



Direct Payment Scheme

Policy

Revised Sept 10

Direct Payments Scheme

This policy sets out Dorset County Council's provision of Direct Payments.

Background

The purpose of Direct Payments is to give individuals who require care services, control over their own life. Direct Payments provide individuals with flexibility to look for options to meet their assessed needs beyond the 'off the peg' service available. Direct Payments are not obligatory, but the County Council encourages those individuals who are willing and able to take responsibility for arranging their own care.

This revised scheme, which is specific to Dorset County Council, provides service users who meet the criteria for care services with even more flexibility than previously, allowing them dignity and independence, whilst enhancing their wellbeing.

Note: Please note that Dorset County Council is responsible for the provision of social care needs. Direct Payments cannot be made for health care needs.

1 Legislation

Section 57 of the Health and Social Care Act 2001 and section 17A of the Children Act 1989 require Local Authorities to make Direct Payments to prescribed individuals.

The regulations provide that the duty to make Direct Payments applies to:-

- A community care service within the meaning of section 46 of the National Health Service and Community Care Act 1990; or
- A service under section 2 of the Carers and Disabled Children act 2000; or
- A service which local councils may provide under section 17 of the Children Act (1989).

2 Eligibility

To be able to receive a Direct Payment an individual must have capacity to consent¹ and meet one of the following criteria: -

- Be an adult or a young person aged 16/17 who :-
 - has been assessed as needing community care services under the NHS and Community Care Act 1990, and who meets the Fair Access to Care Services² (FACs) eligibility level set by the local authority at the time of the assessment; or
 - has been assessed as needing a service under the Children Act (1989) section 17.
- Be a carer of a disabled adult or have parental responsibility for a disabled child³ who needs:-
 - a community care service under the NHS and Community Care Act (1990); or
 - a service under the Children Act (1989) section 17.
- Be a carer aged 16 and over who provides or intends to provide a substantial amount of care on a regular basis for another individual aged 18 or over and have had a carer's assessment.

The following are excluded from receiving Direct Payments:-

- a) People detained under Mental Health legislation on leave of absence from hospital.
- b) Patients subject to guardianship under Mental Health legislation and those covered by the power of supervised discharge initiated by the Mental Health (Patients in the Community) Act 1995.
- c) People receiving after care or community care initiated under a Court Order.
- d) People serving a probation or combination order requiring them to undergo treatment for a mental health condition or for drug or alcohol dependency.

¹ Being able to consent to a Direct Payment requires that the service user not only needs to know what they want out of a Direct Payment but they also have to accept the responsibility. A service user's capacity to consent to Direct Payments will be assessed in accordance with the Mental Capacity Act 2005 Code of Practice

² DCC Adult and Community Services Fair Access to Care Services factsheet

³ Separate Directorate Guidance has been produced on the Direct Payments Scheme being developed following on from the implementation of parts of the Carers and Disabled Children's Act 2000.

- e) People who are subjected to the equivalent Scottish Mental Health or Criminal Justice legislation.
- f) Service users receiving S117 aftercare who are subject to supervision in accordance with S25A of the Mental Health Act 1983 are excluded from receiving Direct Payments until the supervision ceases.

Note: Local authorities are not under a duty to make a Direct Payment if it does not appear that the service user is capable of managing a Direct Payment even with assistance.

3 Process

Following assessment and agreement that the service user meets the need for substantial/critical care services, each eligible service user will be offered the choice of Direct Payments.

Information about the scheme will be provided as early as possible in the assessment process. The information will be provided in a set of factsheets which are detailed at the end of this document.

The Council will contract with at least one independent organisation to provide advice and support to service users. The organisation will provide service users with advice, guidance, support and management of the Direct Payment Scheme. Name(s), address(es) and contact telephone numbers are available at the end of this policy.

Care assessments will be outcome based and regular reviews agreed with the service user at the outset.

