

MAY 4, 2020

COVID-19 & the flexible use of Direct Payments for social care & obtaining PPE for support workers



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In today's webinar

What is a personal budget

What is a direct payment

Flexible use of direct payments during COVID-19

Personal Protective Equipment (PPE) for personal
assistants

Where to find further information



Key legislation on Direct Payments

Children

- Section 17A of the Children Act 1989
- Regulation 11 of Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009

Adults (over 18's)

- Sections 31-33 of the Care Act 2014
- Regulation 3 of the Care and Support (Direct Payments) Regulations 2014



Key legislation continued...

Children

- Section 17A of the Children Act 1989
- Regulation 11 of Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009

Regulation 11 (see above) sets conditions relating to making direct payments to support disabled children. However, it is possible for LAs to make DPs for a disabled child to employ close family members living in the same household to provide care **IF** the LA is satisfied that it is necessary for promoting the child's welfare.



Key legislation continued...

Adults (over 18's)

- Sections 31-33 of the Care Act 2014
- Regulation 3 of the Care and Support (Direct Payments) Regulations 2014

Regulation 3 of the Care Act 2014 provides a list of people that direct payment cannot generally be used to pay to secure services to meet needs. However, the exception in relation to paying close family members living in the same household to meet care needs is **'if the local authority considers it is necessary to do so'**.

This means DP could be used to pay parent carers themselves too.



Can you pay a family member (who does not live with you) to be your personal care assistant/provide care using your direct payment?

Yes. There are no rules or specific restrictions on disabled children, disabled adults or their parents using direct payment to employ family members who do not live in the same household to provide care.



Key guidance on Direct Payments during COVID-19

Guidance published on 21 April 2020

- **National guidance for people receiving direct payments (published 21 April 2020)**
- **Coronavirus (COVID-19): Q&A for people receiving a personal budget or personal health budget.** (This is a working document. This means it will be regularly updated to take into account any new guidance published, and also to respond to any new issues or concerns raised by members of the public during this crisis.)



What is a personal budget in relation to social care services?

To understand what a personal budget is, it's important to understand what the term "social care" actually is.

(If you've never required social care services before, you may not know what this term is and how it operates.)



What is social care?

Social care is a term used to describe the provision of extra support for children, young people and adults with needs that could arise from illness, disability, old age or poverty.



What does extra support look like?

It could be:

- Accommodation
- Help at home with tasks such as shopping, cleaning and bathing from a paid carer
- Accessing day centres
- Transport costs
- Counselling
- Adaptations to your home
- Supporting you if you're at risk of abuse or neglect



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Who pays for this extra support?

- Local Government funding. Councils/LA's are the biggest purchaser of social care services (the money they spend on social care services comes from a mixture of central govt grants, council tax, user charges, business rates and NHS contributions) OR;
- Your own money
- Or in some cases a mixture of the two. Whether you have to pay yourself will depend on what savings or assets you have.



How do I get access to social care and support?

Publicly-funded social care is the responsibility of Local Authorities who are responsible for funding, planning and purchasing support. You can contact your Local Authority and ask to be put to the relevant social services department.

If you don't know who your local council is, you can find out here:

<https://www.gov.uk/find-local-council>

OR you can access social care and support by arranging and paying it yourself if you have the means.



What is a personal budget?

- A Personal Budget is an agreed amount of money that is allocated to you personally by your Local Authority following an assessment of your care and support needs.
- This figure is the amount of money that the council has worked out will cost to arrange the necessary care and support for you.
- The personal budget is designed to give you choice, control and independence to enable you to lead the life you want to lead and do things the way you would like. Personal budgets allow you to have full control over how your care and support will be best met.



How do people receive the sum of money identified in a Personal Budget?

You can receive your personal budget in a number of ways but for the purposes of this webinar our focus is on Direct Payments.



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What is a Direct Payment?

- A Direct Payment is the way in which your money (identified in a personal budget) is delivered to you.
- The Local Authority will pay some or your entire personal budget money into a bank account, or can be accessed through a pre-payment card or through a separate bank account held by a person (third party) chosen by you.
- You use this money to buy your own support.



