

Services for Disabled Children

Draft direct payments guide

This guide explains how direct payments work in Disabled Children's Services. This guide should be read with reference to Guidance on direct payments 2009

It lays out the procedure for making direct payments available to children and young people assessed as eligible for Disabled Children's Services support and whose carers choose to use direct payments to meet their assessed needs.

It describes the role and responsibilities of the social worker, the Direct Payments Support Service, the Direct Payments Finance and Monitoring Officer and the person receiving direct payments

Translation advice

If you have difficulty understanding this publication, please visit reception at the address below where we can arrange a telephone interpreting service.

Nese keni veshtersi per te kuptuar kete botim, ju lutemi ejani ne recepcionin ne adresen e shenuar me poshte ku ne mund te organizojme perkthime nepermjet telefonit.

Albanian

إذا كانت لديك صعوبة في فهم هذا المنشور، فنرجو زيارة الإستقبال في العنوان المعطى أدناه حيث بإمكاننا أن نرتب لخدمة ترجمة شفوية هاتفية.

Arabic

এই প্রকাশনার অর্থ বুঝতে পারায় যদি আপনার কোন সমস্যা হয়, নিচে দেওয়া ঠিকানায় রিসেপশন-এ চলে আসুন যেখানে আমরা আপনাকে টেলিফোনে দোভাষীর সেবা প্রদানের ব্যবস্থা করতে পারবো।

Bengali

اگر در فهمیدن این نشریه مشکل دارید، لطفاً به میز پذیرش در آدرس قید شده در زیر رجوع فرمایید تا سرویس ترجمه تلفنی برایتان فراهم آورده شود.

Farsi

જો તમને આ પુસ્તિકાની વિગતો સમજવામાં મુશ્કેલી પડતી હોય તો, કૃપયા નીચે જણાવેલ સ્થળના રિસેપ્શન પર આવો, જ્યાં અમે ટેલિફોન પર ગુજરાતીમાં ઇન્ટરપ્રિટીંગ સેવાની ગોઠવણ કરી આપીશું.

Gujarati

ਜੇਕਰ ਤੁਹਾਨੂੰ ਇਸ ਪਰਚੇ ਨੂੰ ਸਮਝਣ ਵਿੱਚ ਮੁਸ਼ਕਲ ਪੇਸ਼ ਆਉਂਦੀ ਹੈ ਤਾਂ ਹੇਠਾਂ ਦਿੱਤੇ ਗਏ ਪਤੇ ਉੱਪਰ ਰਿਸੈਪਸ਼ਨ 'ਤੇ ਆਓ ਜਿੱਥੇ ਅਸੀਂ ਟੈਲੀਫੋਨ ਤੇ ਗੱਲਬਾਤ ਕਰਨ ਲਈ ਇੰਟਰਪ੍ਰਿਟਰ ਦਾ ਪ੍ਰਬੰਧ ਕਰ ਸਕਦੇ ਹਾਂ।

Punjabi

اگر آپ کو اس اشاعت کو سمجھنے میں کوئی مشکل ہے تو، براؤزر مینے دیئے ہوئے ایڈریس کے استقبالیے پر جا کر ملیئے، جہاں ہم آپ کیلئے ٹیلیفون انٹر پریٹنگ سروس (ٹیلیفون پر ترجمانی کی سروس) کا انتظام کر سکتے ہیں۔

Urdu

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Education, Children's and Cultural Services, Civic Centre, 44 York Street, Twickenham, TW1 3BZ.

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1 What is a direct payment?

- a) A direct payment referred to in this guide is a cash payment made by the Council to a parent/carer in place of a service provided by the Disabled Children Service. The Council, however, has a general duty to safeguard and promote the welfare of children in need and retains overall responsibility for services to meet assessed needs.
- b) Direct payments were introduced in relation to social care services for adults through the Community Care Act 1996. From April 2003, councils were required to offer direct payments to certain people in order to enable them to obtain for themselves the services that they were assessed as needing. The power to make direct payments to people with parental responsibility for disabled children and to disabled 16 and 17 year olds were created by the Carers and Disabled Children Act 2000. Section 17a of the Children Act 1989, inserted by the 2001 Act gave councils a duty to offer direct payments for children's services. In making direct payments under section 17a of the 1989 Act, councils are subject to the general duty provided by Part 3 of the Act to safeguard and promote the welfare of children in need, and to promote their upbringing by their families when making these payments, in exactly the same way as when providing direct services. Before making any decision about providing direct payments, the Council must find out about and pay attention to the child's wishes and feelings.
- c) The disabled child/young person must have been assessed as being in need of services. Direct payments can be used to buy any support the individual has been assessed as needing, including but not confined to, personal and domestic support. The individual can, with the help of others if necessary, either employ a personal assistant or buy their support from an agency of their choice.
- d) Direct payments do not have to be used in the same way as if support was being provided directly by the Council. Indeed, they are intended to give the individual the maximum degree of choice and control over how their assessed needs are met
- e) Direct payments cannot pay for permanent residential care, health care or any other local authority service, as local authorities cannot sell their services in this way. It can however, pay for periods of residential short breaks.

