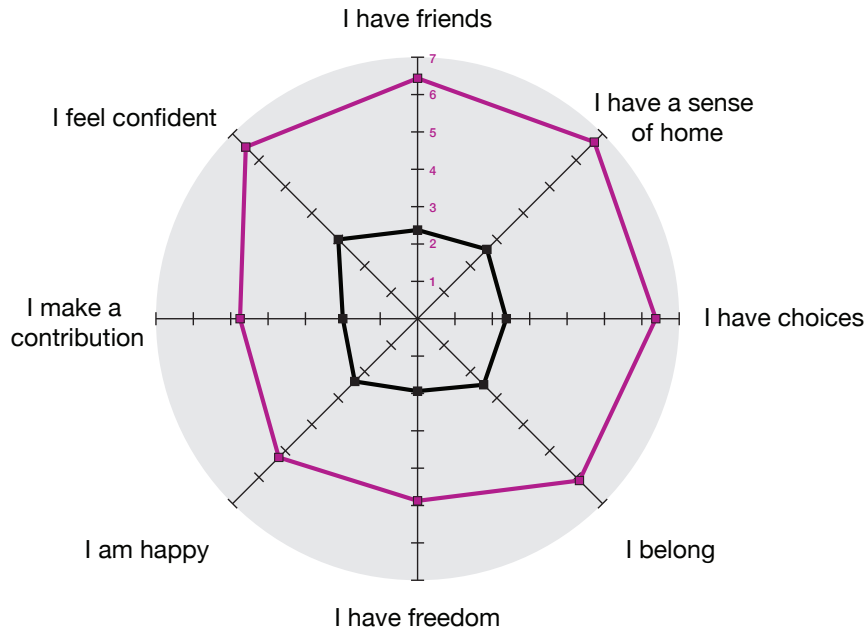
WHAT CAN ISFs MEAN FOR FAMILIES?

The first use of ISFs was particularly focused on helping families who wanted flexible support, built around the needs of the whole family, but where a direct payment would have been inappropriate (Paradigm 2003). Using an ISF the Smith family, who had two sons with a complex and degenerative disease, were able to stay in control and to choose who provided them with support. They were also able to stop using a residential respite service, and instead to hire-purchase a caravan home, which gave the family much more flexible respite options, for no more money.

What is the evidence for efficiencies?

The research on Inclusion Glasgow by Animate showed that, over a period of five years, the costs of support had reduced by 44% (Animate 2014). In addition there was a significant improvement in the quality of people's lives and the outcomes they were achieving, as reflected in the Figure 3 on page 22.

The research on the use of ISFs by Choice Support showed a cost reduction of £1.79 million (30%) over four years. This was combined with multiple outcome improvements, as identified by people, families and professionals (including quality of life, control over life, range of choice, involvement in



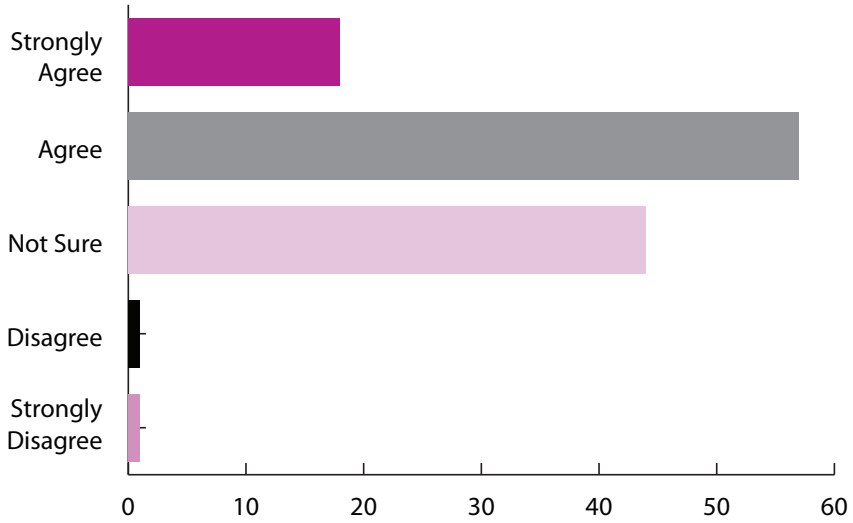
Source: *Animate (2014) Individual Service Funds. Sheffield, The Centre for Welfare Reform.*

Figure 3 – How it is now and how it was then

community life, quality of support, privacy, communication, safety, independence, sense of direction, skills for daily living, freedom and friendships). As the diagram opposite shows, 62% agreed that savings had been made without harm to quality of life, with less than 2% disagreeing.

Both reports suggest that big quality improvements can be combined with cost reductions and this means that the overall efficiency improvements are significantly **higher than 30%**. However it is important to note that these efficiencies were only achievable by allowing the service provider to lead the process of change and innovation and the changes took several years to achieve. Improved efficiency was not achieved by cutting salary rates, but by working with individuals to help them achieve better lives.

"Savings have been made without harm to quality of life"



People, representative, social service staff, care staff: 121 completed question

Figure 4 – Savings have been made without harm to quality of life

ENABLING FLEXIBLE SUPPORT

Contracting for flexible support is still, relatively to more traditional forms of contracting, in its infancy, and so it is important to enable on-going innovation and greater clarity about our goal; any guidance must be provisional.

Councils may need to develop new contractual clauses to create the conditions to give individuals choice, and to enable service providers to work flexibly.

Service providers will need to reflect on how to make themselves accountable to the people they work with and what rules and systems to develop.

If we review the use of ISFs across England and beyond it is clear that we are still at a very early stage in their development (Bennett and Miller 2009, ACEVO 2010, Calderdale Council 2014a, Calderdale Council 2014b, DoH 2010a, Skills for Care North West 2010, Clayton and Blower 2011, Surrey County Council 2012, Aberdeenshire Council 2014, Scottish Borders Council 2014, Action for Hampshire 2015). Even the 4% of personal budgets in England which are currently managed using ISFs is probably an overly high figure, for many of the arrangements currently described as ISFs operate differently to the definition of an ISF used in this practice guidance (ADASS 2014).

