

Direct Payments Policy

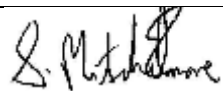
Adult Social Care

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Direct Payment Policy

Directorate:	Social Care, Health, and Housing (SCHH)		
Division & Service:	Adult Social Care		
Author:	Natasha Garner, Brokerage and Direct Payments Manager		
Owner:	Iain Melville, Head of Financial Operations		
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Policy Owner Signatories

Name	Title/Role	Signature	Organisation	Date
Iain Melville	Head of Financial Operations		Central Bedfordshire Council	18/07/2024
Stuart Mitchelmore	AD – Adult Social Care		Central Bedfordshire Council	18/07/2024

CQC Assurance Key Areas:

This policy document supports CQC Assurance Key Areas (detailed in section 10):

Safe	Effective	Caring	Responsive	Well-led
●	●	●	●	●

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This document is not controlled when printed.

It is the responsibility of every individual to ensure that they are working to the most current version of this document.

Contents

1.	Introduction	5
2.	Purpose	5
3.	Scope, Definitions and Related Policies	5
4.	Policy Details	5
	Associated Policies and Practice Guidance	5
5.	Legislation and Regulatory Framework	6
6.	Equality and Diversity	6
	Impact Assessments	6
7.	Monitoring and Reporting Arrangements	7
	Administering and Reviewing Direct Payments	8
	Requirements of Direct Payment Recipients	8
	Financial Monitoring and Record Keeping	9
	Suspending or Terminating Direct Payments	10
	Recovery of Direct Payments	10
	Light touch	10
8.	Information and Training	10
9.	Responsibilities	11
10.	CQC Assurance Key Questions and Quality Statements	11
11.	Evaluation and Review	12

1. Introduction

- 1.1 This policy is to set out the guidelines for the delivery of Direct Payments within Central Bedfordshire Council Adult social care. It has been produced to reflect recent government changes and changes to our internal procedures

2. Purpose

- 2.1 This policy states how Central Bedfordshire Council will deliver Direct Payments to people in receipt of Adult Social Care.
- 2.2 This policy and associated Direct Payments Practice and Procedure applies to all Central Bedfordshire Council officers and those with delegated responsibilities involved in carrying out social care assessments, reassessments, reviews, care and support planning or who are otherwise involved in the arrangement and administration of social care and support services for adults with eligible needs.
- 2.3 The Council will strive to ensure equity in the access, support and delivery of Direct Payments regardless of people's socio-economic status or protected characteristic, age, disability, race, religion or belief, sex, sexual orientation, gender reassignment, marriage & civil partnership and pregnancy & maternity. The Council will also work to ensure people are treated equally when choosing to have services arranged and purchased on their behalf to meet their needs rather than accepting a Direct Payment.

3. Scope, Definitions and Related Policies

- 3.1 A Direct Payment is defined as:

“Monetary payments made to individuals who request to receive one to meet some or all of their eligible care and support needs”

- 3.2 Direct Payments allow people to choose the type of support services, equipment or assistance they need, and determine how and when that support is provided. This enables people to retain control and independence about how their care needs are met and how they want to remain active and able to support themselves at home, in the local community, and within education and employment.
- 3.3 Central Bedfordshire Council has a key role in ensuring that people are given relevant and timely information about direct payments, so that they can make a decision whether to request a payment, and, if doing so, are supported to use and manage the payment appropriately. The route to a direct payment is for a person to request one, and the council will support this request by providing the information and advice.

4. Policy Details

Associated Policies and Practice Guidance

- 4.1 The Council has an existing suite of policies and practice guidance covering the assessment and provision of social care services, including the use of Personal Budgets and Direct Payments to enable choice, control and independence.

4.2 The following outlines the key policy and practice documents for all Council Officers involved in carrying out assessments, reviews and support planning or who have delegated responsibilities through delegation under partnership arrangements.