2 Who is eligible for direct payments?

- a) Individuals assessed as eligible for community care services and disabled children's services.
- b) Eligible people are offered a choice of having their needs met via a direct payment or by a service provided by the Council, or a combination of the two.
- c) Direct payments must be offered to all eligible individuals.

- d) The Council will work in partnership with parents to help them make arrangements that are designed to safeguard and promote the welfare of their child. The Council will only arrange direct payments for a disabled child when they are satisfied that this is the case. To achieve this Children's Services require an Enhanced Criminal Records Bureau check to be completed by the identified carer before the direct payments commence. This will be administered and funded by Richmond Council.
- e) Direct payments need the agreement of the relevant service manager and DCT panel

3 Refusing direct payments

Reasons why direct payments may be refused by Disabled children service.

- a) there is evidence or reason to believe there has been financial mismanagement by the individual/family concerned;
- b) there may be concerns about the representative chosen by the individual who may not be able to manage on going support;
- c) the representative may not want the responsibility;
- d) there is concern that direct payments will not safeguard and promote the welfare of the child's upbringing within the family;
- e) there is no one with parental responsibility for a disabled child;
- f) An identified carer has an unsatisfactory Enhanced Criminal Records Bureau check.
- g) Does not meet criteria for Disabled Children Services in Richmond.

4 Complaints procedure

If the Department refuses direct payments, and discussions between parties fail to achieve agreement, the individual will have recourse through Children's Services complaints procedure. Complaints regarding service providers contracted by the individual must be taken up with that service provider and are not the responsibility of Children's Services. The parent/carer may wish to consult with an advocate.

5 People excluded from receiving direct payments

Direct payments cannot be offered to people who are subject to certain mental health or criminal justice legislation as follows:

- a) patients detained under the mental health legislation who are on leave of absence from hospital;
- b) conditionally discharged, detained patients subject to Home Office restrictions;

- c) patients subject to guardianship under the Mental Health Act and those covered by 'Supervised Discharge' introduced by the Mental Health (Patients in the Community) Act 1995;
- d) people who are receiving any kind of aftercare or community care which constitutes part of a care programme initiated under a compulsory court order, and offenders serving a probation or combination order subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency;
- e) a person subject to drug rehabilitation or alcohol treatment requirements under the Criminal Justice Act 2003.

6 How much is paid as a direct payment?

- a) The value of the direct payment will be no more than it would cost the Council to provide the care package to meet the assessed need. The direct payment can be adjusted to reflect the actual cost of the service if less or more than the standard hourly rate.
- b) The parent/carer will be expected to cover all costs of the support with the direct payment (including employer costs). If the parent/carer can purchase the service more cheaply, the direct payment will be adjusted to this amount.
- c) If the assessed need varies from week to week or month to month, monies can be held by the individual equivalent to three months' payment to be used at a time suited to them. More than this amount should be discussed with a social worker as soon as it is apparent there will be excess monies in the direct payment account.

7 How direct payments are made

- a) It is important that all the parties involved in the agreement and the making of direct payments understand the role each of them plays, in order for payments to be made accurately and in a timely way.
- b) The process is described in two practice guides, one for social workers, and the other for direct payment recipient.

8 Role of the social worker

- a) To undertake an assessment or review in line with the legal duty, and subject to eligibility to receive direct payments, social workers must offer Direct Payments as a first option for support needs.
- b) Manage the following processes:
 - Prepare a detailed care plan and costings including hours and rates.