Part of the problem of the low uptake of ISFs may have been caused by uncertainty over the legal status of ISFs and how practically to go about implementing them. In the two sections below we identify some possible elements and some of the questions commissioners and service providers will have to explore.

Flexible Contracting

The purpose of contracting more flexibly is to clearly transfer the responsibility to meet someone's needs, and to do so in a way which enables the service provider to provide bespoke support. The council's fundamental duty is to meet the person's needs and to advance their well-being.

The reason for contracting more flexibly is to locate that responsibility clearly with whomever is most likely to be able to make good decisions in the person's interests – and in partnership with the person.

When a service provider enters into a flexible contractual relationship they are taking on all the legal responsibilities that go along with taking on the duty to meet someone's needs; but in addition they are agreeing with the council to work flexibly in the person's best interests and according to an agreed set of rules. Here are some of the issues that such a contract will need to make clear:

1) **Freedom to plan and use a personal budget flexibly** – The fundamental feature of flexible contracts must be the necessary space for the person and the service provider to use the person's personal budget flexibly. The starting assumption is that, together with the person and their representatives, they have the most relevant expertise to help the person achieve the outcomes that are important to them and meet their own needs in their own way.

2) **Freedom to sub-contract** – If the service provider can use resources flexibly then they must be free to sub-contract to any other person or organisation that they believe will help them meet needs most effectively.

3) **No support plan** – Working to a rigid pre-defined support plan can be restrictive, dictating to someone how they should live, rather than enabling them to make changes and respond to opportunities or problems. Any care and support plan that forms part of a flexible contract should set out the outcomes important to the person rather than the service to be provided.

4) **Personal budget vs the contract price** – People have a right to be told their personal budget – which is the money that the council has agreed as being necessary to meet their needs. This amount of money is arrived at through some kind of resource allocation process run by the council based on an assessment of need. However, the actual cost of providing a service that meets that need is incurred by the provider. A clear service specification, which can be costed quite precisely by a provider, and includes administrative costs, is usually considered essential to reconcile these two potentially different amounts. However, if the service is to be flexible, it is much more difficult for the provider to cost it precisely. It is, therefore, much more difficult to establish that the money provided is sufficient to meet the cost of the required service. Nevertheless, fundamentally, a flexible contract is one where sufficient cash is provided by the council to meet needs,ideally described in terms of outcomes, (see TLAP's care and support planning practice guidance), and the provider is enabled to change the services delivered (innovatively and creatively) within that budget amount, without recourse to the Council.

The council must provide sufficient funds to meet needs. In a flexible contracting arrangement, it is difficult for the provider to cost the service needed, because what is needed is subject to change. It is necessary for the provider to flex services so that it is responsive to changes in need, within the personal budget allocated, without having to gain approval from the council.

5) Restricted funding – Funding for an individual should be treated as restricted funding. This means that the money is given to the individual or organisation for the benefit of the named person and can only be used for them.

6) Management fees – The service provider may need to set prices for their management or other shared services, including administrative costs, it may also be helpful to clarify any such fees within the contract. However there is no automatic assumption that there should be explicit management fees or other arrangements. This is an option that may be useful, but would need to be explicitly agreed in the contract.

7) Payment schedules – Payment schedules will need to be negotiated to reflect the balance of risk on both sides.

8) Termination – Any flexible contract must set out agreed and appropriate termination clauses, and these must respect the obligations that the contracted party has taken on, including but not only, their responsibilities as an employer.

Exceptionally, the person to whom support is being provided will also have an explicit right to terminate the contract. This would be the case if third party arrangements were written into the contract. Under usual Council contracting arrangements which do not generally provide third party rights, the person themselves would not be party to the contract.

Termination clauses must be reasonable on both sides and there must be recognition that any organisation providing support will build up liabilities for redundancy, sickness and other costs, for which it must be able to take suitable account.

9) The person's rights – The rights of the person (or their representative) must be clear within the contract. Their right to terminate the contract will need to be dealt with. The person will only have rights to terminate the contract if the council included clauses in the contract based on Rights of Third Parties legislation. Employing such legislation would mean that the council and the contractor would be legally obliged to honor their obligations to each other by the person themselves. This possible and positive option does not yet seem to have been tested in practice very often, and will require further exploration.[6]

6 *TLAP would be keen to hear from any Councils who have contracts using third party legislation. Please get in touch by emailing thinklocalactpersonal@scie.org.uk*

10) Accounting – There is no automatic assumption that when an organisation or individual receives a personal budget, in order to meet a person's needs, they must hold that personal budget in a distinct bank account. This option, may or may not be proportionate or useful. If, deemed useful, this should it be specified in the contract. The early models of ISFs did involve separate accounting, but they did not use separate bank accounts.

11) No clawback – Under the terms of a flexible contract the resources that are provided to the organisation in order that they meet the needs of the person belong to the provider organisation. However if the person needs less support from the organisation then that contract will need to be varied or terminated. If a service provider has met the terms of the contract there can be no clawback because the money does not belong to the council.

12) Provider responsibility – This means that the service provider has a responsibility to meet needs even if the initial budget no longer seems adequate. The contract will need to make clear how and when service providers should support people to seek re-assessment of need. There is an important balance here, for councils can reasonably expect service providers to manage fluctuations of need within some agreed limits rather than immediately seeking re-assessment.

CONTRACT TERMS

There need to be clauses written into any flexible support contract that require the provider to alert the council in instances where less support is needed/being provided than the personal budget warrants. (I.e. the personal budget provides more money than is needed to meet needs) and a clear arrangement about what happens to this saving. Otherwise there will be a disincentive for providers to alert councils to changed circumstances.

13) **Contract change** – It is of course possible to convert existing contracts to enable more flexible support, but only subject to agreement on both sides. This cannot be imposed on any party, instead the terms and budget must be agreed by both sides. In some areas councils have already commissioned one or more community organisations or larger service providers to deliver ISFs. In this case it will also make sense for those organisations to sub-contract with smaller organisations.

