

Direct Payments Policy	
Version	2
Strategic Owner	Keri Story, Head of Adult Social Care
Business owner	Sarah Mackereth, Principal Social Worker Operations
Author	James Martin, Senior Policy Officer
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Supporting documents	<ul style="list-style-type: none"> • The Care Act 2014 and associated guidance and regulation • Personal budgets policy • Direct payments policy • Fair and affordable care policy • Promoting Independence Policy • Choice in Care Policy



1. Who this policy applies to

- 1.1. This policy will apply to you if you are an adult over 18 and we have identified a personal budget for you that will ensure your eligible care and support needs, as set out in [The Care Act 2014](#) can be met.
- 1.2. This policy will also apply to you if we have identified a personal budget for you for replacement care during periods when your carer needs a break from caring following an assessment of their needs.

2. Why we have this policy

- 2.1. The Care Act requires that local authorities must provide a direct payment to you if you request it and you are eligible to receive one. This policy sets out how we will deliver direct payments in Devon and ensure that you have choice and control in the care and support you receive.
- 2.2. This policy has been developed because of new national legislation that has set out the law relating to direct payments in terms of what you can expect and how we must act.

3. What the policy will achieve

- 3.1. The aims and objectives of this policy.
 - a) You will be informed at the care and support planning stage whether your needs could be met through a direct payment;
 - b) If you want to receive your personal budget in the form of a direct payment you will be supported to do so;
 - c) You will have greater choice in how your eligible social care needs are met because you will be able to arrange and purchase the services you want.

4. The Policy

Promoting independence

- 4.1 The Care Act states that we need to consider promoting independence and reducing the needs a person has at every opportunity.
- 4.2 The Act emphasises the importance of *“preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist. At every interaction with a person, a local authority should consider whether or how the person’s needs could be reduced or other needs could be delayed from arising.”*
- 4.3 Devon County Councils [Promoting Independence Policy](#) will always be applied and the potential for the following support should always be considered as ways of promoting independence:
- Providing information on healthy life choices
 - Providing information on community resources
 - Identifying personal strengths and supportive relationships
- 4.4 Your care plan will wherever possible aim to reduce needs that already exist and to prevent or delay the developments of additional needs for care and support

A direct payment

- 4.5 If we have identified a personal budget for you and you have been assessed as eligible for adult social care funding, then it is likely that you can receive your personal budget through a direct payment to enable you to arrange all of or part of your care yourself to meet your eligible social care needs. You can request a direct payment at any time.
- 4.6 We provide information and advice about personal assistants should you want to use your direct payment to employ someone to help you with your care needs.
- 4.7 As long we are satisfied that you are able to manage a direct payment and we feel that your care and support needs will be met by such a payment, then we can offer you a direct payment if you request one.
- 4.8 We are also required to check that you are not prohibited from receiving a direct payment as set out in the Care Act.
- 4.9 The Care Act prohibits direct payments being used to pay close

family members living in the same household as you for providing you with care. The exception to this is circumstances where we feel it is necessary to do so; this decision is made on a case-by-case basis. Family members living elsewhere are permitted to be employed through direct payments.

- 4.10** Any close family members living in the same household as you can be paid to support you in administrating or managing your direct payment. If this happens then your direct payment will include the appropriate amount of money to pay your family member for that administrative support.
- 4.11** In order for your direct payment to start, either you, your nominated or authorised person are required to sign the direct payment agreement that sets out the terms and conditions of direct payments in Devon.

The value of a direct payment

- 4.12** The value of a direct payment will be no greater than the cost to DCC if it was commissioning the package of care to meet the individual's eligible needs.
- 4.13** If you want to meet your needs in a way that is more expensive than best value, then you will be required to fund the additional amount above best value.
- 4.14** If you choose to meet all of your needs yourself, then the value of your direct payment will be equal to the value of your personal budget, minus any financial contribution you have been assessed as being able to afford.
- 4.15** You may decide that you want to arrange only part of your care yourself and would like us to arrange the rest. If this is the case then the value of your direct payment will be the amount in your personal budget identified to meet those needs, minus any financial contribution you have been assessed as being able to afford. We will retain the remainder of your personal budget and arrange the rest of your care for you.
- 4.16** If you choose to employ a personal assistant then we will provide you with an additional payment further to your direct payments to fund the costs associated with being an employer.

Receiving your direct payment

- 4.17** We operate the [Devon Card](#), a VISA card preloaded with the amount of your direct payment. We will offer you the Devon Card as a way of managing your direct payment. We will also offer you

the Devon Card during the review of your direct payment if at the time you do not have one.