- Prepare any necessary reports for the disabled children funding panel and ensure the necessary authorisation is obtained.
 - Undertake initial discussion about direct payments to ensure the user understands roles and responsibilities and to identify particular needs.
 - Be satisfied that the individual, a parent and any representative is fully prepared to embark on direct payments and understands their responsibilities, and agree a start date.
 - Refer the service user to the Direct Payment Support Service
 - Provide the Finance and Monitoring Officer of Direct Payments with the following information:
 - Care plan with hourly costings
 - the direct payment financial start-up and change details form
 - signed panel authorisation
 - Ensure the individual has care arrangements in place, including contingency plan for cover.
 - Monitor care arrangements to ensure needs are being met, and if direct payments are sufficient/excessive. Agree an amount of direct payment which can be carried over by the service user from quarter to quarter.
 - Review care at required intervals, follow up on concerns raised by the Direct Payments Monitoring Officer about spending anomalies or failure to provide monitoring information (reviews should include monitoring of the individual's financial management arrangements).
 - Arrange direct services when the individual's own arrangements break down, or when requested by them.
 - After discussion with the individual, and in consultation with the team manager, the social worker must be prepared to withdraw direct payments, either temporarily or permanently, if after investigation, there is sufficient reason to do so. One month's notice will be given to the individual, unless a shorter notice period is appropriate
- c) Once referred, the social worker to explain the different roles and responsibilities of all those involved in direct payments, specifically those of the direct payment user themselves.
- d) They need to set up a designated bank account for the receipt of the direct payment.
- e) Explain and sign, with the direct payment user, the agreement between direct payment user and Disabled Children's Services and for both parties to sign it.
- f) To obtain employer liability insurance if required.
- g) The need to maintain records of receipts and expenditure, providing quarterly monitoring information.
- h) To advise service user about the Direct Payment Support Service who can offer advice about:
 - Recruitment of care workers
 - Arranging care provision

- i) Encourage compliance with all relevant employment, health and safety, and equal opportunity legislation.

9 Role of the Direct Payments Finance and Monitoring Officer

To undertake the following:

- a) To act upon information supplied by the social worker in the form of panel/manager authorisation.
- b) To process the direct payment.
- c) To make any increases or decreases to the direct payment, as authorised by the service manager.
- d) To monitor and send out the quarterly financial monitoring papers, with guidance notes, to the direct payment user, and follow up any failure to return the paperwork with a written reminder.
- e) If, four weeks after reminders have been issued, a direct payment user fails to return a financial summary, inform the social worker who will then review the care plan and financial management. At the same time, the social worker will be advised of any excess funds (defined as more than three months' payment). The social worker will be asked to raise this with the direct payment recipient and seek repayment of unauthorised excess.
- f) After a further four weeks, send a letter to the direct payments user informing them that direct payments will be suspended if an immediate response is not forthcoming; if, after a further three weeks the direct payments user has failed to comply with a written request for a financial summary or justified excess funds and after liaison with social worker, and with the agreement of the service manager to suspend payment for those direct payment with effect from the month following a letter informing them of the suspension (or immediately if misuse is suspected).
- g) To work with the social worker on financial implications of (re) assessments, direct payment adjustments, recovery of accumulating amounts, closure of accounts, recovery of monies etc.

10 Responsibilities of the direct payments recipient

The direct payments user and/or their legal representative will be responsible to for the following:

- a) Signing an agreement with the Disabled Children's Service.
- b) Taking out appropriate employer liability insurance if directly employing someone.

- c) Setting up a direct payments designated current account.
- d) Arranging care provision.
- e) Complying with all relevant employment, health and safety, and equal opportunity legislation.
- f) Requesting a CRB check
- g) Managing and taking responsibility for any problems and disputes which arise with care staff.
- h) For monitoring purposes, to the return of their quarterly financial monitoring forms to the Direct Payments Finance and Monitoring Officer, completed correctly and within the given deadline, listing each transaction to demonstrate how the money was spent.
- i) Providing documentation, when requested, to substantiate the use of the direct payment.
- j) Informing their social worker of any temporary or permanent changes in their circumstances, including significant changing levels of need / hospitalisation /leaving home for more than four weeks.
- k) Providing such information as requested by the social worker and direct payment Finance and Monitoring Officer.
- l) Only use direct payments for securing services for which the payment was made.
- m) Cooperating with the annual review of direct payments.
- n) Users of direct payments must be given the support they require to manage the direct payments and rectify any mistakes in providing monitoring information, whether that be via family or friends, community contacts or the Direct payments support service
- o) Where the direct payment is received and managed on behalf of the direct payments user, that person must act in the best interest of the user within the meaning of the Mental Capacity Act 2005, when securing services funded by direct payments. The person must also comply with the requirements and responsibilities of the direct payments recipient above.

11 The role of the Direct Payments Support Service

- p) To provide up-to-date and accessible information on all aspects of direct payments, and independent living.
- q) To advise on the responsibilities of being a receiver of direct payments, legal obligations and practical issues of being an employer, including relevant health and safety, equal opportunity and employment laws.
- r) Signposting to other organisations and resources, setting up direct payments workshops and drop in sessions, advice and assistance with DP pooling.
- s) Helping with Financial reviews and financial monitoring
- t) To advise and assist with recruitment and selection of care workers including:
 - drafting job descriptions
 - person specifications and advertisements

- assisting with short listing and interviews
 - assisting with processing references and police CRB checks where required
 - assisting with the preparation of contracts of employment for personal assistants
 - advising on the setting up a bank account exclusively for the direct payments
 - advising on income tax, National Insurance, payroll service
 - assisting in the design of work plans, schedules, rotas, and record keeping
 - advising on employer liability insurance
 - advising and assist with the management and supervision of personal assistants
 - assisting and advising in the setting up of emergency procedures and advice on contingency planning.
- u) To offer ongoing episodic support and facilitate the operation of peer group support networks.