14) **Liability** – If an individual or organisation become insolvent and the personal budget cannot be reclaimed then this does not reduce the obligation on the council to meet the person's needs; this would continue to exist and the personal budget would have to be restored and needs met appropriately.

15) **Regulation** – It may be that the sub-contracted individual or organisation also needs to be regulated. Councils must respect the further responsibilities and costs that this creates.

It is important to remember that the use of flexible contracting by councils is an under-developed area. It will be important to encourage different kinds of contracting and to evaluate the impact of different approaches.

Questions for service providers

ISFs exist to help service providers deliver tailored personalised services and make themselves accountable to the people they work with. Although this model has been in existence for at least 19 years it is underdeveloped, nevertheless there are some organisations using this model of working consistently, for example Dimensions, the 3rd largest Learning Disability provider in the UK use ISFs for all their services; and Thera, an organisation which supports adults with a learning disability in their own homes, in the community and for short breaks, works with ISFs as an internal management tool with support from Shop4Support.[7]

7 See forthcoming case studies on the TLAP Personal budget Minimum process framework – ISF 'tile': www.thinklocalactpersonal.org.uk/Personal-Budgets-Minimum-Process-Framework/#prc1.3

Greater accountability by service providers to those they work with is helpful and can be the foundation for further improvements in support and the promotion of greater well-being. So, for any organisation that seeks to provide flexible support through ISFs or some other mechanism, it might be useful to consider the following questions that they may be asked by someone they support:

1) **What is my overall budget?** – In most cases it would seem reasonable to help people understand what budget the service provider has received to provide the necessary support. Although it should be recognised that, depending on local council practice, this information may not always be available.

2) **Is this budget restricted?** – Early pioneers in the use of ISFs treated the budget as restricted to the benefit of the named person. This provides a useful discipline and reassures all concerned that the organisation will secure the resources they've received for the person's benefit.

3) **Can I change my service provider?** – People should know how to end support from their service provider. This will, in most cases, require conversations with a social care worker. This is because, the person receiving services will, in all likelihood, not have a right to terminate the contract between the Council and the provider, unless they have this ability afforded to them under a third party arrangement within the contract. Whether or not there are third party arrangements in place the person does have the right to refuse support from the Council and therefore a contracted provider. If they do refuse support, it is very likely that the Council will offer an alternative provider. However, it should be noted that under the law the council does not actually have to do this.

4) **How will you keep me informed?** – If people benefit from knowing what is in their budget then they also need to know what is being spent against that budget. That means setting up some system of accounting and reporting and agreeing when people will get information.

5) **What charges will you make?** – Some costs, like management charges or charges for shared services can be specified up-front. Many people might like to compare the management costs of possible service providers up front.

6) **Can I use my budget flexibly?** – Many people will want to use their budget flexibly. Some people may want to decide how their budget is spent. However, the person receiving services will not, in all likelihood, be able to dictate to a provider what salaries are agreed or be involved in any other important decisions about pensions and other terms and conditions of employment. It would only be when sub-contracting arrangements were being put in place by the provider that such issues would be of reasonable interest to the person receiving services.

Some people may want to use part of their budget on equipment, adaptations, capital, travel, costs of community involvement or anything else that improves their well-being. Any restrictions on how money can be spent should be clear.

7) **Can I have my own staff?** – One of the most important factors for people is to identify, trust and like the person who actually provides them with support. Many people with disabilities have become employers of support staff precisely to have direct control over who supports them, no matter the extra responsibilities and costs this creates. However it is important to note that organisations can also employ people as personal assistants for named people – with specific job descriptions, recruitment processes and contracts. Many of the advantages of having personal assistance are achievable in this way.

8) **Can I have my own policies?** – Not only can support and funding be personalised, so can the policies and procedures being used. In fact best practice in health and safety dictates that risks are personalised and generic health and safety practices avoided. Often an imbalanced and bureaucratic approach to risk management can be avoided by a different, person-by-person approach, keeping decision-making flexible and close to the person.

9) **What happens if I save money?** – If the service provider receives the money (from either a direct payment or the council) to provide a service, and that service has been delivered satisfactorily then that money is the organisation's. However, if people work to put aside some of their budget, holding back spending for a period, they will usually want this money to be protected and safeguarded for meeting their own needs. Service providers will need to be clear on any rules that apply to 'savings'. Councils will need to consider if this is something that they wish to support. There may be many circumstances where this scenario is perfectly reasonable, in cases of fluctuating needs for example. However, councils may wish to be sure that needs are not being overfunded.

10) **What happens if I overspend?** – Sometimes circumstances change and it is impossible to meet somebody's needs without spending more money than may be budgeted. While ultimately that may mean a reassessment by the council often such changes in need have to be met by the service provider if they are likely to be short-run. Some people may be able to bear fluctuations in their budget, paying for extra support that they needed from their current budget. Others may want to pay into an insurance fund or organisational reserve which allows the organisation to deal with extra costs. These arrangements need to be set out clearly.

These questions flow logically from the goal of accountability. However it is for service providers, with councils and people using their support to develop their own agreed systems and approaches.

INNOVATION FOR SERVICE PROVIDERS

The objectives of the Care Act will only be achieved if service providers play a dynamic role in the design of support services.

Flexible support will require many changes and developments, building on, but going much further than, the use of ISFs.

There are emerging examples of more flexible support across health and social care.

Changing the contractual structures to enable service providers to offer more flexible support is just a first step. It will also be essential that service providers then take up the challenge of developing flexible support and using mechanisms like ISFs. The Care Act 2014 makes it much easier for service providers to take on a more dynamic role.

Service providers as innovators

Personalisation respects the positive contribution that people with care and support needs, users and family members can make to shaping their own support and to contributing to the wider community. However, it should also challenge preconceptions about the roles played by service providers. Indeed, it may be necessary to stop thinking about provider organisations predominantly in relation to the services they supply – which can imply a rather static role – and to start thinking about the full range of roles they might play in supporting people within the community. This is important because creativity and responsiveness tend not to be driven by contracting or tendering arrangements. Instead, it is necessary to recognise the contribution that provider led innovation has to make (Self-Direct 2010; Self-Direct 2013).

