

## Factsheet 24

# Personal budgets and direct payments in social care

November 2023

### About this factsheet

This factsheet provides information about personal budgets and direct payments in the adult social care system.

A personal budget is the overall cost of the care and support the local authority provides or arranges for you. It specifies how much, if any, you must pay towards the overall cost and the remaining amount paid by the authority.

Direct payments are a funding choice in personal budgets. They allow you to purchase your own care and support services, with the aim of maximising your involvement and control over how your needs are met.

For information about how to access social care support, see factsheet 41, *How to get care and support*.

Other factsheets explain charging for care and support and the financial assessment, including factsheet 46, *Paying for care and support at home*.

The information in this factsheet is applicable in England. If you are in Scotland, Wales or Northern Ireland, please contact Age Scotland, Age Cymru or Age NI for information. Contact details can be found at the back of this factsheet.

Contact details for any organisation mentioned in this factsheet can be found in the *Useful organisations* section.

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## 1 Recent developments

*Local authority circular - LAC (DHSC) (2023) 1*, published in February 2023, increased the income thresholds in the financial assessment in line with inflation.

## 2 Sources and terms used in this factsheet

This factsheet is based on the *Care Act 2014* (*the Act*), supporting regulations and the *Care and Support Statutory Guidance* (*the guidance*), which were introduced in April 2015.

Relevant chapters in the guidance include: 10. *Care and support planning*, 11. *Personal budgets* and 12. *Direct payments*. Relevant regulations include:

- *The Care and Support (Personal Budget Exclusion of Costs) Regulations 2014* (*the excluded costs regulations*)
- *The Care and Support (Direct Payments) Regulations 2014* (*the direct payments regulations*).

### Local authority

In this factsheet, references to a *'local authority'* refer to the adult social services or social care department of the local authority or council. It is also used to describe similar departments within: a county council, a district council for an area in which there is no county council, a London borough council, or the Common Council of the City of London.

## 3 The personalisation of social care

Personalisation principles are central to the Act, which provides the legal basis for adult social care. The following are some relevant terms:

**Wellbeing:** Local authorities must promote your individual wellbeing when working with you under the Act. The Act states that the local authority must have regard to *'the importance of beginning with the assumption that the individual is best-placed to judge the individual's well-being'*.

**Person-centred care:** An approach that local authority staff must take throughout the care planning process. You should be at the heart of the process and be centrally and actively involved in describing your needs and shaping your care and support package.

**Outcomes:** You should be asked, during the assessment and care planning process, to identify the outcomes that matter to you.

**Self-directed support:** Similar to person-centred care but related specifically to the care and support planning process. Local authorities should aim to enable anyone to make good use of direct payments. If people choose other options, they should maximise choice and control.

## 4 Getting assistance from the local authority

Getting care and support assistance from the local authority begins with requesting a needs assessment. The assessment looks what needs you have and is used to decide whether your needs meet the eligibility criteria for care and support (*'eligible needs'*).

The authority must meet eligible needs if, for example, you are entitled to help with care costs following the financial assessment, or you lack mental capacity and have no one able to help you. If the authority meets your needs, they work with you to produce a written care and support plan, setting out how they will be met.

Some eligible needs may be met by your carer and others by services available to everyone, such as an Age UK lunch club (*'universal services'*). Any eligible needs not met in these ways must be met by the local authority. All these elements of support plus any other services you need are recorded in your care plan. Your care and support plan must include a *'personal budget'*, see section 6.

If you are a carer seeking local authority support, the same process applies to your support plan. For more information, see factsheet 41, *How to get care and support*.

## 5 Paying for social care services

A local authority can charge for most services provided to you. Any charge must be subject to a financial assessment. You may be entitled to local authority financial support with the cost of meeting your needs.

There are some services it cannot charge for and must be provided for free. A local authority cannot charge for the provision of specialist disability equipment, or home adaptations costing £1,000 or less, if they meet your eligible needs. See section 8.10 for more information.

Local authorities cannot charge for short-term rehabilitation services, known as *'intermediate care and reablement'*. These are services designed to help you maintain or regain the ability to live independently in your own home, for example following discharge from hospital.

