

Direct payments are local council payments for people who have been assessed as needing help from social services, and who would like to arrange and pay for their own care and support services. Until recently, direct payments have been available for disabled people and carers, but not for people with mental health problems. However, this has changed, and people with mental health problems, and their carers, are now being encouraged to consider applying for direct payments.

This factsheet aims to answer these questions:

1. Who is eligible to receive direct payments?
2. How do direct payments work and do they affect my benefits?
3. What can direct payments be spent on?
4. Will I have help using my direct payments?
5. What are my responsibilities when using direct payments?

1. Who is eligible to receive direct payments?

If you are assessed as being in need of services, and you are able to manage a direct payment either alone or with assistance, you are entitled to received direct payments and arrange services instead. This applies to people with disabilities, mental health problems and/or their carers over the age of 16. Your need is decided upon by an 'assessor', who is usually your care coordinator or care manager within the Care Plan Approach (CPA). You cannot be forced into receiving direct payments and your consent must be given for you to receive them.

You do need to be assessed as able to manage direct payments, as it will mean being organised and keeping track of your spending and keeping receipts. You will still be considered able to manage if you need to be helped by a friend, relative or a support agency. This is not a test of 'capacity' but of 'capability' and the local authority makes this decision. You may be considered unable to manage, not because you lack capacity, but because you are not considered 'responsible' i.e. a chaotic lifestyle, drug dependency etc.

The local authority will judge whether you can manage direct payments based on:

- Your understanding of direct payments, including the actions you need to take.
- Whether or not you understand the implications of taking or not taking direct payments.
- What help is available to you.
- What kind of services you need.
- What arrangements you would need to make to obtain services.

Your ability will be reviewed periodically so that if you are unable to manage, either temporarily or for the long term (or do not wish to receive direct payments), you will be provided with services in the usual way until you are able/wish to manage direct payments again.

You are *not* eligible to receive direct payments if you are living in the community under some sections of the Mental Health Act 1983:

- If you are under supervised discharge (section 25)
- If you are under guardianship (sections 7 and 37)
- If you are on leave from hospital where you have been detained (section 17)
- (Offenders undergoing treatment for alcohol misuse are also not eligible)

2. How do direct payments work and do they affect my benefits?

How much will I receive?

The amount you receive will be the estimated cost of the services which would meet your assessed needs. This will take into account any amount that you would be required to contribute yourself for receiving a service. Therefore, the direct payment may not cover the full cost. If you choose more expensive services than you would normally have received, you will also need to pay the extra yourself. In calculating the amount, associated costs of employing a service must be taken into account e.g. recruitment costs, National Insurance, VAT etc.

How will I received direct payments?

The direct payments will be paid directly into your bank, building society, Post Office or National Savings account. Most people prefer to set up a separate account so that it is easier to keep track. You will need to keep receipts of everything you spend your direct payments on so that the council can check you are spending it appropriately.

Will my benefits be affected?

It is important to note that receiving direct payments will *not* be counted regarding means tested benefits. If you are eligible for care services, and you are in receipt of benefits, changing to direct payments will not affect this.

Can direct payments be received by someone on my behalf?

Direct payments can be made to someone on behalf of the assessed person (a nominee). They can help manage the payments, but the recipient has to have control over how they are used. Authorities must be satisfied that the nominee and recipient have a relationship that will encourage the recipient's independence.

3. What can direct payments be spent on?

The money you receive can be spent on services, equipment or activities (from organisations or individuals) which meet your own assessed social care needs. You should be allowed to make your own decisions about which services you prefer, as long as the council is satisfied that they do in fact meet your need. There are all sorts of things that direct payments could be spent on. Research has shown that wide ranging options can be arranged and paid for using direct payments, including:

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- Social support (including personal contact)
- Transport
- Domestic support (including personal care)
- Practical support (with budgeting, shopping, gardening etc)
- Educational support (including arts and leisure activities)
- Respite
- Help with childcare
- Night sitting
- Pooling direct payments with others to employ a service collectively (e.g. pottery teacher for a group)

(Spander & Vick, 2004)

It is important to be aware that the local authorities can ask for money back from you if direct payments have not been used for buying services which meet your assessed needs.

There is often confusion about whether direct payments can be used to pay a relative who lives with you to provide care. You may be told that this is possible only in exceptional cases. However, the regulations state that a recipient can pay a relative they live with, if the authorities are satisfied that:

‘securing the service from such a person is necessary to meet satisfactorily the prescribed person’s need for that service’

(Regulation 6 of the English Regulations, Regulation 7 of the Welsh)

It is possible that this will need to be pointed out to authorities. This might apply, for example, if someone with mental illness will only allow a relative they live with to provide care.

Please note that if a relative is paid using direct payments, they are no longer an ‘unpaid carer’ and will not longer be entitled to assessments and services. Good practice might require that the local authority continues to support the relative in their caring role.

You cannot spend your direct payments on permanent residential accommodation, although short stays of up to 4 weeks in residential accommodation may be permitted by the authorities.

You can only spend direct payments on services to meet your own assessed needs. If you are a mental health service user, you cannot spend direct payments on services for your carer; if you are a carer, you cannot spend direct payments on services for the person you care for.

4. Will I have help using my direct payments?

The Care Plan Approach process, which includes your local authority and mental health trust, should be providing some kind of support to people to help them use direct payments. This is still relatively new for people with mental health problems, so some have more available to them than others at present. If you are having difficulty managing direct payments, you should be encouraged to try managing with support from a friend, relative or agency, rather than automatically being considered unable to receive them.

According to the Department of Health guide to direct payments, most councils either provide help directly or arrange for a local support service to advise people. 'Independent Living' schemes may also be able to provide informal help (your local council should be able to provide you with details of these).

5. What are my responsibilities when using direct payments?

Regardless of what you spend direct payments on, you must keep receipts to account for what you have spent, and so that the council can check that you are spending it appropriately to your needs.

If you employ the services of an individual (e.g. personal care), you become an employer, which means that you have certain legal responsibilities, such as

- National Insurance payments
- Employers liability insurance
- Holiday and sick pay for employee

The council should provide you with all the necessary information on these issues so that you can fulfil your responsibilities. Recruiting and employing an individual is also an area that many people need help with, so do make use of local support organisations.

Further information:

The Rethink National Advice Service provides information and advice on a number of issues affecting people with severe mental illness, their friends and family, carers and professionals.

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