Since the **NHS and Community Care Act 1990** contractual relationships between commissioners and providers have tended to dictate both the kinds of services provided and the organisations that have provided them. Furthermore, it has largely been left to the council's assessment process to determine the

services into which people were 'placed'. However, the Care Act 2014 describes the task of shaping diverse local markets as a 'shared endeavor' in which providers or organisations have a real contribution to make.[8] In this context service providers should:

- Play an active role in promoting **innovation** and in developing appropriate individual support solutions.
- Form meaningful **relationships** with the people they work with and these should form the basis of new understandings and possibilities.
- Have significant **authority** to agree changes or improvements in the support that they offer the person
- Offer significant **expertise** or insight that needs to be used to guide decisions.

In other words, in the future, under the Care Act 2014, not just the individual but also their support provider should be treated, not as a passive recipient, but as a dynamic partner.

Achieving flexible support

As we described in Chapter 3, ISFs can be a useful mechanism to enhance choice and control, however, it is crucial to remember that it is not the financial mechanism that brings about the main benefits.

The ISF is a tool to help bring about the changes needed to move away from more restrictive or standardised services. It is a means to promote innovation, but the real value lies in the innovation itself.

Frances Brown, was one of the original pioneers of ISFs, and she currently works with a range of service providers in Scotland who use ISFs. ISFs are now being offered to people using home care services and to people with learning disabilities, physical disabilities, mental health issues, complex health conditions or challenging behaviour. As part of the research carried out for this guidance she stated: "It is important that people don't think that the goal is just to 'have an ISF' that is meaningless."

In fact, she and others who have been using ISFs for some time, identified five key elements to providing flexible support:

1) Accountability – Flexible support means ensuring that the service provider makes itself accountable to the person. People should know their personal budget and also their rights to terminate their existing service and to seek a different service. Service providers should be clear about how they are managing someone's personal budget, any rules that apply and how they will keep the individual or their representatives informed and involved in decisions. It is these accountability arrangements that are the ISF (Fitzpatrick 2010).

8 *TLAP is developing materials to support the new market shaping duty in the Care Act relating to commissioning for market diversity and choice, see the TLAP web site for further information. See also previous work on creating stronger partnerships to help achieve better outcomes (Bennett, 2012).*

2) Individualisation – Flexible support means individualising support and ensuring that someone's needs are met in the most effective way possible – to fit them, their life and their community. Providers of flexible support will tailor the overall design of the support, the staffing arrangements, technology, adaptation, housing, policies and procedures – anything necessary – so that the person's needs are met and their well-being is advanced (Fitzpatrick, 2010).

3) Responsiveness – Flexible support means being able to change, innovate and be creative. It means not restricting the use of the funding to some narrow range of services but building on all the capacities of the person and their community to maximise the outcomes the person can achieve. It means responding as quickly and as sensitively as possible to help people improve their own lives.

4) Partnership – Flexible support means working in partnership with the person, their family, friends or other representatives. It means sharing power, control and finding the right balance of responsibilities for the person. Some organisations are now established to provide Shared Management[9] in this way – which is a formal way of agreeing the right balance of responsibilities with each person (WAIS 2012).

5) Empowerment – Flexible support means working to enhance the power and connectedness of the person. The best support links people to peers, enables people to learn from others and to exercise collective power. Increasingly forms of peer support or 'cooperative care' enable people to collaborate and influence the wider system and community (Duffy 2012).

9 A term not current parlance in the UK, it is more commonly used in the US and Australia. It is explored in more detail later in this report

KEY MESSAGES FROM CHOICE SUPPORT

"Choice Support were pushing at an open door when they suggested an Individual Service Fund approach for transforming their services in Southwark"

Chris Dorey, *Commissioning Manager, Southwark Council*

Their block contract was worth £6.5 million covering 83 people with learning disabilities across a range of settings. It was converted to 83 ISFs with 83 personalised support plans. This resulted in £1,795,073 savings over a three year period.

Savings were made because individualised support plans enabled traditional services to be de-commissioned:

- Waking-nights were removed from 11 services (29 people) making Southwark 'waking-night' free
- There was increased use of Assistive Technology
- 21 care homes were de-registered
- The hourly support rate came down as staffing costs reduced
- Local and central overheads were reduced to 15% of ISFs as various offices were not needed

Additional things happened:

- A Shared Lives service was established
- Pooling personal budgets was encouraged
- More personal assistants were introduced

An example of the benefits this approach brought is what happened to John. Choice Support started supporting John in 1995 in a registered care home under a traditional contract arrangement with the Council. At this time John would often sit on the ground and refuse to move, and he had significant challenging behaviours and felt very isolated. Changing the contractual arrangements enabled Choice Support to respond more flexibly to John's needs. With an ISF John has learnt that he can change what he does and how he leads his life. He now has many new skills, he walks independently. He has lost a lot of weight, and he has his own car. The ISF arrangement has also helped John's brother and sister to be more involved in decision making and they too are therefore much happier with how things are going.

Lessons learned:

- Individualised funding is a provider led process – Choice Support did the 'heavy lifting'
- The role of social workers and commissioners is also essential to enable a more flexible approach
- An ISF approach created opportunities for staff and managers to think differently about how to provide support, this had an empowering effect.
- The ISF arrangement created the chance for family and friends to get more involved in things
- The ISF gave people a chance to change things they'd previously been stuck with.

At the heart of flexible support is the integrity of the relationship between the person and their chosen service provider. An ISF can help improve accountability and can open up new possibilities for better support and well-being. However, it is the commitment to really do the best by the person that makes the difference.

ACCOUNTING

One of the practical implications of accountability to individuals is that it may require some changes in **management accounting**. For organisations, like domiciliary or residential care providers, who already provide support to people purchasing their own care (self-funders), then it is likely there will be no change. Instead, the ISF will simply bring privately and publicly purchased support into line.