This may arise following a stroke, for example, if you need help to move back home and regain as much independence as possible there. Intermediate care and reablement services are not restricted to people with eligible needs - they may also be provided to prevent a future need for care and support.

No charge can be made for intermediate care and reablement services for up to six weeks. The six-week free period should not be a strict maximum and a longer period should be considered where this could help prevent future needs for care and support.

For more information, see factsheet 76, *Intermediate care and reablement*.

## 6 What is a personal budget?

'*Personal budget*' is the term used to describe the overall cost of the care and support services that the local authority arranges or provides to meet your needs. It is usually worked out on a weekly basis.

Your personal budget amount is an important part of getting help from the local authority. The higher your personal budget, the more the local authority might pay towards the cost of your care. This can make a crucial difference to how your care needs are met.

A personal budget is defined in the Act as having three parts:

1. **overall cost to the local authority of meeting your needs** (i.e. the eligible needs it is legally required to meet, or needs it decides to meet)
2. **the amount payable by you** (after you have had a financial assessment)
3. **net amount the local authority must pay** to meet your needs.

### How is it used?

The amount of money in your personal budget can be spent in one of three ways:

- 1 **A managed account:** your personal budget allocation is held by the local authority and they arrange the services agreed in your care and support plan on your behalf.  
  
For example, if you need care and support at home, the authority arrange the care services, usually provided by an agency, and pay them from your personal budget.
- 2 **An account managed by a third party:** Similar to a managed account, except a third party manages your personal budget. This can be the actual service provider. These are often referred to as '*individual service funds*'.
- 3 **Direct payments:** You are given money to spend yourself on meeting some, or all, of your needs in line with your care plan, in the way that suits you best. The amount you receive derives from your personal budget. For more information, see section 8.

You can choose a '*mixed package*' that includes elements of some or all three of the options. Local authorities should make sure that whatever way the personal budget is used, the decision is recorded in your care and support plan and you are given as much flexibility and choice as is reasonably practicable in how your needs are met.

The mixed package approach can be useful if you are moving to direct payments for the first time. This allows a phased introduction of the direct payment, giving you time to adapt to direct payment arrangements.

## 7 Calculating your personal budget

General principles for calculating a personal budget are set out in the Act and guidance. There are different local approaches in practice.

**Ready reckoner approach** - the local authority identifies the number of hours of care and support needed to meet your eligible needs, discusses with you how you would like that support delivered and works out the hourly cost, to calculate your overall personal budget.

**Resource allocation system (RAS)** - Many local authorities use a RAS, which is based on statistical information about care costs, to calculate an amount for your personal budget. Some local authorities use a computer programme to do this. Inevitably, this comes up with a standardised figure that may not be right for you. The local authority must ensure your final personal budget figure is sufficient to meet your eligible needs.

**Initial indicative figure** – to begin with, the authority may allocate an estimated '*indicative figure*', which is then used as the basis for planning your care and support.

As the care and support plan develops, this estimated figure must be checked against the actual costs of purchasing the care and support you need. This means the final personal budget amount may be more or less than the indicative amount. The guidance states:

*The allocation of a clear upfront indicative (or 'ball-park') allocation at the start of the planning process will help people to develop the plan and make appropriate choices over how their needs are met.*

### Transparent, timely and sufficient

The local authority must meet the following standards when working out your personal budget:

- **Transparency:** The local authority should make clear how your personal budget amount was calculated. You should be given enough information to understand how the system works, how any indicative amount was decided, and how your final personal budget amount was calculated.
- **Timeliness:** An up-front or indicative budget amount should be available to you at the start of the care planning process.
- **Sufficiency:** Whichever approach has been taken to calculate your personal budget, your final personal budget amount must be sufficient to meet your assessed eligible needs. It should take into account your reasonable preferences as to how your eligible needs are met.

The guidance states '*local authorities should not have arbitrary ceilings to personal budgets that result in people being forced to accept to move into care homes against their will.*' This means they must be flexible in their approach and realistic about the actual costs of meeting your individual eligible needs.

