

Disability Support Services Operational Policy: Restrictions on Access to Hosted Budgets

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Version Management Table

Date	Change	Version	Editor
27 May 2015	Updated version for review by DSS	V1.4	Fiona Wakefield, prepared for Audit & Compliance
9 June 2015	Reviewed by DSS	V1.5	Murray Penman
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1.0 Introduction

The Ministry of Health (the Ministry) funds provision of disability support services for People with identified disability support needs. The support allocation available will depend on the disability support needs identified through a needs assessment conducted by a Needs Assessment and Service Co-ordination (NASC) organisation.

Some People will be able to access one of the Hosted Schemes that allow People to manage their own budget (Personal Budget) with the help of a Host Provider. The Hosted Schemes currently include:

- Individualised Funding (IF). This is a national scheme where People who have been allocated Home and Community Support Services and/or Respite can purchase these supports flexibly/directly.
- Enhanced Individualised Funding (EIF). This is part of the New Model Demonstration where People are allocated a Ministry budget for disability supports and can purchase supports that are aligned to the New Model Purchasing Guidelines.
- Enabling Good Lives (EGL) Hosted Personal Budgets. This is part of the Enabling Good Lives Christchurch Demonstration where People are allocated a budget that may come from multiple Government agencies.

This policy document sets out the terms for access to funding under a Hosted Scheme, and applies to all People accessing a Hosted Scheme.

2.0 Hosted Scheme funding

Under a Hosted Scheme People are allocated a Personal Budget by a NASC¹ to use for a set period of time. People will be able to use their Personal Budget flexibly and will be expected to manage their budget within the requirements of the Hosted Scheme that is funding them.

Not all People will be able to directly manage a Personal Budget under a Hosted Scheme, and some People will have conditions that will apply to their access to a Hosted Scheme. People not funded under a Hosted Scheme will continue to receive services appropriate to their identified support needs, but those services will be managed by a Formal Provider.

People who have committed a Restricted Act may not access Hosted Schemes.

3.0 Principles

The following principles will apply:

Principle One: The Ministry will not increase, or continue to increase, a Person's Budget because they have run out of funding, (unless it decides, at its sole discretion, that it is necessary to do so).

Principle Two: People with an identified need for disability supports will still be able to access standard Formal Provider services even if access to a Hosted Scheme is denied or withdrawn.

Principle Three: Any actions taken must ensure that risk to the Person, their whanau or employed support worker is managed appropriately.

4.0 Access to a Hosted Scheme

Access to a Hosted Scheme by a Person may be denied, or subject to conditions, in the following circumstances:

- The Ministry and/or NASC and/or the Person decide that the level of risk to the Person or support workers is too great to safely manage within a Hosted Scheme.
- The Person (or their Nominated Agent) does not comply with appropriate laws, for example those governing employment or health and safety.
- The Person (or their Nominated Agent) who is employing support workers has had to pay out on more than one personal grievance claim.
- The Person has failed to manage the Personal Budget appropriately, for example:
 - they have purchased supports outside what is allowed within each Hosted Scheme;
 - the funding allocated has not lasted for the duration of the period funded and there has been no identified change in need.

¹ Or a Funding Manager who may work for a NASC.

- The Person has been found non-compliant (or is being audited) in their use of the Personal Budget, for example claiming for either costs of support that were not incurred or not permitted under the Hosted Scheme conditions.
- The Person has committed any Restricted Act.

The final decision on access to Hosted Funding or any conditions that may be imposed rests solely with the Ministry. An audit may recommend what consequences could be required and the Ministry will consider any such recommendation.

5.0 Host Provider obligations

Host Providers and NASC will work together to identify and monitor any situations where People are at risk. The response to these situations may require more frequent monitoring by the Host Provider and the NASC to ensure that risk is managed appropriately.

Host Providers are expected to monitor each Person's expenditure against the Person's Personal Budget. Monitoring against budget should be done on an ongoing basis so that any problems can be identified early and appropriate plans put in place.