For smaller or newer organisations, the implications may also be modest. When it initially developed the concept of an ISF Inclusion Glasgow had very modest level of funding, and was able to simply design accountability to the individual into its accounting system. The bigger challenge will be for organisations more used to funding that is not linked to individuals, but purchased through block contracts. For example, Choice Support took a year to redesign its management accounting system to ensure individual accountability (Hoolahan 2012).

RECRUITMENT

It is not just financial systems that will need to change. For instance, many organisations providing flexible support have moved away from recruiting generic support staff and have instead started to help people employ the right people for them (Fitzpatrick 2010, Hyde 2012, Duffy 2013). This means that support staff are recruited less for their generic skills and more for their specific qualities, and their ability to work well with a specific individual. This is more akin to the recruitment of personal assistants by disabled people using direct payments:

- Recruitment is individualised
- Personal and community networks are utilised
- Specification and job-contracts are individualised
- Management of staff is done in partnership with people and families
- Support from family or the wider community is utilised

Given how important it is for people to get the right support from the right person it is likely that individualised employment arrangements will become more prevalent. However this will require some very different personnel practices.[10]

10 *For good practice in this area see the Skills for Care web site. For example, their document 'Working for personalised care: A framework for supporting personal assistants working in adult social care' (2011), and also Macintyre's Great Interactions model (see http://www.greatinteractions.co.uk).*

POLICIES AND PROCEDURES

Another area where much greater flexibility will become essential is in the development of policies and procedures. The fundamental principle of good health and safety practice is to make proportionate judgements of risk and act accordingly. Despite this it is quite common for health and safety policies to specify a standard approach to a whole range of daily life issues: how best to lift someone, how best to manage medication, how to avoid risks in relationships, how to help people if they become angry. The unfortunate side effect of this kind of generalised approach, is that it can increase risk overall. This is because it cannot be sensitive to the full range of individual factors involved (Duffy 2013b; Duffy 2010c).

It is for this reason that some service providers are taking a very different view of how best to manage risk. For example, Partners for Inclusion, develop specific working policies which help everyone in a team understand how best to support someone. These policies are called **working policies** because they are constantly reviewed and changed in the light of what is being learned (Fitzpatrick 2010, Hyde 2012).[11]

Recent research by Stephen Finlayson suggests that the current focus on risk is misconceived and that "It is time to stop talking about risk and to start talking about good lives and the natural worries that are part and parcel of them" (Finlayson 2015). Finlayson notes that typical approached to planning, risk management or risk enablement are often so cumbersome and complex that they often frustrate people's natural desires for a good life. This then leads to further problems, including damage to the relationship between the person and their supporters. Whereas the key to good support is to focus on on-going planning as a natural part of the support relationship.[12]

Emerging examples of the use of flexible support

If service providers can be liberated to take on more responsibility and can start to provide more flexible support then it is likely that increasing levels of innovation will emerge. Already, there are helpful innovations that could benefit many different people, in very different circumstances:

11 *See also SCIE Report 36: Enabling risk, ensuring safety: Self-directed support and personal budgets:* www.scie.org.uk/publications/reports/report36/keymessages.asp

12 *See also Skills for Care: Keeping risk person-centered:* www.skillsforcare.org.uk/Document-library/Skills/Living-with-risk/Keepingriskperson-centred-assessingrisk.pdf *and TLAP's Making it Real theme 5- Risk Enablement:* http://www.thinklocalactpersonal.org.uk/_library/Resources/Personalisation/TLAP/MakingItReal.pdf

1) Mental health services – There are some examples of mental health service providers using ISFs to develop more personalised support for people in supported housing. In this sector ISFs are helping organisations have clearer conversations about what support is a core part of the service that needs to be shaped, and what support can be individualised.[13] It seems likely that many people may agree with the observation of one man "If I had the choice, I would rather go out than buy an extra hour of key work" (Look Ahead Housing and Care and Tower Hamlets 2010).

Some organisations working with people with mental health problems have noted that ISFs provide a useful way to promote co-production – helping people design and develop support as equals – because co-production promotes greater choice, control and therefore wellbeing (Duffy 2010b, Alakeson and Perkins 2012, McPin Foundation 2015, Scottish Co-Production Network 2014). This principle is reflected in TLAP's care and support planning guidance which co-produced 'I statements' with people who use services. One of these statements is: 'I am supported to take risks and know it is OK to make mistakes and change my mind' (TLAP 2014).

2) Learning disability services – Increasingly organisations that support people with learning disabilities are embracing ISFs to increase the effectiveness of their support.[14] The advantages are not only that staff can be recruited to suit the personality and needs of the person, but also that money can be used to focus on the activities that help people really flourish (Creative Support 2014). Some organisations are finding it a good way to involve families more effectively. For instance Camden Council described how they used ISFs as part of developing new forms of residential support, in partnership with families (London Borough of Camden, 2014).

3) Older people's services – Many people may want to retain the domiciliary care service provider they prefer when that provider is no longer contracted with by the council (Calderdale 2015, UK Home Care Association 2013). As a result, some people are now able to have more choice in recruiting the individual who will provide them with support. As one person receiving services said: "To get this help is such an improvement for me and makes me feel like I'm getting some independence back again." (Redbridge Adult Social Services 2012). Alzheimer Scotland described how one woman used her 'ISF' "to keep the same carers and agencies involved in

13 *For example Certitude:* www.certitude.org.uk/?s=isf

14 *For example there a two ISF case studies from Dimensions on the TLAP web site in the Minimum Process Framework here:* www.thinklocalactpersonal.org.uk/Personal-Budgets-Minimum-Process-Framework/#root

her care as before… [and to] determine how they support her in the things she particularly needed and wanted help with" (Alzheimer Scotland 2010).

