



Information from Counsel and Care: 23

# Home Care: using direct payments or a personal budget

If you need care and you are eligible, you can choose who provides that support and control and where and when it is provided. Direct payments is a scheme in which you are provided with cash payments instead of services direct from your local council so that you can choose and purchase the care to meet your assessed needs.

In addition, by 2011, you should have access to a 'personal budget': a virtual pot of money to meet all your needs. You should be able to take it as a cash payment, or as services or as a mixture of cash and services. At present, these plans just meet care needs, but plans are to extend this through an 'individual budget', which will be for all needs, including housing and adaptations.

Counsel and Care is the national charity working with older people, their families and carers to get the best care and support. If you have found our service helpful, please consider making a donation or leaving a legacy in your Will. You can arrange either by telephoning 020 7241 8555 or using the secure service on our website [www.counselandcare.org.uk](http://www.counselandcare.org.uk).



Counsel and Care is a national charity; however the creation of the Scottish Parliament, and the Welsh and Northern Ireland Assemblies means there are differences in the ways each region cares for and supports older people. The information in this guide applies essentially to England although there may be similarities with Scotland, Wales and Northern Ireland.

We also produce five separate guides for both Scotland and Wales covering the needs assessment process; paying care home fees and making a complaint, which are the key areas where the policy and legislation differ significantly to England. All of the guides we publish can be downloaded from [www.counselandcare.org.uk/helping-you/guides](http://www.counselandcare.org.uk/helping-you/guides) or posted to you by calling our guide orderline on 020 7241 8522.

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# 1 Person-centred care

Government has introduced a whole new way of thinking about care and support called personalisation. The aim is to transform social care so people and their needs are at the heart of it. One part of this is direct payments. As an alternative to receiving services that are provided directly by the council, you should be offered access to the direct payments scheme of receiving cash payments rather than services, if you are eligible. In addition, by 2011, all people with care needs should have their own personal budget to meet their care needs. With this new way forward, the role of independent advocacy is crucial in enabling older people to access and buy the right care that meets their needs.

For older people visiting a day centre or living in a care home, even if they can't make use of a personal budget or direct payment, the care they receive should also be according to their wishes and in the way they choose. Some councils are doing innovative work to make sure this happens, such as developing one-page profiles so all staff know what is important to that person or developing communication tools to help staff and professionals understand how someone communicates and expresses themselves.

## 1.2 Individual and personal budgets

The plan is, in a similar way to direct payments, for people who are eligible for care and support services following an assessment of their needs to have a 'virtual budget' or a sum of money to

meet their assessed needs. In this way, the aim is to increase choice and control for older people over the care they receive and who provides it.

An **individual budget** is the pot of money that a person has access to after their needs have been assessed, which is pooled together from various sources, including social care, community equipment, Access to Work, independent living fund, disabled facilities grants and housing support. Currently, over 6,000 people have an individual budget in 13 local councils in England who piloted the scheme.

A **personal budget** is for social care money only, but the term is often used interchangeably with individual budget. The government has given grants to local councils to ensure that personal budgets will be available to all eligible people who wish to use it instead of council services by 2011.

If you are eligible for a personal budget and it is available in your area, you can use this pot of money (with assistance if required) to purchase the care and support you feel is most appropriate for your needs.

A single sum of money or budget will be allocated to you and held on your behalf as a 'virtual budget' or given to you in a cash sum. You can choose to take this money out from the 'virtual budget' either in the form of a direct payment in cash, as services or a mixture of both. The total amount you receive in your 'personal

budget' will be based on your local council's 'resource allocation system', where a series of questions will be asked and points given to determine the overall size of your budget. The amount of money offered must be negotiable in order to ensure that all your individual needs (including any social, emotional or psychological needs) are met in full. Despite this new resource allocation system, you are still entitled to receive a full assessment of your needs *and* any special assessment, for example for sensory loss or mental health.

If you need more information and advice about individual or personal budgets, please contact your local council social services department, and/or an independent advice service, such as Counsel and Care (tel.: 0845 300 7585; [www.counselandcare.org.uk](http://www.counselandcare.org.uk)).