## Local market conditions and meeting needs

The personal budget amount must be based on the '**cost to the local authority**' of meeting your assessed eligible needs that it must, or that it chooses, to meet. It specifies how much, if any, you must contribute to that cost based on the financial assessment and the remaining amount paid by the local authority.

The guidance states:

*In establishing the 'cost to the local authority', consideration should therefore be given to local market intelligence and costs of local quality provision to ensure that the personal budget reflects local market conditions and that appropriate care that meets needs can be obtained for the amount specified in the [personal] budget.*

The reference to local market conditions as a gauge for personal budgets is important. Local authorities often contract at cheaper rates than individuals by bulk purchasing block contracts to drive down prices.

The local authority must also consider the cost of care outside of its area, if this is part of meeting your eligible needs. For example, if the local authority is meeting your needs by arranging a care home, you may need this to be located out-of-area, so you are closer to a support network of family and friends.

The local authority duty relates to meeting your eligible needs, not meeting them in a specified way. They must consider whether '*appropriate care that meets needs can be obtained for the amount specified in the budget*' in line with the guidance.

Local authorities have a duty to promote the local market so there is a range of service providers and '*a variety of high quality services to choose from*'. However, the range and quality of services can depend on where you live and there may not be many choices in reality.

## Not just the cheapest option

The emphasis in the guidance is on achieving sustainable care plans. It recognises this may not be achieved by opting for the cheapest option. It says decisions should '*be based on outcomes and value for money, rather than purely financially motivated*'.

The local authority must explain how it arrived at your personal budget figure and why they believe this is sufficient to meet your eligible needs.

If your needs are met by direct payments, consideration must be given as to whether the personal budget is sufficient for other costs associated with becoming an employer, including legal requirements such as National Insurance and pension contributions for employed carers.

Local authorities can consider financial constraints when meeting eligible needs and may not agree, for example, to a direct payment request twice as expensive as a care home or directly commissioned care.

## 7.1 Carers' personal budgets

If you are a carer, the local authority may have duty to meet your needs for support following a carer's assessment. The assessment must focus on any difficulties and risks involved in caring, and what you want to achieve in your life alongside your caring role.

You may need some time off from caring ('*replacement care*'). If you have other support needs, for example, help with housework or meeting the costs of a training course, you should receive your own personal budget to cover these costs, provided you are entitled to support.

### Services that benefit a carer indirectly

If you need time off from your caring role, the local authority can provide '*replacement care*', sometimes called '*respite care*', to look after the person you care for while you have a break. This is referred to in your support plan and personal budget. However, any charge for '*replacement care*' is made to the person you care for, as they receive the services.

That means it can only be put in place if the person you care for agrees. The local authority should ensure the cared for person is involved in any decisions made about '*replacement care*'.

## 7.2 Challenging the personal budget amount

If you do not agree your personal budget is sufficient to meet the eligible needs in your care or support plan, ask the local authority for written reasons to explain how they arrived at the amount and how it relates to each of your needs. The local authority must be transparent in the way it calculates your personal budget, so you have a right to an explanation.

It is important to be clear why you feel the personal budget is not sufficient to meet your individual needs. Ask for a copy of your needs assessment and care and support plan so you can highlight individual needs and why the personal budget should be increased to meet them.

A local authority is only required to set the personal budget figure at an amount high enough to meet eligible needs it agrees you have in the needs assessment. This means your personal budget may not be sufficient if the local authority fails to recognise your eligible needs in full. Check your needs assessment to ensure all your care needs have been taken into account and request a reassessment if needed.

If your draft care plan goes to a local authority funding panel and your personal budget is reduced, ask for written reasons for the reduction. A local authority **must not** use a funding panel to arbitrarily reduce your personal budget.

The local authority must ensure that your personal budget is sufficient to meet your individual needs and the law does not allow them to use panel to avoid fulfilling its duties towards you.



## Making a complaint

If you feel your personal budget figure is wrong, you can try to resolve the situation informally. Your next option is to make a formal complaint using the local authority complaints procedure.