4) **Residential care services** – It is not just independent living arrangements that can benefit from the use of ISFs; there have also been some early efforts to use ISFs as part of efforts to personalise support for people who are in residential care (Action Hampshire 2015, Burtney et al. 2014; SCIE 2012). This included a service provider sub-contracting some elements of support to others where they could provide more specialist or appropriate support (DH 2012). Broadly, while there may be some limitations to the degree of flexibility possible, there seems no reason, in principle, why accountability for personal budget and clarity about which costs are shared, cannot be applied in a care home setting.

5) **Specialist services** – ISFs were first designed to support people where they needed intensively managed support to keep them safe (Fitzpatrick 2010, Hyde 2012). More broadly they are well suited to any service where there are higher levels of risk or concerns about safety. As the service provider can be selected by the council, based on their competence, they can then be enabled to design and deliver the most appropriate support. Accountability is clear, and yet the support can be tailored to reduce risk (DH 2010b). However, this also implies that the contract may also need to be tailored to ensure that the person's right to select their provider is balanced against the council's duty to meet needs appropriately. Whilst there may be situations when the latter is paramount, work with rough sleepers demonstrates that many groups can benefit from a more personal and flexible approach, even when people don't have direct control of the budget (Hough and Rice 2010).

6) **Adaptations, equipment and capital** – One of the other advantages of using ISFs is that service providers can work with people to spend some of

their budget upfront on adaptations, equipment and capital without undue bureaucracy (Thistle Foundation 2014, Hood 2014). For instance, some of the efficiencies achieved in the Better Lives research were created by using ISFs to fund technology to keep people safe at night, as described in the Better Nights research (Ellis and Sines 2012, Ellis et al. 2014).

7) **Integrated services** – Many of the structural divisions that can make it hard to offer coherent support can be overcome by the use of ISFs. For instance where service providers combine integrated funding from children's services, adult services, social care services, health services or from education (Cowen 2010, Alakeson and Duffy 2011, Commissioning Support Group 2010).

WHAT DIFFERENCE DOES AN ISF MAKE?

Sheila Scott is Director of Inclusion, the organisation that first used Individual Service Funds in 1996. Inclusion Glasgow was designed to provide hyper-flexibility in the delivery of support, to be responsive to change, as people's lives change, while concentrating on the outcomes they want to achieve (Animate 2014). Here she describes the difference that ISFs make to how the organisation works: *"As an organisation we have always worked with people and Individual Service Funds. It is not all about paid support. Instead it means working in partnership with people creatively, helping them to be members of their community, active in their own individual way, sharing their gifts and talents achieving their goals and dreams."*

One family member described how his brother's life changed after working with Inclusion: *"It used to be the same, meaningless, routines; but now with Inclusion he is out, part of the community. Working with his team he has developed all sorts of interests, he loves volunteering, has a gardening job, he is known locally and has lots of people to talk to. His need for paid support has reduced because his life is so much fuller."*

People welcome the flexibility that Inclusion offers because it lets them change what they want at short notice. They feel at the centre of things and in control. Staff are matched to the person and time juggled to the requirements of the individual.

If it is working well and the staff 'match' is correct, it should not look like professionalised support. One visiting Member of the Scottish Parliament remarked that they could not tell who was supporting and who was supported, it was so focused on the person and their wishes. One mother, describing the difference that Inclusion's support had made to her daughter put it like this: *"It's about having more flexibility – allowing my child to control what makes her happy, taking things at her pace."*

WHAT IS SHARED MANAGEMENT?

Shared Management is a term which describes what a good Direct Payment support service does. New Prospects in the North East of England uses the notion of shared Management to express a sliding scale of control, support and responsibility (WAIS 2012). The more responsibility people take for the management of their own support then the less they pay. Shared Management offers people a middle way between employing personal assistants or buying support from an agency.

In practice this means that the organisation can deliver the right mix of support that people want, which can change as people gain more confidence or as circumstances change, for example:

- Holding the personal budgets (or not),
- Supporting people to recruit their own personal assistants,
- Supporting people to employ their own personal assistants,
- Providing a payroll service,
- Providing supervision or training for staff,
- Purchasing support from the organisation, who then employ staff,
- Or the right mix of these options, which can be changed over time.

Tim Keilty of New Prospects describes what it means: *"The key is clear honest agreements, a flexible approach to funding – for example, turning unused 'hours' into cash to be used for other support options, but most importantly building trust. Trust that people can take control, and trust that New Prospects as a 'provider' are not just in it for the money."*

HOW DO PROVIDERS ACHIEVE FLEXIBLE SUPPORT?

Doreen Kelly has been using ISFs since 1998, first at Inclusion Glasgow, then Partners for Inclusion and now Beyond Limits (Fitzpatrick 2010, Hyde 2012, Duffy 2013). Here she explains that the success of ISFs does not rely on standardised or complex planning processes; instead it is critical that people engage in a real and meaningful partnership with the person – really listening to what they need – and working to develop and change support day-in day-out:

"Everybody needs control, but sometimes people need support to help control their own support. Using ISFs has been a key part of our work and it helps us stay accountable to the person and their family, while also enabling us to work flexibly and quickly to provide the best possible support. Instead of formulaic planning processes, we get alongside people and figure out with them what they need and how to get it. When things need to change we change them."

CARE MANAGEMENT

Care managers should actively encourage people to have ISFs. This means, when a direct payment is not possible or appropriate, and a managed personal budget is taken, an ISF should be available to provide genuine choice and control.

Care managers should be able to help people select the right service provider for their circumstances, based on the assessment of need and their knowledge of available options.

CULTURE CHANGE CHALLENGES

Care managers are not used to supporting people to make choices about which service provider is right for them. In fact, this is the kind of activity that Councils have sometimes been wary of. Social care employees have not been allowed to develop the kinds of supported decision making skills they now need for fear of allegations of preferential treatment towards certain providers. But social workers are skilled qualified professionals, whose expertise should be harnessed and utilized more. However, this is a major cultural challenge.

Councils need to reconsider how the time and energy of care managers is focused. Care managers need to be empowered to support as many people as possible to take advantage of direct payments and ISFs. However, care managers also need to be supported to give the right level of attention to those people who cannot take on such responsibilities and where no appropriate service provider is yet available.