## 2 What are direct payments?

A direct payment is money given to you to meet your needs in place of getting care and support services arranged and provided directly by your local council social services. The aim of direct payments is to give you greater flexibility, choice and control over the way your care services are provided, if you are assessed by the council as eligible to receive support. You will be able to use the money to make your own decisions about how your care is delivered. For example, you could employ someone of your choice to give you care at a time that suits you best.

The Direct Payment scheme was made available to people over 65 in April 2000. Since April 2003, local councils have had a duty to offer direct payments to people assessed as needing care services. Direct payments are a good option for many people. If you feel you would like to consider the scheme, ask your local council social services for details.

Unfortunately, despite older people being the largest single group of community care users, they are still less likely to be offered or to receive direct payments than other groups. If they are not offered to you, it is important that you ask your local council social services what your entitlement is to receive direct payments.

If a person has dementia they can still benefit from the system, even if they lack mental capacity at the time they take on direct payments. From October 2009, direct payments will be made available in certain circumstances to people who lack capacity and have a suitable person to receive and manage a direct payment on their behalf.

The amount you receive in a Direct Payment can alter as your needs change. Note that any money you receive from social services in direct payments will not affect any welfare benefits that you receive from the Department of Work and Pensions. The direct payments money you receive is not liable for income tax.

## **2 Support to help you with direct payments**

Ultimately, if you receive direct payments from your local council, you will be in control of how and when your care will be provided. However, assistance and advice should still be available in your area to enable you to manage and arrange your direct payments. (With the new regulations due to come into force from October 2009, a suitable person, such as an appropriate close relative, can manage a direct payment on behalf of a person who lacks capacity. See section 4.4 for more details.)

### **2.1 Local council support services**

Your local council may provide a support service themselves for people who receive direct payments, or through a local charity, such as Age Concern (tel.: 0800 00 99 66; [www.ageconcern.org.uk](http://www.ageconcern.org.uk)) or the Penderels Trust (tel.: 02476 511 611; [www.penderelstrust.org.uk](http://www.penderelstrust.org.uk)). This may include a payroll service that could take responsibility for administering the wages, tax and National Insurance for your care worker(s) in order to make the process of direct payments easier for you.

### **2.2 Independent living centres**

Independent living centres provide support, advice and information for people with a disability who want to live independently. There may be an independent living centre or user-support group in your local area that can assist you, and give

advice on other aspects, such as advertising for staff and getting references. Some schemes have registers of vetted staff that you can employ.

You may wish to contact the National Centre for Independent Living (tel.: 020 7587 1663), which provides information and advice on independent living and support for direct payments' users. A directory of Social Services' direct payments support schemes and other local support organisations in the UK can be accessed through their website: [www.ncil.org.uk](http://www.ncil.org.uk).

### 3 The local council's duty to provide direct payments

To access direct payments, you must first have an assessment of your needs carried out by a social worker from your local council Social Services. If you are considered eligible against their criteria, your local council has a legal duty to offer you direct payments instead of providing services to meet your assessed needs:

“Where a person is assessed as needing social care services a council should check whether there is a duty to make a direct payment in respect of that service” (*Community Care, Services for Carers and Children (Direct Payments) Guidance 2003*).<sup>1</sup>

If you are refused direct payments, the reason for this should be put in writing to you. One reason for this may be that the service you require is not eligible under the scheme – see section 9 of this guide for details of what services cannot be provided with direct payments. Another reason for refusal may be that you are not considered able to consent to direct payments or you are unable to manage direct payments, and there is no **family member or** support group in your local area (see section 11). However, local councils should facilitate people to use direct payments where possible and, from October 2009, even if a person doesn't have capacity they can still benefit from direct payments (see section 4.4 for more details). If you believe the decision is wrong, you have the right to complain (see section 20 for information).

## 4 Eligibility to receive direct payments

Under the current legislation, in order to be eligible to receive direct payments you must firstly be willing to receive the payments,\* and meet **one** of the following criteria:

- You are an older or disabled person requiring care; **or**
- You have parental responsibility for a child; **or**
- You are a carer aged 16 and over, and you will be using the payments to meet your own assessed needs as a carer; **and**
- You are **not** subject to certain mental health\* or criminal justice legislation that prevents you from receiving Direct Payments.