Explain why you feel the personal budget figure is insufficient to meet your individual eligible needs. It is important to be as clear and as specific as you can about why your individual needs require a higher personal budget to be met effectively.

You can ask the Local Government and Social Care Ombudsman to consider the complaint if it remains unresolved after you have used the local authority's procedure. See factsheet 59, *How to resolve problems and complain about social care*.

## 7.3 Personal budget reviews

Once care and support services start to be delivered to you, the local authority must keep your care and support plan, including the personal budget amount, under review to ensure it remains appropriate to meet your needs. There should be an initial *'light touch'* review six to eight weeks after your care begins and annual reviews at least thereafter.

The local authority must also conduct a review if you, or someone acting for you, requests a review and it believes that request is reasonable. The authority should instigate a review if it believes your circumstances have changed (for example, a change in the level of your needs).

A review may result in your personal budget being reduced. The local authority may say your needs no longer require your current personal budget amount, or that it no longer funds a particular service.

The guidance is clear that a review must not be used to arbitrarily reduce your personal budget. It states, *'such behaviour would be unlawful under the Act as the personal budget must always be an amount appropriate to meet the person's needs. Any reduction...should be the result of a change in need or circumstance'*.

If your personal budget is reduced following a review, explain to the authority any reasons why you think the new amount prevents your eligible needs from being met.

For example, if the new budget means a previously received service is now unaffordable, explain why it was a necessary part of meeting your needs, highlighting any impact on your wellbeing.

Point out to the authority it has a legal duty to ensure your personal budget is sufficient to meet your eligible needs. It must explain how it arrived at the new amount. Make a formal complaint if needed.

For more information about reviews and challenging reductions in care and support, see section 10 of factsheet 41, *How to get care and support*.

## 8 What is a direct payment?

A direct payment means you receive the money to arrange your care, rather than having it arranged for you by the local authority. The amount you receive relates to your personal budget. You may have some, or all, of your needs met via a direct payment.

The guidance states '*a 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*'. This accords with personalisation principles.

Direct payments enable you to buy in care from care workers you recruit and employ to come at times that suit you. You may have one or two care workers, instead of a rota of different agency carers. When you employ staff in this way, they are called '*personal assistants*' (PAs). If you use a direct payment to employ staff, you become an employer which brings other responsibilities with it. See section 8.7 for more information.

Alternatively, you can use your direct payment to arrange services provided by a care agency or self-employed person, meaning that you do not take on the responsibilities of an employer. See section 8.8 for more information.

The local authority should ensure it has planned how your care needs can be met if your PA, or other staff you employ, are absent, due to sickness or holiday leave, for example. The local authority still has a duty to ensure your care needs are met, even if you have chosen to make your own arrangements through a direct payment.

You can opt to have only some of your needs met by a direct payment if it suits you better. For example, you have a direct payment to employ someone to take you out socially if you cannot go out alone but ask the local authority to arrange day-to-day personal care on your behalf.

You can nominate another person to receive and manage your direct payment. This is useful if you like the flexibility, but want to involve a trusted carer, friend, or family member to help manage the finance and employment responsibilities. They are called your '*nominated person*'. If you lack mental capacity, your direct payment can be managed by an '*authorised person*', see section 8.3.

The local authority must give you information, advice, and support if you take this option. The local authority must not force you, and you should not feel pressured, to have a direct payment. It is your choice. If you do not want a direct payment when your care package starts, you can always change your mind and ask for a direct payment later on.

### Residential care

Direct payments cannot be used to fund permanent residential care. There are restrictions on how they can be used for short-term residential care. See section 8.5 for more information.

## 8.1 Duty to provide direct payments – four conditions

The local authority may have a duty to provide a direct payment if that is how you want some, or all, of your eligible needs to be met. You can request them but the local authority must assess whether you meet certain conditions before it agrees your request. These are:

**Condition 1** – you have the mental capacity to make the request and if you nominate another person, they agree to receive the payment

**Condition 2** – you are not prevented by law from receiving direct payments (for example because you must attend drug or alcohol rehabilitation as part of a court order)

**Condition 3** – the local authority is satisfied you can manage direct payments, either on your own or with help from your nominated person

**Condition 4** – the local authority is satisfied making direct payments to you (or your nominated person) is an ‘*appropriate way*’ to meet your needs. This means they have discretion – a choice.