To do this, social workers need new kinds of skills and to have new kinds of conversations with people with care and support needs and carers. One of the really important things for social workers to do is to discuss how needs can be met informally. This can be done by developing family relationships, exploring how, with the right support, the individual can do

more for themselves, and how people can make the most of the communities they live in.

Social workers need to understand ISFs because they can be a great way of fitting services around this informal support network and supporting it, rather than replacing it. Supporting and generating independence rather than simply enabling access to services that can create long-term dependence.

As well as new conversations with the people they work with, social workers also need to have different conversations with commissioners. Two-way communication is needed where social care staff explain to commissioners how local communities can be helped to support individual resilience; and commissioners need to share information about the services that are available, how to access them, and how any identified community deficits will be addressed.

This culture change goes beyond the introduction of ISFs, but it is important context for councils seeking to pursue the spirit as well as the letter of the Care Act. Given this wider context it would seem better to change the order of priority by which different kinds of service are developed with people. In future the following may the best approach:

1) **Direct payments first** – Direct payments give people a high degree of flexible control over their own support. Direct payments become even more attractive when there is reduced bureaucratic burden placed on the direct payment user.[15] Indeed, the Care Act Guidance enables people to purchase management support with their direct payment.[16] Providers can also be asked by a Direct Payment holder to help them manage their budget. Those providers used to delivering ISFs for Councils will be well placed to supply this kind of service, and a council care manager, contracts officer, or direct payments support officer should be well placed to facilitate access to these providers by signposting and recommendation.

2) **The Council contracting flexibly with a provider for an ISF** – Sometimes people can't or don't want to manage a direct payment. In which case the next best solution is to identify an appropriate service provider who can meet that person's needs flexibly. When a direct payment is not possible the care manager should work with the person to identify an appropriate service provider to provide flexible support through an ISF. With a flexible contract in place the service provider will take on the lead responsibility to manage and change the support provided.

15 *See the 3rd National Personal Budget Survey report 2014 available on the TLAP web site*

16 *See section 12 of the Care Act Guidance*

3) **Council directly managed services** – If someone does not want a direct payment and there is no service provider with the capacity to manage flexible support through an ISF, then responsibility will lie with the care manager or contracts staff for directly managing services on the person's behalf.

The reason for this priority order is three-fold. First, it makes the most empowering model of support – direct payments – the starting point. Second, it ensures that any support provided is responsive enough to dynamically change as people's needs, lives or circumstances change. Third, it puts the more efficient forms of support before the less efficient forms. This does not mean council managed services, with active management, are never appropriate. However, they are inherently more costly, for they involve additional time and effort by the care manager, alongside whatever management costs are associated with the council managed (or provided) service.

This does not mean under-valuing the importance of good care management. Instead this means respecting, and making best use of, the skills and time of care managers. For example, in **Better Lives**, the most intensive and extensive research on the use of ISFs to date, not only did efficiency increase, but so did the satisfaction of support staff and social workers. In a poll of the 17 social workers involved, 15 agreed that the introduction of ISFs was the most significant initiative of their working lives (Ellis et al. 2014). This is in the context of a project that purposefully re-shaped the role of care managers – leaving planning and change management to the support provider. This suggests that the old model, not only created inefficiency, but that it also had a tendency to generate mutual frustration. It may be that a more trusting approach is more rewarding for both service providers and care managers.

This finding is also consistent with other research which indicates that care managers are themselves often frustrated by the systems they have to follow. Care managers are most frustrated when the system they are working with does not enable them to discriminate between situations where others can take the lead, and those situations when they must apply significant amounts of their own time and energy (Duffy and Fulton 2010). Increasing levels of awareness of the legal framework under the Care Act and Mental Capacity Act may help with this over time.

COMMISSIONING

There are significant obstacles to overcome to build greater trust between councils and service providers and to encourage the greater use of flexible support and ISFs.

Both commissioners and service providers will need to adapt their behaviours if new innovations are to develop.

Commissioners and contracting officers will need to embrace the notion of contracting for flexible services, and find new ways of enabling providers to be more creative.

The 2014 ADASS Personalisation Survey states: *"The level of ISF use remains relatively small, representing just 4% of people using community services overall. Slightly more people aged 18-64 than older people are likely to have ISFs."* (ADASS 2014) Furthermore the £49 million currently spent using ISFs represents a share of 1.1% of total expenditure.

Both the ADASS report and the further research carried out for the development of this practice guidance tells us some important things about how ISFs are currently being understood and used by councils:

- For some providers ISFs are seen as a mechanism by which councils can reclaim unused hours from contracts. For example, when the council allocates a personal budget it is based loosely on the cost of supplying services. However, as the provider delivering an ISF creates more tailored arrangements, in dialogue with the individual, the support works better for the person. Such that fewer hours, and more often than not less money, is needed to achieve the individual's desired outcomes. The difference between the lower costs of the tailored provider-led arrangements and the often higher cost of standardised services the council has based their personal budget allocation on, is treated by the council as surplus funding. This surplus is then taken back as an instance of over funding.
- ISFs are sometimes viewed as a rather mechanistic money management option. They are considered as a way of helping people address the problem of 'managing a budget'. In these situations there seems to be little focus on the idea that they are an enabler to more flexible

support arrangements and relationships. In practice, families and individuals are much more likely to be worried by the burdens and liabilities of managing staff or some of the other risks and liabilities that go with receiving more personalised support, than they are with the more technical issues of managing a budget. That is to say, the source of people's anxieties is often not properly located. As a result, the formal technical elements of an ISF become the focus rather than seeing an ISF as vehicle for creating better more person centered support arrangements.

- Some councils see ISFs as too 'risky' because they locate greater decision making responsibility with the provider and the individual.

Clearly if ISFs are understood in these limited ways then their potential will not be realised. As has been set out in the preceding chapters, these are misconceptions of what an ISF is, and in future council commissioners and contract officers should seek to develop contracts that enable ISFs and more flexible support.