- Where a Person is tracking over budget, the Host Provider must have a discussion with the Person as to why this is the case.
 - If there is a potential change in need, this should be identified as early as possible and referred to the NASC who will review the Person's support needs.
 - Where there is no change in need and/or the increased expenditure wasn't planned, the Person needs to put in place a plan to reduce expenditure. The Host Provider can assist with the development of an expenditure reduction plan.
 - Some People are unable to manage a Personal Budget. This may be for a number of reasons including an inability or unwillingness to manage a budget. If a Person is unwilling or unable to reduce expenditure the Host Provider should refer this to the NASC.
- Where a Person has been found to have purchased items that are outside what the Personal Budget has been allocated for (unauthorised purchases) the Host Provider must identify the cost of the unauthorised purchases and address what action needs to be taken in accordance with clause 6.0 of this Operational Policy.
 - Examples of unauthorised purchases may include using funding on things that are considered a personal expense or purchasing an item the Person has already been told does not fit the Purchasing Guidelines².
- Where a Person is suspected of non-compliant or fraudulent activity in relation to their disability support funding, or the Host Provider becomes aware of a Restricted Act by the Person or their Nominated Agent, the Host Provider shall notify the NASC and the Ministry's audit team, Audit & Compliance.
- The Host Provider shall have such other obligations as are specified in its Host Provider contract with the Ministry.

² Purchasing Guidelines are applicable in the New Model Demonstration and the Enabling Good Lives Demonstrations.

6.0 Actions to be taken

If one of the circumstances identified in clause 4.0 occurs, the ability of the Person to access a Host Scheme will be reviewed by the NASC and/or the Ministry.

Each case will be considered/reviewed individually. The Ministry has the sole discretion to decide on the most appropriate option to apply to a Person who has failed to manage their Personal Budget appropriately, is non-compliant with relevant funding conditions, is being audited (or has had conditions recommended following audit), or has committed a Restricted Act. The Ministry may consult with the NASC in determining which option to apply.

6.1 High risk situations

Where the Host identifies that there is a high risk to the Person or support workers and the situation is assessed as not being managed appropriately or cannot be managed appropriately then the Host Provider should notify the NASC.

A plan should be put in place that reduces risk. This may include:

- a. a change in the support options provided, for example, a change to formal supports with a residential provider; or
- b. the NASC and/or the Host Provider giving instructions to the Person and ensuring the Person complies with these instructions; or
- c. finding a new Agent.

6.2 Non-compliance with appropriate laws

Where a Person is not complying with relevant laws, for example laws governing employment and health and safety and they refuse to follow relevant laws one of the following actions must be taken:

- a. A new Agent may be found to be the employer.
- b. The Person may be transferred to formal support services.
- c. The Agent can no longer employ support staff and can only choose to contract with an organisation that can coordinate and employ staff.

6.3 Personal grievances

If the Person (or their Agent) who is employing support workers has had to pay out on more than one personal grievance claim then one of the following actions may be taken at the Ministry's discretion:

- a. Finding a new Agent who will take over employment responsibilities.
- b. The Person may be transferred immediately to formal support services.
- c. The Agent can no longer employ support staff and can only choose to contract with an organisation that can coordinate and employ staff.

6.4 Personal Budget managed inappropriately

Options for a Person who has failed to manage their Personal Budget appropriately may include:

Funding allocation expended before expiry of Budget Period

- a. Giving the Person a monthly budget for a trial period of 6 months or less
- b. Temporarily increasing a budget with the agreement that funding will be reduced in the next Budget Period (this temporarily increased Budget Period shall not exceed 2 months). The Ministry has no obligation to continue to increase a Person's budget where it has been shown that the Person cannot manage that Personal Budget
- c. Finding an agreed alternative Nominated Agent for the Person to manage the Personal Budget for the Person. For example where a Person has mismanaged a Personal Budget a family member may take responsibility for the overall management of their budget, quality of the supports provided and purchasing decisions
- d. In some cases the Person will be required to be supported by a Formal Provider and will no longer have direct control over the financial management of their Personal Budget. This could include a transition to Formal Provider services or to a Host Provider who will manage the Personal Budget directly
- e. Requiring the Person to pay back funding (or deducting funds from future disability support allocations for the equivalent amount).

Supports purchased not authorised by Hosted Scheme guidelines

- a. all of the options listed in paragraphs c) to e) above
- b. putting restrictions on how funding can be spent, for example, funding can only be spent on supports delivered by a Formal Provider or the Person may be required to use the Host Provider's Payroll support.