4 Conditions and Payments

- a) Direct Payments will be calculated taking into account assessed care needs. The payment will be in line with what Dorset County Council would have paid for care (if services were provided directly), less any assessed service user contribution⁴.

⁴ The **Service User contribution** is the amount that the service user has been assessed to pay towards care needs. The amount is worked out in accordance with Fairer Charging Guidance and is based on the service user's capital, income and outgoings. Please refer to the fact sheet 'Paying for non residential care services' or alternatively contact the Fairer Charging Team on 01305 328058 for more details.

- b) The assessed service user contribution will form part of the Direct Payment. Direct Payments will be made net of any service user contribution that has been assessed.
- c) The payments may be increased or decreased if the assessed care needs change and payment rates will be reviewed annually in line with inflation.
- d) Direct Payments will be made into an agreed bank account (this may be an existing account belonging to the service user or carer) or into the Holding Account which has been set up by the County Council for the purpose of Direct Payments. (People opting to use the holding account will be required to pay the charges levied).
- e) Direct Payments will normally be made every two weeks, in advance. In some cases, such as for respite breaks, lump sum payments will be made.
- f) Retainer Payments will be made for up to six weeks in the event of the Direct Payment recipient going into hospital. After a period of six weeks there will always be a review of the case and payments will normally cease then. Any continuing payment requirements will need to be addressed at the review. Retainers will only be paid to meet your contractual obligations.
- g) The recipient of the payment will be responsible for keeping receipts for all expenditure, including money paid to carers or relatives, for a period of three calendar years. These receipts and supporting bank statements must be made available for inspection by Dorset County Council as directed.
- h) The recipient of the payment is responsible to ensure that all current employment law and tax legislation is complied with if a carer or carers are employed directly. This will include providing adequate insurance cover and making appropriate revenue payments.
- i) Direct Payments must be used solely for the benefit of the person named as having the need for services. The payments must be used to meet the assessed community care needs.
- j) The service user's care needs will be subject to regular reviews at agreed intervals.

- k) The recipient of the Direct Payment will be responsible for returning unused money at agreed intervals and on termination of Direct Payments.
- l) Dorset County Council reserves the right to withdraw Direct Payments at any time and to arrange for the provision of services if the conditions of payment are breached.

Compliments and complaints

Adult and Community Services staff in Dorset are committed to providing quality services to our service users, their carers and families. We welcome comments from our service users as this helps us to understand what aspects of our service people like.

If you are unhappy about the service you have received and want to make a complaint, our factsheet 'How to complain' describes the procedure. Our Complaints Officer can give you advice on the process and can be contacted on 01305 224322.

All our factsheets are available in large print and on audio cassette/CD, Braille, Easy to Read or alternative languages. Please contact the Information Office on 01305 224320.

Information available

Direct Payment Factsheets:

- Are Direct Payments right for me?
- General Information about Direct Payments
- Managing Direct Payments
- Independent Support Agencies
- How to help ensure your personal safety when recruiting your own staff

Independent Support Agency:

Enham Direct Payments and Support Planning Service

Enham (Head Office), Enham Place, Enham Alamein, Andover, Hampshire SP11 6JS

Tel: 0845 504 0726

Minicom: 0845 504 0723

Fax: 0845 504 0725

Email: directpayments.dorset@enham.org.uk

Web: www.enham.org.uk/pages/dorset.html

Support Agencies who can provide advocacy:-

- **For people with a learning disability:**
Dorset Advocacy, Portfolio House, 3 Princes Street,
Dorchester, Dorset DT1 1TP
Tel: 01305 251033
- **For people with mental health problems:**
Dorset Mental Health Forum, The Old Warehouse,
29-29a Durngate Street, Dorchester, Dorset DT1 1JP
Tel: 01305 257172 Fax: 01305 261049
Email: wdmhf@dial.pipex.com

Direct Payments Finance Team

Adult and Community Services

Dorset County Council

County Hall

Dorchester DT1 1XJ

Tel: 01305 224591

For further information and reference: www.doh.gov.uk