

Disability Law Service

Fighting injustice for disabled people

**DIRECT PAYMENTS
&
PERSONAL BUDGETS
FACTSHEET**

Personal Budgets

A personal budget is simply: a statement of cost (provided by a local authority) of an individual's care and support. The statement must comprise the costs to be met by the local authority, and that to be met by the individual.

Under section 25 of the Care Act 2014, a local authority must include in every care and support plan the personal budget statement.

The purpose of the personal budget is so that individuals can be fully aware of how much they have available to them to plan and meet their needs, and so that they will be encouraged to participate in the care planning process (every individual has the right to be involved in the care planning process).

Direct Payments

An individual can be given control of their personal budget (i.e. their care funds) so that they can arrange their care in a way that suits them. This is referred to as 'Direct Payments'.

The care and support statutory guidance reinforces the importance of Direct Payments :

"Direct payments ... remain the Government's preferred mechanism for personalised care and support. They provide independence, choice and control by enabling people to commission their own care and support in order to meet their eligible needs."

Direct Payments can be provided to individuals in the following ways:

1. **Directly:** This is where the funds are paid directly into the individual's bank account (that account may only be used for the personal budget);
2. **Indirectly:** This is where the funds are paid into the bank account of a person nominated by the individual to assist with managing the budget; *or*
3. **Managed:** This is where the local authority will hold the funds to be managed by the individual and/or their nominated person.

Eligibility

To be eligible for Direct Payments, the following must be met:

- i. The individual must have capacity to make the request and/or the nominated person agrees to receive the funds;
- ii. The individual (and/or the nominated person) must not be barred from receiving Direct Payments;¹
- iii. The local authority must be satisfied that the individual (and/or the nominated person) is capable of managing the Direct Payments; *and*
- iv. The local authority must be satisfied that Direct Payments are an appropriate way to meet the individual's care needs.

The Rules of Direct Payments

Direct payments are only to be used to meet the care needs identified in the individual's Care and Support Plan. For example, they may be used to pay a carer to meet the individual's identified needs (and that should not be a family member living in the same household, unless the local authority thinks that arrangement is necessary to meet the identified needs).

Direct Payments can be used to buy goods and services to meet the individual's identified care needs. The Statutory Guidance says:

Paragraph 12.35: The direct payment is designed to be used flexibly and innovatively and there should be no unreasonable restriction placed on the use of the payment, as long as it is being used to meet eligible care and support needs.

The local authority can review the appropriateness of Direct Payment and may terminate Direct Payments, if for example, eligibility lapses or there is a serious breach of the conditions for Direct Payments.

A local authority may require repayment if Direct Payments are misused. However, if repayment is required, a local authority should not immediately request repayment in full. The Statutory Guidance says:

Paragraph 6 of Annex E: "... local authorities will want to bear in mind the following principles when approaching the recovery of debts:

- *possible debts must be discussed with the person or their representative;*
- *the local authority must act reasonably;*
- *arrangements for debt repayments should be agreed between the relevant parties;*
- *repayments must be affordable; and*
- *court action should only be considered after all other reasonable avenues have been exhausted.*

¹ certain people with addictions and dependencies and certain categories of former prisoners are prohibited from receiving direct payments – see Schedule 1 of the Care and Support (Direct Payments) Regulations 2014.

Legal Disclaimer

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**If you wish to contact us for advice or legal aid representation,
[please refer to our website for further details.](#)**

Website: www.dls.org.uk

Legal Aid (you are eligible and require representation)

Tel: 0207 791 9820

Email: legalaid@dls.org.uk

Advice

Tel: 0207 791 9809

Email: helpline@dls.org.uk

Address:

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Please support the great work that the Disability Law Service does for disabled people and their carers by donating and making sure this service continues. You can donate in the confidence that 97.2% of all money raised is spent on our work.