\*From October 2009, with the introduction of new regulations, if a person lacks capacity but has another suitable person willing to receive them on their behalf, they can be eligible to receive direct payments. In addition, people subject to certain mental health legislation, such as guardianship, will also be able to receive direct payments.

### 4.1 'Fair Access to Care Services'

Your eligibility for direct payments may be affected by your local council's criteria. 'Fair Access to Care Services' is Department of Health guidance that provides a framework for all local councils on

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<sup>1</sup> Due to change to the *Community Care, Services for Carers and Children's Services (Direct*

how to set their eligibility criteria fairly. Each local council has its own eligibility criteria based on this national guidance, which they will use to decide who should receive care services and direct payments. They can decide which categories of need they will meet according to their resources. These categories are based on the level of risk to the person needing care. There are four levels of risk: critical, substantial, moderate and low. Local councils are restricting the number of people they provide services to, and you may find that they are only providing services in your local area to those people who have critical or substantial care needs.

## **4.2 Consenting to direct payments**

Under the current legislation, councils will only agree to make direct payments to you if you are able to give your consent. However, from October 2009 with the introduction of new regulations, councils must agree to make direct payments to a person who lacks the capacity to consent, if it is considered that they can benefit and there is a suitable person able to consent and manage the direct payments on their behalf (see section 4.4 below for more details).

Until the new regulations are in place, councils must work within the framework of the Mental Capacity Act 2005, when making the decision whether someone lacks the capacity to consent or to manage payments. This requires professionals to assume that a older person has capacity unless it is established that they lack it.

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*Payments) (England) Regulations 2009 from October 2009*

Under the Act, people must be empowered to make as many decisions as possible for themselves.

Your local council will make its own decision about your ability to consent, but should only do so with the support of an assessment by staff who have been specially trained to assess mental capacity and to help people to make decisions, such as a psycho-geriatrician or a community psychiatric nurse.

### **4.3 Managing direct payments**

Under the current legislations, the local council, when deciding whether you can receive direct payments, will assess whether you are able to manage the direct payments process.

Currently, you can receive a direct payment if you can consent to them but cannot manage them, if there is someone such as a family member or support service able to assist you with this.

However, from October 2009, with the introduction of new regulations, councils can agree to make direct payments to a person who cannot consent or manage the payments, if it is considered that they can benefit and there is a suitable person able to consent to and manage the direct payments on their behalf (see section 4.4 below for more details).

Until the new regulations are in place, councils should take into account all the relevant factors before making a decision not to grant direct payments. The council may need to involve other

professional staff who specialise in assessing ability to manage direct payments. In order to decide whether to allow you to receive direct payments, they should consider:

- Your understanding of the direct payments scheme, including the actions required on your part
- Whether you understand the implications of accepting or refusing direct payments
- What support is available to help you manage direct payments
- The nature of the services you are assessed as needing
- What arrangements you would have to make to obtain the services.

If your ability to manage direct payments is in any doubt, one possibility is for the council to consider offering a time-limited trial period, or direct payments for a small part of the care that you need, to see how you get on.

If you are receiving services that do not meet your needs satisfactorily the council should not make the assumption that you cannot manage direct payments. You should be able to express concerns about services purchased without fear that the direct payments will be stopped.

## **4.4 Extending direct payments to include people who lack capacity**

From October 2009, the government intends to extend the benefits of direct payments to those who cannot consent to a direct payment and to those who lack the ability to manage it. This should only be in situations where this is in their best interests, and to encourage a more person-centred approach to their care.

A person may benefit from the flexibility and person-centred nature of a direct payment, but is not able to consent to have one, or cannot manage, even with assistance. From October 2009, councils should consider nominating a suitable person who is willing and able to manage the direct payment on that individual's behalf.

In accordance with the Mental Capacity Act 2005, local councils will need to support individuals to make their own decisions wherever possible. In those situations where it is not possible for the person to make the decision, they should involve the person and their carer as much as is possible, even if they do not make the final decision.

The revised direct payments regulations will be laid before Parliament this spring and subject to Parliamentary approval will come into force from October 2009, with guidance to follow. In the meantime, the Department of Health wants councils to involve the individual as much as possible in the decision making process and to support them wherever possible to make decisions for themselves.