12 Who cannot provide care?

- a) Unless the council is satisfied that it is necessary to meet satisfactorily a person's needs, a council may not allow people to use direct payments to secure services from a spouse or civil partner (husband or wife), from a partner (the other member of an unmarried couple with whom they live), or from a close relative (or their spouse or partner) who live in the same household as the direct payment recipient.' (The Community Care, Services for Carers and Children's Services (Direct Payments) Regulations (England) 2009 and Direct Payments Guidance 2009). Children's Services is able to make conditions about the employment of spouses, partners or close relatives living in the same household; a decision will be taken according to the merits of each individual situation and must be considered to be necessary to satisfactorily meet the direct payment user's need for that service.
- b) Close relatives are defined by the Community Care, Services for Carers and Disabled Children's Act Regulations 2009, section 11(2) as:
- Spouse or civil partner
 - Person who lives with the disabled person as a spouse or civil partner
 - Person living in the same household as the disabled person who is:
 - Parent or parent in law
 - Son or daughter
 - Son in law or daughter in law
 - Stepson or stepdaughter
 - Brother or sister
 - Aunt or uncle

- Grandparent
- The spouse or civil partner of those in c) who live in the same household
- A person living as a spouse or civil partner of those in c) who live in the same house

13 Specific issues for parents using direct payments to meet the needs of their disabled child

- It is the view of the Local Authority that all personal assistants employed to provide care to a child or young person under the age of 18 should have a background check with the Criminal Records Bureau (CRB). If the applicant for Direct Payments does not agree to this check, the Local Authority will decide that it would not be appropriate to make Direct Payments. The Direct Payment will only be made for the care of a child or young person, once CRB clearance has been given and verified by the social worker/team manager. This principle is not designed to undermine the purpose of Direct Payments. Instead, it is intended to provide a level of protection and safeguarding to enable parents and young people to arrange high standards of care with Direct Payments. The CRB check is a tool that can be used to reduce risk of abuse or exploitation
- If parents are using direct payments to purchase care via an agency they should ensure that the agency undertakes these checks on behalf of its staff, and that the worker in question causes no concerns.

14 Suspending, stopping and recovery of payments

- a) Any proposed change to the value of a child/young person's direct payments must, except in exceptional circumstances, be discussed and agreed with the parent or young person's carer and notice given in advance of the payments being altered. It may also be helpful to involve the Direct Payments Support Service. Where personal assistants are directly employed, this notice period should not generally be less than a month to ensure reasonable employment practice. Where it is not possible to negotiate an agreement, the person should be advised of the complaints procedure.
- b) When a child/young person's direct payment is stopped (for example, after a review, or if a child goes into foster care or long term residential care) the Direct Payments Monitoring Officer should be informed, detailing authorisation from the service manager to stop the payments. A copy should be kept on the client file.
- c) When a review results in a reduction of hours there may be consequences with regard to contracts of employment and employees. This should be taken into account when determining at which point a decrease should be made. The Direct Payments Support Service will usually be involved along with the direct payments user/recipient in this determination.

- d) If direct payments are to be reduced or discontinued, the social worker may need to arrange alternative provided or purchased services to meet that person's need, depending on circumstances.
- e) In the event of a child's death, it is necessary to ensure that the direct payments account has sufficient money to meet any outstanding employment/financial obligations, before notifying Finance of the death. Any invoice being sent to the parents at this stage should be accompanied by a suitably worded letter.
- f) The Council may recover direct payments if it is not satisfied that the money has been used to secure the provision of services, or if any of the conditions set out in the agreement, have not been met. When considering whether to recover misused payments, it is important to discuss the issues with the service user and give an opportunity for them to demonstrate that they can continue to manage the payments (e.g. by accepting training or additional support). The social worker should ensure the direct payments user is receiving appropriate support and advice (e.g. advocacy or Support Service input). However, if the service user continues to misuse them, the payments will be stopped.
- g) Recovery of payments may also be appropriate when direct payments have not been spent. However, when considering whether to recover unspent funds, the social worker should be aware that there may be legitimate reasons, which may involve outstanding legal liabilities (e.g. to pay for employee's PAYE, or outstanding bills from a care agency) which explain why monies may have accumulated in a person's account. There must be discussion with the direct payments user or their carer and notification given before monies are recovered or payments adjusted. A reasonable amount to have in the account without specific reason will not usually exceed three months' payments.