- 4.18** If you are not able to manage the Devon Card then other options might be available so that you can receive a direct payment.
- 4.19** We will make clear in writing both within the Care and Support Plan and correspondence exactly what outcomes your direct payment is intended to achieve. The choice you have when utilising your direct payment is about which provider you engage and what type of service you decide to purchase, not what outcomes you seek to achieve when meeting your care and support needs.
- 4.20** You will be required to spend your direct payment on achieving the outcomes set out in your Care and Support Plan. The direct payment is not to be used for anything other than meeting your eligible care and support needs.
- 4.21** DCC will monitor the use of the direct payment moneys either via the Devon Card system or via reasonable request for information about what the direct payment has been spent on. If concerns arise that the funds have not been spent on meeting the needs outlined in your Care and Support Plan, we will trigger a review as set out below. Such a review may ultimately lead to your direct payment being stopped and a commissioned service being offered in its place. We may also seek reimbursement of funds spent where we consider that these have not been used to meet the prescribed agreed outcomes.

Nominating someone else to receive your direct payment

- 4.22** You may decide that you want someone else to act on your behalf and to receive your personal budget as a direct payment; we call this other person a 'nominated person'.
- 4.23** As long as we are satisfied that the nominated person has agreed to this, they are capable of managing a direct payment on your behalf and they are not prohibited from doing so, then you are able to do this. Your nominated person can receive your direct payment through the Devon Card.
- 4.24** If your nominated person is no longer able to act on your behalf then you must let us know as soon as possible and we will review your direct payment arrangements immediately.

Authorising someone else if you lack capacity to make decisions about direct payments

- 4.25** We can only offer you a direct payment if we are certain that you have the ability to understand what would be required of you in order to arrange your own care and manage a direct payment. We

call this 'assessing your mental capacity' and we do this on a case-by-case basis through the assessment and care planning stages.

- 4.26** If we have assessed you as lacking capacity then a person authorised under the Mental Capacity Act 2005 (Lasting Power of Attorney for property and financial affairs or Deputy for property and financial affairs) may request (or support another person's request) to receive your personal budget as a direct payment on your behalf in order to arrange your care.
- 4.27** As long as we are satisfied that the authorised person agrees to receiving the direct payment, is capable themselves of managing a direct payment on your behalf, they are not prohibited from doing so and will act in your best interests, then we are able to do this. Your authorised person can receive your direct payment through the Devon Card or a third party managed bank account

Reviewing your direct payment

- 4.28** Reviews are undertaken either face-to-face or over the telephone, whichever is deemed the most appropriate and proportionate.
- 4.29** We will carry out an initial review of your direct payment within 8 weeks and annually thereafter as a minimum. This will usually be combined with a review of your care and support needs. A review will also be triggered if we have concerns about how your direct payment is being spent and whether your care and support needs are in fact being met.
- 4.30** During the review we will look at how direct payments are working for you, the quality of the service(s) you are receiving, if you are maintaining your employer obligation and whether you are achieving the outcomes that we have set out in your Care and Support Plan
- 4.31** If after the review of your care and support needs the value of your personal budget changes, either because your needs have changed or because your personal budget no longer represents best value, then the value of your direct payment will change.
- 4.32** If you use a direct payment for services, including a personal assistant, to enable you to relearn skills, you may be successful in reducing your needs and your dependency on local authority support, if this is the case then the value of your direct payment will change.

Accrual and recouping of your direct payment

- 4.33** If you have 5 weeks of unspent direct payment accruing we will contact you to understand why this is. We will look at how you

could be best supported if you are struggling to manage your direct payment and you are not able to arrange care and support to meet your eligible needs.

- 4.34** When we contact you we may also check that your direct payment is the right amount for the way in which you choose to meet your eligible needs within the scope of best value. We will know this if you have accrued money and your eligible needs are still being met and you are meeting any employer obligations that you might have.
- 4.35** In these circumstances it is likely that your direct payment and your personal budget will be reduced to reflect the choices that you are making that are gaining better value. We will also recoup any part of your direct payment that remains unspent once you have met your eligible needs and any employer obligations that might have.

Discontinuing a direct payment

- 4.36** As part of the direct payments agreement, you are required to give four weeks' notice if you wish to end your direct payment arrangement. However, we do accept that it is sometimes not possible to do this and if there is a risk that your eligible need may go unmet we will act appropriately to make sure this does not happen.
- 4.37** Discontinuing your direct payment is a last resort option and we will work with you, your nominated or authorised person to prevent this from happening. However, if it becomes evident that you or your authorised or nominated person are not using your direct payment to meet the outcomes defined in your Care and Support Plan or are not meeting the conditions of the agreement, we will carry out a review and may end your direct payments and recoup any of your unspent direct payments. If this happens we will offer to arrange your care and support for you.
- 4.38** Your direct payment will also end if you no longer have eligible social care needs or you are no longer eligible for social care funding.
- 4.39** We will discontinue a direct payment to an authorised person if we are no longer satisfied that they are acting in your best interests.