## **5 The council's responsibilities**

### **5.1 Provision of services**

If it is agreed that you should receive direct payments, the local council will not provide or arrange services for you, but they still have a legal responsibility to make sure your needs are being met.

If you have been assessed by social services for the first time, you would not have any services in place. If you are eligible for direct payments, your local council may need to provide a service in the interim period until the direct payments have been fully set up for you.

### **5.2 The care plan**

After completing an assessment of your needs, councils must provide a care plan, which is a written statement of your individual needs and how these should be met. If you decide to receive direct payments, rather than council-provided care services, you should still be provided with a written care plan. It is essential for you to know your assessed needs when using direct payments to enable you to purchase the most appropriate care.

### **5.3 Monitoring the direct payments**

Before you start receiving direct payments, monitoring arrangements should be agreed with your local council in advance to make sure you are managing. This should be more frequent in the early stages to ensure any difficulties are resolved and your

local council is assured that you can manage your direct payments successfully.

From October 2009, the council should also monitor the behaviour of any 'suitable person' set up to manage a direct payment on behalf of an older person who lacks capacity to do so themselves. (See section 11.1 for more details of the role and responsibilities of the suitable person.)

## **6 I already have services, can I receive direct payments?**

If you already have care services provided by your local council, you may be eligible to transfer to direct payments so that you can purchase your own care. This possibility should be offered to you at your next review or you can request a re-assessment in order to discuss the option to use direct payments. You could also have a combination of care services from the council and through Direct Payment-funded support and care.

## 7 If you are a carer

Direct payments are also available to those people who care and support another person, known as informal carers. The direct payments scheme enables carers to purchase the services they are assessed as needing, to support them in their caring role and to maintain their own health and wellbeing. Examples include respite breaks, day care or sit-in services.

From October 2009, a carer may also be eligible to receive a direct payment to purchase services to meet the assessed needs of the person they are caring for, if that person lacks capacity (see section 4.4 for more details).

Please see guide **10: Carers: what support is available** for more information about practical and financial help available to carers.

## 8 What if you do not wish to receive direct payments?

If direct payments are offered to you by your local council social services, you are under no obligation to accept. Social services should state that if you receive direct payments but wish to stop them at any time, you can do so and you are entitled to ask them to provide you with a service.

The local council can decide to discontinue direct payments if they think your needs are no longer being met, you have not been spending the direct payments money in the correct way or (from October 2009) if a suitable person is not managing the money in your best interests. If the payments are stopped, you will receive a re-assessment of your needs and if your needs continue to meet the local council's eligibility criteria, services will be provided to you.

## 9 What you may not use direct payments for

- In England and Wales, you may not use direct payments to pay a spouse, partner or close relative living in the same household as you for the care they provide, unless this is the **only** suitable way that your care and support can be provided. Direct payments are not intended to be used when the relationship is primarily personal; however an exception may be made if the council decide this is the only satisfactory way to meet your care needs. For example, you have dementia and only wish to have support from your spouse or partner. In Scotland, however, you cannot use your direct payments to employ a person who lives in the same household as you. (There is no restriction on using direct payments to pay a close relative for the care they provide, if you do not live with them in England, Scotland or Wales.)
- Direct payments may not be used to purchase services provided by social services as the local councils in England and Wales are not legally allowed to sell their own services in this way. However, you can use direct payments to purchase council services in Scotland.
- You may not use direct payments for services or equipment that the National Health Service (NHS) has a duty to provide, such as a nursing bed.

- You also cannot use direct payments for services provided by housing authorities if you live in England and Wales (However, you can if you live in Scotland.).
- You may not use direct payments to meet the cost of permanent residential care (see section 10.2 for more details).
- Direct payments are not a substitute for the Disabled Facilities Grant, which is to enable you to make adaptations to your home.

## 10 If you only need short-term care

### 10.1 At home

Direct payments may be used if you have short-term needs, such as to purchase support to enable you regain independence. For example, after a stay in hospital you may require assistance for a short time to help you get washed and dressed, until you have regained your health and strength. Intermediate care (between a period of illness and recovery) can be provided free-of-charge for six weeks once you leave hospital, but if you continue to need assistance after the end of this period, you may wish to organise direct payments through social services. (Please see guide **13: Hospital discharge** for more information about intermediate care services in England. If you live in Scotland, see guide **51: Hospital discharge in Scotland** and guide **71** if you live in Wales.)