- Direct Payments Practice and Procedure
- Assessment & Case Management Policy
- Direct Payments Agreement
- Personal Budget Policy
- Debt Recovery
- Adult Social Care Complaints Procedure

5. Legislation and Regulatory Framework

5.1 This policy is based on the Council's understanding of the relevant legislation, government guidance

- The Care Act 2014
- The Care and Support (Direct Payments) Regulations 2014
- The Mental Capacity Act 2005
- The Mental Health Act 1983, section 117(2C)

6. Equality and Diversity

- 6.1 Central Bedfordshire Council is committed to increasing the take-up of Direct Payments for people with eligible care and support needs that are capable and willing, with appropriate support, if necessary, to take greater control over meeting their care needs.
- 6.2 Adult Social Care services will always consider the option of Direct Payments first when deciding how best to meet a person's care and support needs. If eligibility conditions are met the Council has a duty to promote and offer a Direct Payment.
- 6.3 While Direct Payments offer people greater choice and control over their care and support arrangements, they will not be suitable for everyone. A person has the right not to accept a Direct Payment and, as an alternative, can choose to receive services that are provided or arranged by the Council, or buy a range of support services from local agencies, trusts or charities.
- 6.4 The Council will provide and promote access to information, advice and guidance so that people can fully consider the option of receiving a Direct Payment including their roles and responsibilities. The Council will achieve this by commissioning a range of local services to provide support for people to manage their Direct Payment.
- 6.5 The Council will ensure that decisions in respect of eligibility for Direct Payments are transparent and open to challenge through the social care complaints process

Impact Assessments

- 6.6 All SCHH policies are accompanied by an EIA (where applicable) and an implementation plan that sets out monitoring and reporting arrangements available in relation to this policy.

6.7 The Council is proactive about putting in place arrangements to ensure that they do not unfairly discriminate against individuals on the grounds of their protected characteristics. Equality should be integral to the way in which any support is prioritised and delivered

7. Monitoring and Reporting Arrangements

7.1 **Direct Payments can be used for the following:** (this is not an exhaustive list but whatever is purchased must meet the individual's eligible needs)

- Payment to employ a personal assistant/carer of the person's choice, in lieu of an agreed Home Support package
- Transport to be paid, if it is part of the agreed Care and Support Plan, at the actual cost
- A Direct Payment to undertake respite (short break), which can be used to pay for a break in the UK or abroad. For example, in a hotel or B&B, self-catering or staying with relatives.
- A range of equipment to support independent living
- Support to help individuals stay independent in the home and reduce risks
- Support to reduce social isolation
- Support to access or maintain employment
- Support to participate in physical activities
- Support to access cultural, religious activities, social event or outings
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7.2 **Direct Payments cannot be used for any of the following:**

- Any activities that may bring the Council into disrepute including all illegal activities
- Any activities or services that another Authority or Trust would provide or is responsible for providing
- Day to day living i.e. rent, mortgage, food
- To purchase services provided by staff directly employed by Central Bedfordshire Council, e.g. 'in-house' home care
- To purchase permanent residential or nursing care
- To purchase a service that that could expose an individual to serious risk, harm or abuse
- Any service, activity or item that cannot be shown to improve or maintain support for the person's quality of life
- Any expenditure on anyone who is not the DP recipient
- Any expenditure outside of the agreed care package

7.3 Central Bedfordshire Council must be satisfied that the support arrangements put in place by the person will achieve the care outcomes identified in the original assessment.

- 7.4 If not, then the Direct Payment will either not be issued or stopped immediately if it is identified to be used for one of the items mentioned in 7.2.

Administering and Reviewing Direct Payments

- 7.5 Where the council has a duty to meet a person's needs it must help the person decide how their needs are to be met, through the preparation of a care and support plan for those with ongoing needs. The plan must describe what needs the person has, and which needs the local authority is to meet.
- 7.6 Everybody whose needs are met by the Council will have a personal budget as part of the care and support plan that identifies the cost of their care and support, and the amount that the local authority will make available, including the contribution the person in receipt of support needs to make.
- 7.7 When someone has a personal budget, they can take some or the entire budget as a **direct payment** (as long as they meet the conditions in the Care Act and Regulations), i.e. people can choose how much control they wish to take over the arrangement of their care or support. During the care planning stage, the council and/or its partners must inform the person of the needs that could be met via direct payments
- 7.8 The person's Direct Payment will be payable by the Council as Gross, client contributions are invoiced separately by the Council.
- 7.9 The Direct Payment must only be spent on the person's assessed and eligible care needs, although the person may decide on which care services to spend the payment.
- 7.10 The Council is under an ongoing duty to keep the person's plan and personal budget under review, to ensure that their needs continue to be met; they will review the plan periodically, involving the person and agreeing any necessary changes, which may include an increase or decrease in care and support dependent on the individuals presenting need and circumstances.
- 7.11 The Council will review a person's care needs during a Care Management review, first being within 6 months of the start of the Direct Payment then annually after, they will check the suitability of a Direct Payment at these times.
- 7.12 The Council can also undertake a Value for Money review of a Direct Payment to right size the care package. The Council has an ongoing responsibility to ensure that best value can be evidenced when purchasing or commissioning care and support services. Direct Payment are included to ensure that allocation of funds is proportionate and appropriate and achieves best value.
- 7.13 The person can request a review of their care arrangements, including the use of a Direct Payment, at any stage if they consider that their care needs have changed.
- 7.14 The Council will ensure that all new Direct Payment recipients are subject to a review within 6 months by the Direct Payments team and every 12 months thereafter as part of the statutory review process undertaken by care management.