## 8.2 Other conditions the local authority can apply

Your direct payments must be used to pay for care and support as set out in your care and support plan. Generally, you have a lot of scope as to exactly how you decide to meet those needs. You cannot, however, spend the money on something not related to meeting your eligible needs, as set out in your agreed care and support plan.

The local authority can apply other conditions. For example, the direct payment regulations state there can be a condition not to employ a particular individual (to try and avoid financial or other abuse). It does not apply the other way round - the local authority cannot tell you that you must employ a particular person.

The local authority can require you to provide specific information. For example, you may need to keep records of how you spend the money and to keep receipts. However, you cannot be required to provide more information than is necessary to enable local authority to know that the arrangement remains appropriate and you are meeting the conditions. Depending on the local authority’s policy, you may be asked to open a separate bank account to manage your direct payments.

## 8.3 If you lack mental capacity

You can receive direct payments if you lack mental capacity. In this situation, payments are made to an ‘*authorised person*’, usually a family member or friend. They may have power of attorney or a deputyship under the *Mental Capacity Act 2005*, but this is not a requirement of being an ‘*authorised person*’.

The local authority must be satisfied that the ‘*authorised person*’ will act in your best interests when arranging care and support on your behalf.

There are other rules about an '*authorised person*' that include:

- an authorised person must notify the local authority if they think the adult receiving care support has regained mental capacity to decide whether or not they want a direct payment
- if the authorised person is not a friend involved in the provision of your care, partner or cohabiting close family member, a Disclosure and Barring Service (DBS) check must be carried out for any care staff they employ. The local authority must explain how DBS checks can be accessed.

For more information about mental capacity, see factsheet 22, *Arranging for someone to make decisions on your behalf*.

## 8.4 Restrictions on employing a partner or family member

As a general rule, the direct payment regulations prevent you using direct payments to employ co-habiting family members to meet your care and support needs.

This applies to your spouse, partner or civil partner, as well as relatives who live in your house. They are:

- parent or parent-in-law
- son or daughter, or son-in-law or daughter-in-law
- stepson or stepdaughter
- brother or sister
- aunt or uncle
- grandparent, or
- spouse, partner or civil partner of any of these people.

An exception can apply if the local authority agree it is necessary to permit direct payments to pay a partner or relative to either:

- meet care needs, or
- provide administrative and management support to meet the direct payment legal obligations and day to day financial management.

This is intended to reflect the fact that in some cases, especially where there are multiple complex needs, the direct payment amount may be substantial.

Decisions to allow a cohabiting family member to administer a direct payment should be recorded in the care plan and include the amount of the payments, their frequency and activities covered.

The arrangement must be taken into account during allocation of the personal budget, so the amount remains sufficient to meet your needs.

If your partner or relative does not live with you, the above restrictions do not apply.

## 8.5 Limitations on direct payment use

### Residential care

Direct payments cannot generally be used to pay for long term residential care. You can, however, purchase short-term respite or replacement care in a care home using a direct payment. The direct payment regulations limit this to four consecutive weeks in a year.

If you buy residential care for less than four weeks at a time, the amounts are added together. This does not apply if the gap in between stays is at least four weeks. An example in the guidance notes:

*Mrs H has one week in a care home every six weeks. Because each week in a care home is more than four weeks apart, they are not added together. The cumulative total is only one week and the four-week limit is never reached.*

### Local authority services

The guidance says as a general rule, direct payments should not be used to purchase a service the local authority provides itself. They can be used to purchase a service from a neighbouring authority or any service the local authority commissions.

This is to avoid conflicts of interest, where the local authority is both promoting its services and providing money for people to purchase them.

### Hospital stays

A stay in hospital should not mean your direct payment is suspended while you are there. You may still need help with social care and benefit from your care worker or PA being available to come to hospital to help.