If you are eligible after a hospital stay, your local council should find ways to ensure direct payments are implemented quickly and are flexible enough to be used as soon as the intermediate care period has elapsed. For more information on hospital discharge procedures, again please see guide **13: Hospital discharge** for England, guide **51** for Scotland and guide **71** for Wales.

### 10.2 In a care home

Direct Payments **may not be used** to pay for permanent care in a care home, but they may be used for you to purchase a short stay

in a care home for a **maximum of a four-week period** within any twelve-month period.

If you are already living in a care home, direct payments may also be available to you to use for a trial period of independent living before you make a permanent commitment to moving out of the care home.

# **11 Who can manage a direct payment on your behalf?**

Under the current legislation, if you are assessed as unable to manage your direct payments, it may be possible for people who look after your interest to receive them on your behalf, for example, someone with a Lasting Power of Attorney over your finances or personal welfare, or via an independent living trust (see section 11.2 below).

However, from October 2009, when the new regulations come into force, local councils can make a direct payment to a 'suitable person' who can manage the direct payment in order to meet the needs of a person lacking capacity.

## **11.1 The role and responsibilities of a suitable person**

From October 2009, the role of a 'suitable person' will be created to enable a person who lacks capacity to benefit from the direct payments scheme. A 'suitable person' must act in the best interests of the person who lacks capacity, and on whose behalf they receive a direct payment. In particular, all care or services purchased by the 'suitable person' on behalf of the person who lacks capacity must meet the needs of that person in full.

The person appointed by the council as a 'suitable person' is mostly likely to be a family member or close friend or a person given lasting or enduring power of attorney by the person before they lost capacity. When deciding whether a person is to take on

this role, the local council must, as far as reasonably practicable, consult the views of the person lacking capacity, whether by direct or indirect communication, or through a previous indication of their wishes, either written or oral. The council must also consult with all relevant family members, friends and people involved in the care of the person lacking capacity, including involved professionals, such as an independent advocate, in order to ensure that the most appropriate person is appointed to manage the direct payment on their behalf.

Where there are no appropriate family or friends, the 'suitable person' could also be a person not personally known by the individual lacking capacity. In such cases, it will be mandatory for a Criminal Record Bureau check to be carried out before they could assume the role.

## **11.2 Independent living trusts (or user-controlled trusts)**

Independent living trusts can be set up to enable a person to live a life of their choosing. The money belongs to you as beneficiary of the trust, and is managed with and for you by three or more trustees. These can be friends, family, a solicitor, an accountant, an independent advocate or other appropriate person. Legal authority is given to the trustees without taking power away from you, and you should remain at the centre of all decision-making.

Independent living trusts can employ staff, operate a bank account, manage money, ensure contingency arrangements are in place, while ensuring that a person's needs are met in the way they want.

Independent living centres or local support services may be able to provide support with setting up an independent living trust. See section 2 for contact details of your local support service or independent living centre.

## **12 Your responsibilities**

### **12.1 Accountability**

If you receive direct payments, either for yourself or as a suitable person on behalf of someone who lacks capacity (see section 11 for details), you are accountable to the local council for the way you spend the money. You must have a separate bank account for the payments and keep careful records of how you use the money. A local support service may be able to assist you with arranging this (see section 2.1 for details).

If you spend the money on purchases or services that the payments were not intended for, under the terms of the Community Care (Direct Payments) Act 1996<sup>2</sup>, the council has the power to request that some or all of the money is paid back to them; they may also stop the Direct payments. However, the definition of eligible services is quite wide and you should discuss with your social worker if you are being refused direct payments for a service that you believe you are eligible for.

### **12.2 Making arrangements**

When you receive direct payments you are responsible for arranging and obtaining the services you require to meet your assessed needs or the assessed needs of the person on whose behalf you are managing the direct payment. There may be a local support service that can assist you with this process. See

section 2.1 for contact details and information about the type of assistance they can provide.