Requirements of Direct Payment Recipients

- 7.15 In accepting a Direct Payment, the recipient will be required to:

- Sign an agreement to confirm that they have read the terms and conditions of receiving a Direct Payment. Payment will only be initiated upon receipt of the signed agreement
 - If no signed agreement is received, then no payments will be made, and the person will be referred to back to their Care Manager.
 - Use a Prepaid Card for the Direct Payment. This will need to be activated before funds are paid onto the card. The prepaid card will be issued after receiving the signed Agreement.
 - Cooperate with the Customer Finance Team to determine any personal contribution required as part of the financial assessment
 - Keep and compile financial records and make these available for monitoring by Council officers as required, referred to as returns and consist of receipts to evidence the spend
 - Use the facility of uploading receipts onto the Pre-paid card account.
 - Upon request from the Direct Payments team, the person is required to return any unspent funds to the Council within 28 days of request.
 - Advise the Council if their care needs change at any stage
- 7.16 Where a person is using a Direct Payment to employ someone to meet their care needs, they assume the responsibilities of an employer, which include the following:
- Recruitment process, including Disclosure and Barring Service (DBS) checks
 - Drafting and issuing a contract of employment
 - Payment of all taxes including Income tax and National Insurance
 - Putting in place Employers Liability insurance
 - Meeting the cost of any redundancy
 - Meeting the cost of any pension requirements
- 7.17 In such circumstances the Direct Payment amount will be calculated to allow the recipient to meet costs associated with becoming an employer.
- 7.18 Where a person chooses to employ a Personal Assistant, they must make use of a payroll provider to ensure that all aspects of paying for Personal Assistant are dealt with properly.
- 7.19 A signed POA (Power of Attorney) letter will need to be supplied before the Direct Payment is administered if applicable to the person's circumstances.

Financial Monitoring and Record Keeping

- 7.20 The recipient of the Direct Payment will be required to submit / upload regular full returns and receipts accounting for all Direct Payments spending and cooperate with Direct Payment and Care Management review visits.
- 7.21 Direct Payment spending will be checked during these reviews.
- 7.22 If the Direct Payments team identifies that the recipient has a balance in excess of the equivalent of 8 weeks of Direct Payments, then the Council would seek to recover this balance.

7.23 Failure to comply with the requirements attached to being awarded a Direct Payment could result in it being stopped. If this happens, a care manager will assess the person's needs in order that appropriate care and support can be commissioned, and the person is not put at any undue risk.

7.24 Payments are made on a 4-weekly basis as a Gross amount.

Suspending or Terminating Direct Payments

7.25 The entitlement to a Direct Payment ceases where the person no longer has eligible care needs

7.26 The entitlement to a Direct Payment ceases when the person can no longer manage the process of receiving a Direct Payment

7.27 The Council will seek to recover any Direct Payments amount made on the date that the person's care needs have ceased.

7.28 Should the Council have evidence that a Direct Payment recipient is not using the funds as agreed, an urgent review will be undertaken the outcome of which could include terminating the Direct Payment.

7.29 A Direct Payment can be suspended or terminated should the person fail to pay their client contribution.

7.30 Should the Council make attempts to contact the person when no evidence has been provided over a 3-month period and this is unsuccessful, then the Direct Payment will be stopped and referred to the Care Management team for a review.

7.31 Should the person no longer wish to receive a Direct Payment, they can request via their Care manager for the payment to be terminated at any stage.

7.32 If the Council suspends or terminates a Direct Payment for any reason, the person may still be entitled to receive commissioned care services to meet their eligible care needs.

Recovery of Direct Payments

7.33 The Council will seek to recover any Direct Payment funds not accounted for.

7.34 The Council will pursue recovery of the Direct Payment through its standard debt recovery processes.

7.35 Direct Payment recipients must return all unspent Direct Payment to the Council within 28 days of request

7.36 If your Direct Payment plan is suspended or terminated, we will automatically stop your Prepaid Card and write to you.