If you use your direct payment to employ staff, it is important the direct payment scheme enables you to fulfil all your employment responsibilities whilst you are in hospital.

## 8.6 Calculating the amount of your direct payments

The care planning stage may be the best time to request direct payments, if you would like them. This takes place after your needs assessment, when you discuss how best to arrange care and support to meet your needs.

If you decide to have direct payments, your personal budget amount should reflect the real local costs of purchasing your care, applying principles set out in section 7.

The local authority must balance your personal preferences for how your care is delivered against their budgetary constraints. In doing so, they must always aim to promote your well-being. This can be a difficult balance in practice.

Your care plan must include how your needs impact on your wellbeing. It should demonstrate how the proposed level of support meets your eligible needs in a way that promotes your wellbeing.

Direct payments can lead to a less costly package of care. For example, you identify a care worker you would like to employ who is not part of an agency so there are no overheads. Sometimes, you may need a more expensive package, but the extra expense is justifiable. The guidance states:

*In all circumstances, consideration should be given to the expected outcomes of each potential delivery route. It may be that by raising the personal budget to allow a direct payment from a particular provider, it is expected to deliver much better outcomes than local authority delivered care and support, or there may be other dynamics such as the preferred option reducing the need for travel costs, or out of hours care.*

*In addition, efficiencies to the local authority (for example through an individual making their own arrangements) should also be considered. Decisions should therefore be based on outcomes and value for money, rather than purely financially motivated.*

## 8.7 Becoming an employer

If you plan to employ carers using direct payments, there are important factors to be aware of. Although the local authority expects you to take out employer's liability insurance and can provide advice about this, you must consider contractual arrangements with care staff you employ. An employer must provide staff they employ with written information, including:

- start date and hours of work
- pay (which must meet National Minimum Wage)
- place of work
- job title, or brief description of the job
- whether fixed-term or permanent
- statutory entitlement to sick pay and annual leave
- pension scheme provision, and
- notice requirements.

As well as seeking advice from the local authority, you can contact the Disability Rights UK personal budget specialist advice line for information about employing a personal care worker. See also [www.gov.uk/employment-contracts-and-conditions](http://www.gov.uk/employment-contracts-and-conditions)

It is important to be aware that directly employed care workers do not need to be registered with the Care Quality Commission (CQC), the care regulator.

## **The costs of becoming an employer must be recognised**

If you use a direct payment to employ one or more care workers or PA's, it should cover all costs associated with being an employer. These include National Insurance contributions, holiday and sick pay, pension contributions, and potentially redundancy payments when their employment ends.

It is necessary to take out insurance to cover employer's liability. Your direct payment amount should take account of these basic legal requirements.

## **Making pension contributions on behalf of your carer(s)**

You may have a legal duty as an employer to enrol your employees into a pension scheme and contribute towards their pensions, known as '*automatic enrolment*'. If you currently employ a carer aged 22 or over (and under State Pension age), you pay them over £192 a week or £833 a month, and they are not already in a suitable workplace pension, you must make arrangements to enrol them into a pension scheme.

If your employee does not meet the above criteria, you do not have to put them into a pension scheme. However, you must usually give them an option to join. If they do join, in some cases this means you must pay contributions to the scheme on their behalf.

It is important to contact the Pensions Regulator for information if you are in any doubt about your duties towards pension enrolment. Failure to comply with your duties can result in the Pensions Regulator issuing you with a fine.

## **8.8 Agency contract if you do not want to be an employer**

If you prefer not to have the responsibility of being an employer, you can use your direct payments to contract with an independent agency or a self-employed person. Before entering into an agreement, confirm the following with the agency or individual involved:

- the tasks you expect them to do and the way you would like them done
- what the quoted price covers - some agencies add VAT or charge extra for travelling
- their insurance cover
- the training staff receive, and
- cover arrangements for sickness, and what happens if you have to cancel the service suddenly.