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<sup>2</sup> Due to change to the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009 from October 2009

## **12.3 Employer responsibilities**

If you receive direct payments and employ someone directly to meet your assessed care needs, there are some legal responsibilities you will have to consider as an employer. These can include providing your care workers with terms of employment; a contract; observing the National Minimum Wage; deducting income tax and National Insurance contributions; holiday and sick pay. See section 13 for more information and some sample timesheets.

Again, local support services run by your council and/or an independent living centre in your area may be able to assist you with these processes or they may be able to take on the responsibility for you. You will still have control over the care services you purchase but someone else will look after the practical side of these employer responsibilities. See section 2.1 for contact details.

## **12.4 Health and safety responsibilities**

If you employ someone to care for you, you will have a responsibility to provide a healthy and safe place for your care workers to work in. Your care workers also have a responsibility to work in a way that avoids risk to themselves and to you. Taking a commonsense approach will help to avoid most dangers and causes of accidents. It is important to talk to your care workers what tasks you need doing and what would be the safest ways of carrying them out.

You should also get advice from your local council social services on health and safety. Part of your needs assessment should also include a health and safety risk assessment, carried out by an experienced risk assessor. They should highlight any possible risks and suggest ways of managing them, such as storing cleaning materials in a safe place. You should be given a written record of this.

If you need help with getting in and out of a bed, chair or bath, it would be important to have an occupational therapist's assessment before these tasks are carried out. The occupational therapist would look at the safest way to assist you and what equipment could be used to reduce the risk to yourself and your care worker, such as the use of a hoist. For more information on the occupational therapist's assessment, please refer to guides **8: Health Difficulties: how to cope with changing needs** and **28: Housing: adapting your home to stay independent**.

If you use your direct payments to employ a care worker through a home care agency, the agency should make sure their care workers have relevant, up-to-date training and you have the necessary equipment, so that they can assist you in a safe way.

To cover you and your care workers against accidents, it is important that you take out **employers' liability insurance** and **public liability insurance**. Employers' liability insurance will cover you in cases where your care worker is injured or becomes ill as a

result of an accident in your home. Public liability insurance covers you against injury caused to someone else by you or your care worker when employed by you.

It is the employer's responsibility to arrange these two types of insurance, but as they are compulsory employment costs, they should be included in the amount of direct payments given to you by your local council (see section 17). Similar cover may also be available through your household insurance policy. Seek advice from your insurance company or local support service (see section 2.1 for contact details).

## 13 Employing someone yourself

When thinking about employing someone yourself it may be useful to consider some of the following:

- What kind of person you want to employ and how many staff you will need (including back-up for holidays and sick leave).
- The tasks you will want them to complete – you may want to make a list.
- What skills and qualities the person will need to be able to do the tasks properly. For example, they may need to be able to drive and have access to a vehicle and the correct car insurance, as you may want to be escorted and driven out.
- Which hours you require them to work and when.
- The rate of pay: rates are usually higher in the evenings and weekends. On bank holidays, people usually expect double pay. You will have to make sure that you have enough money to cover this. All wages must meet the national minimum wage. Contact the national minimum wage helpline (tel.: 0845 6000 678) for the current rates.
- How you will find the staff – perhaps by word-of-mouth, friends or through neighbours, or an advert in a public place – post office, newspaper or jobcentre where it is free to advertise. It would be advisable to set up a Post Office box so you are not giving out your personal details. Ask at your post office about how to do this.

- Always ask for two references and follow them up with a telephone call for confirmation.
- You can consider requesting a check with the Criminal Records Bureau (CRB) (or Disclosure Scotland) and a check against the Independent Safeguarding Authority (ISA) Barred list. Depending on the policy of your local council, you may be able to enlist the support of your social worker to carry out CRB and ISA checks on the person you employ. Alternatively, if you use a home care agency to find a member of staff, they have a legal duty to run these checks.
- Be sure to ask all questions that may be important to you – such as does the person smoke? What are their dietary preferences, for example, if they are vegetarian, are they willing to prepare meat?
- Will they provide their own overalls and rubber gloves, or will you have to provide these?