It is also important to reflect on some of the underlying reasons why ISFs and flexible support have not been embraced by councils and service providers to date. For instance, a common assumption in commissioning and contracting circles that existing service providers simply lack the capacity to provide flexible support. This may have something to do with how the social care system has evolved.

In particular, since the NHS and Community Care Act 1990 the so-called 'purchaser-provider' split has, according to many commentators, created a significant gulf in understanding and trust between those providing support and the councils who fund them (Duffy 2014; Glasby 2007; Glasby 2012, Yapp and Howells 2013). This is damaging and ultimately unsustainable.

Resolving this deep cultural problem will not be straightforward. A breakdown in trust cannot be resolved simply by

a technical change in contracting. Commissioners and contract officers will need to address this wider cultural problem. One important way they can do this is by establishing trusted provider status, based on track record, user ratings, and accreditation standards. Doing this is a way in which flexible contracting can become more common place. As trusted providers evidence their competence and creativity in managing ISFs, commissioners and contract officers can re-place contracts that unduly specify how needs will be met with more flexible alternatives.

This point was reinforced powerfully in the conclusions of a review of the effectiveness of ISFs and council managed services in delivering greater personalisation:

"It was clear that ISFs (or their local equivalents) were not being used as anticipated because of intensive monitoring by local authorities of providers' daily activities with service users. Agency managers did not feel that they were trusted to make minor changes to individuals' care without council authorisation. Whilst some monitoring is necessary, given councils' accountability for spending on social care and the quality of care that people receive, excessive monitoring may undermine opportunities to promote personalisation."
(Baxter et al. 2013)

It is for this reason that putting in place new, more flexible contracts, and so authorising service providers to take the lead on the development and delivery of flexible support, should be an essential first step. This will then open up a range of possibilities for changing care management, service provision and commissioning.

Councils will benefit from treating service providers as partners in the development of good support and community capacity to meet need and strengthen well-being.

BUILDING COMMUNITY CAPACITY AND MARKET DEVELOPMENT

For a lot more information on this subject of building community capacity and market development see the TLAP web site including: Developing the Power of Strong, Inclusive Communities. A strategy document which offers practical guidance to support community capacity building, as well as integration across health and social care. Accessed here: *www.thinklocalactpersonal.org.uk/BCC/Learning_network/Key_publications_from_the_BCC_project/*

This shift in thinking might be mirrored corporately. For instance Yapp and Howells have proposed that councils see themselves – not as out-sourcing – but as community sourcing, working with local community partners to build on and enhance the natural and organisational resources of the community (Yapp and Howells 2013).

Promoting flexible support opens up the possibility of a model of commissioning which is much less interested in procurement of services and much more focused on creating community change in partnership with citizens and community organisations.

If councils wish to move more radically towards more flexible contracting arrangements instead of block contracts then they will need to consider some practical issues:

1) Provider transformation – Service providers will need to be offered the opportunity to convert existing contracts to ones which enable them to deliver ISFs. Where someone's needs have not changed this will not usually require a re-assessment. Care should be taken however, as the Care Act (section 27) does require proportionate re-assessment if the care and support plan is changed, and creating an ISF to enable new flexibility may be substantive enough to mean that the care and support plan is effectively being changed.

2) New community partnerships – Some councils may want to redesign the total system for working with citizens entitled to support. For instance, Salvere have taken on the process of planning for many of those who have already had an initial assessment.[17] Or, where commissioners have started to focus contracts on a smaller number of providers, it may be possible for those providers to begin sub-contracting using flexible support, if the contract allows for that step.

Finally the underlying principles of partnership, transparency and flexibility are not restricted to situations where local authorities use contracts to purchase support. It is quite possible for councils and other statutory bodies themselves to work in this spirit and to design systems that make it easier to do so. For example, there is no reason why an NHS mental health trust could not provide personalised and flexible support in this spirit (Duffy 2010). In addition, where councils still directly manage in-house services there is also no reason why they could not explore the use of ISFs in their role as providers, particularly given the obligation to tell people the personal budget they are entitled to.

17 *The Care Act allows formal delegation of assessment by councils*

FINAL THOUGHTS – QUALITY

The approach to improving quality and minimising risk must shift to one that is community-based and which encourages personal and social responsibility.

The use of more flexible support, envisaged by more flexible forms of contracting, and the use of ISFs, should be an important consideration for councils as they implement the Care Act 2014. This is both a technical and a cultural challenge and it will require a significant shift in thinking and practice. However it offers the prospect of:

- Better outcomes for people and families
- Fewer burdens on people and families
- More efficient use of resources
- A greater leadership role for community partners
- Better use of the skills and energies of social workers and care managers

This transformation builds on the success of personal budgets and direct payments, by extending the underlying principle that it is people themselves, together with families, friends and professionals that hold the key to positive change. Enabling the use of more flexible support will allow people and service providers to innovate with the potential to unlock capacity that an over-regulated or rigid system inevitably wastes.

While the tendency to solve problems by enforcing more central control has a certain plausibility, in the long-run it can reduce quality and efficiency by undermining autonomy and flexibility.[18] So, in order to make the necessary change it will be important to recognise the important role that everyone plays in improving quality.[19]

In practice the shift to the use of flexible support, and the use of ISFs, could lead to the next great wave of innovation after the development of personal budgets. Councils should work together to learn how best to achieve this change, for it could unlock the benefits of personalisation for the vast majority of people currently receiving adult social care.

18 *See What is Quality TLAP 2013 p.4 for an account of what quality care and support looks like, and further on in the same report for what needs to be in place for quality care and support to improve:* www.thinklocalactpersonal.org.uk/_library/TLAP_What_is_quality_WEB.pdf

19 *TLAP has a range of products: focusing on improving quality across the social care sector. See for example Driving up Quality in Adult Social Care: What is Quality?:* www.thinklocalactpersonal.org.uk/Latest/Resource/?cid=9407

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Think Local Act Personal

Think Local Act Personal (TLAP) is a national strategic partnership of more than 50 organisations committed to supporting the continued implementation of personalisation and community-based health, care and support.

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