If you decide to use a local independent care agency, you should be able to find them through the local authority as part of their advice and information duty, or by personal recommendation. Agencies must be registered with the Care Quality Commission (CQC) who regulate care services. You can use the CQC website to search for care agencies.

It is important to carefully check that any contract you make with a self-employed carer does mean they are genuinely self-employed. If anything goes wrong in the working relationship and in reality, you have employed them, you could incur financial liability, as you would not have made relevant employer's contributions.

HMRC has an online tool to determine a worker's employment status at [www.hmrc.gov.uk/calcs/esi.htm](http://www.hmrc.gov.uk/calcs/esi.htm)

The Low Incomes Tax Reform Group produce factsheets about taking on a PA at <http://disabilitytaxguide.org.uk/about/resources>

## 8.9 Support and help to manage direct payments

You may like the flexibility direct payments bring, but feel you need help with managing a direct payment. The local authority should have a system to provide advice and information to help you with this. Sometimes, this is done through local authority staff employed as a direct payments team. Sometimes they commission another specialist organisation to provide this support service.

You can get this support whether you manage your own direct payment or whether you are a nominated or authorised person managing it for someone else. When you discuss the possibility of a direct payment with your social worker at the care planning stage, you should be given all the advice you need to help you get started and you should be put in touch with other organisations offering help and support.

The sort of help and support you may be able to access ranges from one off advice on manual handling issues or suitable insurers through to services to advertise for staff, help with recruitment, contracts of employment, and running the payroll. You may be able to discuss questions that concern you with someone already managing their own direct payment. This can be helpful and reassuring.

## 8.10 Equipment and home adaptations

Direct payments can be used to meet any eligible needs and so may include specialist equipment or small home adaptations. These are usually recommended when an occupational therapist (OT) is involved in your needs assessment.

If the recommendation comes from another professional, seek advice from the OT department in the local authority.

You should clarify with the local authority when a direct payment is being set up whether:

- you or the adult social care department own the equipment,
- who is responsible for on-going care and maintenance, and
- how these costs are to be met.



Whilst you can choose to use your direct payment in this way, the local authority should make you aware that equipment and small adaptations costing £1,000 or less must be provided free of charge, subject to them agreeing this is part of meeting your needs. More expensive adaptations are generally provided via means tested Disabled Facilities Grants, in conjunction with the housing department or district housing authority.

There are Independent Living Centres (ILC) in some locations in England, with a range of equipment to try out and staff to give advice. Ask your local authority if a ILC covers your area. See factsheet 42, *Disability equipment and home adaptations*, for more information.

## 8.11 Review of your arrangements

Your case must be reviewed within the first six months and at least annually after that. If the local authority has reason to believe there are problems with the direct payment, they might review it more frequently than this. The purpose is to ensure you are managing the direct payment and complying with conditions attached to it.

For example, do they need to check that you are meeting obligations as an employer, such as deducting PAYE income tax and National Insurance contributions from wages?

The guidance says the first review should be '*light touch*' and designed to ensure you are comfortable using the direct payment and to check you are not experiencing initial problems. Your carer and any authorised or nominated person are involved in the review as well as you. You can ask for anyone else to be involved if you want.

As well as providing an opportunity for the local authority to make sure the system is working smoothly, it is also an opportunity for you to raise any concerns you may have and to ask any questions.

It is important to remember you are free to change your mind. If you feel the direct payment is not right for you, you can ask the local authority to arrange care services for you instead. You can also ask for a review assessment at any time.

## 8.12 Terminating direct payments

You may want to stop having direct payments because it is not working for you. Alternatively, the local authority may end your direct payment. If you want to finish your direct payment arrangement, contact the local authority and ask for a review of your care plan and direct payment arrangement. If there is a crisis, explain why and ask for the review to be undertaken urgently.

Unless you work closely with a support organisation, it is probably not a good idea to terminate contracts with any staff you employ without getting advice, to ensure you do not incur unnecessary liability.

There are several reasons why the local authority might consider bringing your direct payment to an end. It can be because your situation has changed and adult social care staff think you are struggling to manage the payments, or they think it is no longer an appropriate way to meet your needs.