When the care package begins you could get a friend, or someone you trust, to spend some time with you and your new care worker. If you are unhappy with the person caring for you, as a responsible employer, you will need to give them feedback about what is not working for you and give them an opportunity to improve their performance before you look elsewhere. You may wish to seek advice from a local support service or independent living centre. See section 2.1 for contact details.

## 13.1 The importance of timesheets

Independent living centres or local support services may offer administrative services for contracts of employment, timesheets and general record keeping. However, if you wish to manage your employer responsibilities yourself, this guide includes sample timesheets which may be of assistance. When you receive care from a member of care staff, it is important to check and sign the timesheet, which records the assistance you have been provided with, to ensure that they have claimed and/or you are charged only for the care you receive.

## 13.2 Sample timesheets

### STAFF TIMESHEET APRIL 2008

Staff Details:

Name: \_\_\_\_\_

Month: \_\_\_\_\_

WEEK BEGINNING: 07/01/08

DAY HOUR	MON	TUES	WEDS	THURS	FRI	SAT	SUN	TOTAL HOURS
6-7								
7-8	√	√	√	√	√	√	√	7
8-9								7
9-10								
10-11								
11-12								
12-13	√				√			2
13-14	√	√	√	√	√	√	√	7
14-15								
15-16								
16-17								
17-18								
18-19	√	√	√	√	√			5
19-20						√	√	2
20-21								

21-22								
22-06 (Night-Duty)								
<b>TOTAL HOURS</b>	4	3	3	3	4	3	3	<b>23</b>

Hourly Rate: _____	Total Value: _____
Staff Declaration: I declare that the details given on this form are true to the best of my knowledge. Signed: _____ Date: _____	
For Employer's Use only: Signed: _____ Date: _____	

**STAFF TIMESHEET ..... 200...**

Staff Details: Name: _____ Month: _____
---

WEEK BEGINNING: .....

DAY \ HOUR	MON	TUES	WEDS	THURS	FRI	SAT	SUN	TOTAL HOURS
6-7								
7-8								
8-9								
9-10								
10-11								
11-12								
12-13								
13-14								
14-15								
15-16								
16-17								
17-18								
18-19								
19-20								
20-21								

21-22								
22-06 (Night-Duty)								
TOTAL HOURS								

Hourly Rate: _____	Total Value: _____
Staff Declaration: I declare that the details given on this form are true to the best of my knowledge. Signed: _____ Date: _____	
For Employer's Use only: Signed: _____ Date: _____	

## 14 Alternative arrangements

If you purchase care services via the direct payments scheme it is a good idea to have alternative arrangements in place should the unexpected occur. For example, if you employ your own care worker, they may be sick one day and, therefore, your alternative plans might include making arrangements with a home care agency for emergency cover (see guide **15: Home Care Agencies: what to look for**).

Failing this, the council will have a responsibility to send one of their own care workers, just as it would with any other person using their service. If you have variable needs or variable number of hours of support from week to week, some local councils will allow you to 'bank' hours you have not used one week, and to carry them over to the next.

## 15 Before Direct payments start

Before direct payments start, you should discuss and agree in writing the following with your local council social services:

- Your care plan (you should receive a copy)
- What needs the direct payments relate to, as stated in your care plan
- What services the direct payments are intended to cover
- How much money you will receive for the direct payments
- How much contribution you will be expected to make toward the cost of your care
- How you intend to use the money to purchase services to meet your needs
- Whether you need help to manage your direct payments, and where to get help
- What the money may and may not be spent on, and how much flexibility will be allowed
- What contribution you would be expected to pay to the local council, if you are assessed as being able to afford a contribution
- Back-up arrangements to cover emergencies
- What steps should be undertaken to safeguard the welfare of any children living with you
- How often and in what form payments will be made
- The information you will need to give the local council about the way the money is spent
- The arrangements the local council propose for monitoring

- Any conditions attached to the direct payments
- The date when direct payments will start
- The date when your arrangements will next be reviewed
- The circumstances under which your local council will consider discontinuing direct payments
- The period of notice the council will give if it decides to discontinue the direct payments, and any circumstances under which it would stop payments immediately
- How any outstanding payments will be handled if direct payments are discontinued
- The circumstances under which the council would seek repayment.