6.5 Where a Person is subject to an investigation or has committed any Restricted Act

Options for a Person who is non-compliant with relevant funding conditions, is being audited (or has had conditions recommended following audit), or has committed a Restricted Act include:

- a. A transition to Formal Provider services (this may be temporary, during the conduct of an audit; or permanent if that is the recommendation following audit, or if the Person has committed any Restricted Act) requiring the Person to pay back funding (or deducting funds from future disability support allocations for the equivalent amount).
- b. Considering the availability of a Nominated Agent to manage the Personal Budget.
- c. Imposing conditions on future claims which may include more detailed evidential requirements to substantiate funding, reduced payment periods with closer management by the Host Provider, or specific limitations on expenditure.
- d. Prosecution where the Ministry's Audit & Compliance team determine it is appropriate.

If a Person fails to co-operate with an audit, or fails to produce sufficient evidence to substantiate funding expenditures claimed from a Hosted Scheme then access to the Hosted Scheme funding may cease until the matter is resolved. Formal Provider services will remain available, and the Host Provider will work with the Person and the NASC to minimise the disruption of support provision to the Person.

7.0 Other conditions

Where the Person has a Personal Budget over \$80,000 per annum and they have identified behavioural concerns they will be required to engage in Ministry Behaviour Support Services.

8.0 Glossary

Budget Period	The NASC will give a Person a start date and a review date for the Person's Personal Budget. This time frame is known as the Budget Period.
Coaching	Service and support a Host provides to the Person that assists them to manage their support allocations.
Disability Supports	Supports provided due to the additional cost of living with a disability. Disability supports should also contribute to outcomes in a Person's plan and be within the Ministry of Health's responsibilities and policies.
Enabling Good Lives Purchasing Guidelines	The Purchasing Guidelines for the Enabling Good Lives Demonstrations in Christchurch and Waikato.
Formal Provider	Provider of disability support services directly contracted to the Ministry of Health. Access to Services is via a NASC referral.
Funding Manager	An organisation or individual who determines the level of disability support to be provided to a Person.
Goal	An aspiration, target, objective or future condition that the Person wishes to achieve in relation to them leading an everyday life.
Host Provider (Host)	A (contracted) Ministry of Health provider who will provide the Host Services to a Person as a way to purchase and manage their disability supports, including but not limited to Coaching.
Hosted Scheme	One of the funding mechanisms listed in paragraph 1.0 of this Operational Policy, being IF, EIF or EGL.
Ministry	The Ministry of Health (funder), with Disability Support Services (DSS) representing the Ministry for the purposes of this Policy.
NASC (Needs Assessment and Service Coordination Organisation)	NASCs are services funded by the Ministry. Their roles are to determine eligibility, assess the Person's level of disability support needs, inform People / families / advocates of what the support package contains, discuss options and co-ordinate support services to meet those needs. NASCs co-ordinate such services, but do not themselves provide the services.

New Model Demonstration	Demonstration in Bay of Plenty, Auckland and Waikato areas that is focused on giving Disabled People and their families/whānau more choice, control and flexibility over support and funding in their everyday lives.
New Model Purchasing Guidelines	The Purchasing Guidelines for the New Model for Supporting Disabled People issued by the Ministry in 2013 (or any superseding guidelines).
Nominated Agent (Agent)	An individual who is able to make decisions on behalf of the Person that relate to the management of the Person's supports via Enabling Good Lives Christchurch.
Payroll (payroll support)	Where the Host (or another organisation) looks after paying support workers and a number of the employee related tax obligations on behalf of the Person.
Person/People	A Person who is eligible for disability support services funded by the Ministry of Health (or the Ministry of Education/Social Development where the Person is participating in an Enabling Good Lives Demonstration). This may also include the Person's Nominated Agent.
Personal Budget	The amount of funds a Person is allocated by the NASC that may be used to purchase disability supports. A Person can choose how much support they require to manage their Personal Budget.
Restricted Act	<p>The Hosted Schemes rely very heavily on the ability of the Ministry to trust in the honesty and reliability of participants in those Hosted Schemes. The Hosted Schemes will not be available to People (and / or their Nominated Agents) who have committed a Restricted Act as outlined below:</p> <ul style="list-style-type: none"> • any act or omission in the nature of, but not limited to, theft, burglary, receiving, or fraud (including but not limited to forgery, obtaining by deception, use of a document dishonestly and without claim of right, or crimes involving computers) whether or not that act or omission results in a prosecution, a diversion, a conviction or discharge without conviction; • misusing, or otherwise obtaining funds outside the conditions, policy and / or guidelines for any benefit or other form of funding available from any government agency or entity funded by a government agency (for example misusing carer support, or Ministry of Social Development benefits); and /or • giving materially misleading information to the Ministry, a NASC or a Host Provider.