If so, the guidance says the local authority should carry out a review and ensure any outstanding issues are dealt with. There must be no gap in the services you receive when you change from one method of delivery to another.

The same principles apply if the local authority decides to bring the arrangement to an end because they think you have not spent the money on meeting your care needs, or you have not complied with a condition of the payment.

If you no longer need the help that the direct payments are designed to meet, this can be a reason to bring the payments to an end.

The guidance stresses that, unless the legal requirements are no longer being met, direct payments should only be terminated as a last resort. Before that happens, you should be offered help or a revised care plan to help you manage better.

If the local authority brings the payments to an end, they should give you a reasonable period of notice. What is reasonable depends on the circumstances, especially the degree of urgency and the seriousness of the breach of any conditions.

Very exceptionally, the local authority might stop them immediately, for instance if you were being seriously financially exploited.

### **8.13 Harmonising NHS and social care direct payments**

Depending on your health and social care needs, your care package may involve joint funding between the NHS and the local authority.

Personal Health budgets, for NHS funded services, can be delivered by way of a direct payment.

You could find yourself with two direct payments, one for healthcare and one for social care. In that case, the guidance stresses the importance of cooperation between both bodies to ensure the system is harmonised and runs smoothly.

For example, you should not have to set up two separate bank accounts or reporting systems. These should be coordinated and the local authority and NHS should agree which organisation will take the lead role in overseeing your budget.

See section 5.13 of factsheet 44, *NHS services*, for further information.

## 9 Complaints and safeguarding from abuse and neglect

Whilst some issues can be informally resolved, you can make a formal complaint if you are dissatisfied with any aspect of the local authority service or you want to challenge a decision they have made.

For example, you may believe your personal budget has been set or reduced in such a way that your eligible needs are not met, or the local authority has not offered you a direct payment when it has a duty to do so.

If you cannot resolve your complaint through the local authority's complaints procedure, you can take it to the Local Government and Social Care Ombudsman.

For more information, see factsheet 59, *How to resolve problems and complain about social care*.

### Safeguarding from abuse and neglect

If you are experiencing, or are at risk of, abuse or neglect, or someone you know is, you should raise a safeguarding concern with the local authority.

For more information, see factsheet 78, *Safeguarding older people from abuse and neglect*.

## Useful organisations

### **Care Quality Commission**

[www.cqc.org.uk/](http://www.cqc.org.uk/)

Telephone 03000 616 161

Independent regulator of adult health and social care services in England, whether provided by NHS, local authorities, private companies or voluntary organisations, and people detained under the Mental Health Act. They assess how local authorities meet their duties under the Care Act 2014.

### **Carers UK**

[www.carersuk.org](http://www.carersuk.org)

Telephone 0808 808 7777

Information, advice and support for carers, including information about benefits.

### **Citizens Advice**

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Telephone 0800 144 8848

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

### **Disability Rights UK**

[www.disabilityrightsuk.org](http://www.disabilityrightsuk.org)

Telephone 0330 995 0400

Personal Budgets Help Line 0330 995 0404 (9.30am -1.00pm Tuesday and Thursday)

Advice and information about personal budgets, direct payments and personal assistance.

### **HM Revenue & Customs**

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

Telephone 0300 200 3200

Helpline providing information to those considering becoming employers.

### **Pensions Regulator (The)**

[www.thepensionsregulator.gov.uk/en/employers/](http://www.thepensionsregulator.gov.uk/en/employers/)

Telephone 0345 600 1011

Information for employers about their duties to automatically enrol their employees into a pension scheme.

## Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

### Age UK Advice

[www.ageuk.org.uk](http://www.ageuk.org.uk)

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

### In Wales contact

#### Age Cymru Advice

[www.agecymru.org.uk](http://www.agecymru.org.uk)

0300 303 4498

### In Northern Ireland contact

#### Age NI

[www.ageni.org](http://www.ageni.org)

0808 808 7575

### In Scotland contact

#### Age Scotland

[www.agescotland.org.uk](http://www.agescotland.org.uk)

0800 124 4222

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