## 16 Setting up Direct payments

Your local council will want to be satisfied that your assessed needs can and will be met using direct payments, and that the money will be spent appropriately in securing services to meet those needs.

Your local council may set conditions on the direct payments, but these conditions must be reasonable. The aim of the direct payments is to give you more choice and control over the services you are assessed as needing. Therefore, the council should not set conditions that are so strict that they prevent flexibility. For example, if you receive direct payments, the council may not stipulate that you can only purchase services from certain providers. Your local council may also not limit direct payments to certain levels of care, such as very high levels of need, or to a particular length of time.

## 17 Calculating the amount you will receive

It is up to the council to decide on the amount of money they provide for direct payments. However, the direct payments legislation states that the amount the council pays must be equivalent to their estimate of a **reasonable** cost for securing the provision of the services you need. The amount would also be subject to any charges assessed by the council, as a result of the usual financial assessment to establish how much you can afford to pay towards your care.

The amount of payment you receive should be sufficient to enable you to secure a service of a standard that the council considers reasonable to fulfil all your assessed needs, including any sensory, social and psychological needs you may have.

There is no lower or upper limit to the amount of direct payments money paid to you in respect of either the number of hours of care it is intended to purchase or the rate per hour of the direct payments. This means that if the council believe that you will be able to purchase care at a particular rate, they can provide you with that amount. If you believe that the amount offered is too low, and will not be sufficient to allow you to purchase care of an acceptable quality to meet your assessed needs, you can negotiate with your local council to increase the amount.

In estimating a reasonable amount of money for the direct payments, councils must include associated costs which could include recruitment costs, National Insurance contributions, statutory holiday and sick pay, maternity pay, employer's liability insurance, public liability insurance and to cover for higher rates charged on weekends and Bank Holidays. This should be flexible enough to allow for London Weighting and salary increments as necessary.

You may be able to negotiate with your local council about the amount of money they provide for your direct payments. Councils should give you as much notice as possible of the value of the direct payment they are going to make to you, to allow you to make enquiries into what care you can purchase.

## 18 Charges

Subject to the financial assessment of your capital income, often referred to as the 'means test', your local council may charge you for part or all of the services they provide. This is the same for direct payments. The council will reduce the amount of the direct payments they pay you by the amount they assess you can afford to pay towards the care.

It is usual practice for councils to pay direct payments to the person receiving the direct payments, minus the amount they assess you can contribute. However, you can request to be paid the full amount and then have the council invoice you for the amount they assess you can contribute.

For more information about the council's financial assessment and home care charging policy, please see guide **14: Help at Home: what may be available in your local area**. For details about paying a home care agency, see guide **15: Home Care Agencies: what to look for**.

## 19 Making payments

You will normally be expected to keep a separate bank or building society account for the direct payments to be paid into. This is to ease the financial monitoring that is necessary to ensure public funds are being properly spent.

From October 2009, if you are receiving direct payments on behalf of an older person who lacks capacity (as a suitable person), you must set up a separate bank account where the direct payments can be paid into.

Local councils decide how frequently payments should be made. People need to be in a position to pay for the services they receive when payment is due. Direct payments are supposed to be flexible enough to allow you to adjust the amount you spend on your care each week so that you can build up any unused money to use later to pay for any increased needs. This is especially important if you have a fluctuating condition. If payments are being used to secure the services they are meant for and the care plan objectives are met, then the actual pattern of 'service' does not need to be pre-determined.

## 20 Your right to complain

You have the right to complain if you disagree with any decision made about direct payments. The complaints system is the same as if you were receiving a service from the council.

See guide **18: Complaints about community care and NHS services in England** for further details about how to do this. If you live in Scotland, please see guide **54: Complaints about community care and NHS services in Scotland** and, if you live in Wales, see guide **74: Complaints about community care and NHS services in Wales**.

Our advice workers can advise on a wide range of issues affecting older people, their relatives and carers. Counsel and Care produce a range of guides which can be downloaded from our website [www.counselandcare.org.uk](http://www.counselandcare.org.uk), or requested by calling our guide orderline on 020 7241 8522.

This guide is not a full explanation of the law and is aimed at people over 60.

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