Light touch

7.37 The level of financial monitoring required will be determined by the Council using a risk-based approach. Recipients will be informed if this applies to their circumstances.

8. Information and Training

8.1 Training will be provided by the Direct Payments Team and Manager on an ongoing basis.

9. Responsibilities

9.1 The Council regards that people will be responsible for a Direct Payment under the following three circumstances:

- Where the person eligible for care and support is the recipient of the Direct Payment and manages the account and purchase of care services. Under this situation the person is solely responsible for meeting the terms and conditions of receiving the payment as set out in the Direct Payments Policy and Direct Payment agreement.
- Where a nominated person acting on their behalf, if agreed by the person with care and support needs and the person with care and support needs has capacity. In this situation the person remains solely responsible for meeting the terms and conditions of receiving a Direct Payment.
- Where the person has been assessed as lacking the capacity to manage a Direct Payment and an authorised person is appointed to manage the account and purchase care and support services on their behalf. Here the authorised person is the recipient and is responsible for meeting the terms and conditions of receiving a Direct Payment.

9.2 The Council commissions a range of services to provide support, advice and guidance to people in receipt of a Direct Payment.

9.3 The current range of advice and support services includes Personal Assistant Recruitment, Personal Assistant Support, Payroll Support and managed Bank Accounts.

9.4 People will be made aware of and how to gain access to advice and support services during both Support Planning and Review process.

9.5 PA (Personal Assistant) costs – If the person employs a PA then the payroll costs are included but not the cover for bank holidays, sick leave, weekend uplifts. Requests for additional support will be considered and agreed by Care Management if they meet the eligible care need in the person's support plan.

9.6 If the person employs a PA, they must ensure they have signed a 'contract of employment'.

10. CQC Assurance Key Questions and Quality Statements

10.1 This policy document supports CQC Assurance Key Questions and Quality Statements:

Key question:	Quality statements we will use to assess quality
Safe	<p>Safety is a priority for everyone and leaders embed a culture of openness and collaboration. People are always safe and protected from bullying, harassment, avoidable harm, neglect, abuse and discrimination. Their liberty is protected where this is in their best interests and in line with legislation.</p> <p>Where people raise concerns about safety and ideas to improve, the primary response is to learn and improve continuously. There is strong awareness of the areas with the greatest safety risks. Solutions to risks are developed collaboratively. Services are planned and organised with people and communities in a way that improves their safety across their care journeys. People are supported to make choices that balance risks of harm with positive choices about their lives. Leaders</p>

	ensure there are enough skilled people to deliver safe care that promotes choice, control and individual wellbeing.
Effective	<p>People and communities have the best possible outcomes because their needs are assessed. Their care, support and treatment reflects these needs and any protected equality characteristics. Services work in harmony, with people at the centre of their care. Leaders instil a culture of improvement, where understanding current outcomes and exploring best practice is part of everyday work.</p> <p>Everyone is supported to see what works well and not so well based on indicators of quality. Continuous improvement is always guided by this insight.</p>
Caring	<p>People are always treated with kindness, empathy and compassion. They understand that they matter and that their experience of how they are treated and supported matters. Their privacy and dignity is respected. Every effort is made to take their wishes into account and respect their choices, to achieve the best possible outcomes for them. This includes supporting people to live as independently as possible.</p>
Responsive	<p>People and communities are always at the centre of how care is planned and delivered. The health and care needs of people and communities are understood, and they are actively involved in planning care that meets these needs. Care, support and treatment is easily accessible, including physical access. People can access care in ways that meet their personal circumstances and protected equality characteristics.</p> <p>People, those who support them, and staff can easily access information, advice and advocacy. This supports them in managing and understanding their care and treatment. There is partnership working to make sure that care and treatment meets the diverse needs of communities. People are encouraged to give feedback, which is acted on and used to deliver improvements.</p>
Well-led	<p>We have clear responsibilities, roles, systems of accountability and good governance. We use these to manage and deliver good quality, sustainable care, treatment, and support. We act on the best information about risk, performance, and outcomes, and we share this securely with others when appropriate.</p> <p>There are effective governance and management systems. Information about risks, performance and outcomes is used effectively to improve care.</p>

Further information about Quality Statements can be seen here: [Key questions and quality statements - Care Quality Commission \(cqc.org.uk\)](https://www.cqc.org.uk/key-questions-and-quality-statements)

11. Evaluation and Review

11.1 This policy will be reviewed every 2 years or when change occurs, and it is appropriate to do so.