What are some examples of using your personal budget to buy care and support services?

- To recruit staff as personal care assistants (PA's)
- You can buy care and support services from care agencies to help you to meet your eligible and assessed needs in your own home for instance with your personal care, social needs, pursuing indoor/outdoor activities or be part of the local community



Direct Payment during the the COVID-19 outbreak



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Flexible use of direct payments during COVID-19 - What has the Gov't advised Local Authorities?

- Consideration of emergency or one-off payments.
- Greater flexibility about the use of unspent direct payment allocation where necessary.
- If your personal assistant or team of personal assistants are unable to deliver the necessary care, it may be necessary to put contingency plans into action. (For example, family members may be required to step in and support you to ensure that you receive the care you need; and local authorities and CCGs should adopt a flexible approach to how direct payments are utilised during this period, to ensure that appropriate care is delivered.)



What if I don't have any unspent money (a surplus) on the account but need emergency funds?

- As is normal protocol, emergency funds must be made by requests through the local authority.
- Put this request in writing.
- The Gov't have advised that any request for additional emergency funding necessary as a result of COVID-19, should be prioritised.



Will the LA ask me to justify the use of using my direct payment flexibly after the COVID-19 pandemic?

The Gov't have said that Local Authorities should follow up with direct payment holders (to discuss the use of the direct payment during this period.) Individuals must be able to reasonably justify the use of their direct payment during this period, providing receipts and evidence of use, and keep a log of how their payment was used.



Will my direct payment funding still be paid into my bank account on the normal standard pay dates?

Yes. Except in extreme circumstances, (the Gov't have not specified what these extreme circumstances look like) but expect your direct payment to continue.



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Is my PA eligible to receive Personal Protective Equipment?

Yes. At the time of writing, if you or any member of your household is symptomatic or has a confirmed case of COVID-19, and your PA will be providing direct care, PPE is required and the PA, as a critical essential worker, will be eligible to receive that.



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What type of Personal Protective Equipment is the PA required to wear?

If your PA will be within close proximity providing direct care (for example washing and bathing), the PA requires gloves, a fluid-resistant (Type IIR) surgical mask and an apron for each episode of direct care. Where there is a risk of secretions (for example splashing or exposure to respiratory droplets) workers also require eye protection.

How do I get Personal Protective Equipment for my PA?

- You should ask the relevant department at the Local Authority or CCG that provides your direct payment.
- Put this request in writing.

If you are having problems obtaining personal protective equipment from your Local Authority, you can use this free model template letter to challenge failure to provide Personal Protective Equipment.

Download here: <https://www.thedru.co.uk/official-news>



What about my family members, will they receive PPE if they are providing care and support?

- They should. The Gov't have said "where people are taking on care work in a voluntary capacity, and the person being cared for or anyone in their household is symptomatic or has confirmed COVID-19 (or indeed has any other condition that is potentially infectious), or is in the 'shielded' category, then they should also be able to access, and use, PPE."
- You should ask the relevant department at the Local Authority or CCG that provides your direct payment.
- Put this request in writing and if you have problems obtaining PPE follow the link to the model letter provided in the previous slide.

What if PA is concerned that they have COVID-19 can I arrange for my family member to step in and be paid?

- The Gov't has advised that in this situation it will be necessary to put in place your contingency plan into action and this "may mean family members stepping in and supporting you to receive the care and support you need. Local authorities and CCGs should adopt a flexible approach to how the care and support plan is delivered during this period, to ensure that appropriate care and support is possible."
- If arrangements cannot be made, contact the relevant department within your LA who provide your direct payment.



What if my PA is concerned that they have COVID-19 and wants to be tested?

- The Coronavirus National Testing Programme has now expanded capacity to test other frontline workers including all personal care assistants (PAs) **and unpaid carers.**
- To be eligible for testing, a PA or unpaid carer must be self-isolating because they have coronavirus-like symptoms, OR because someone in their household is symptomatic.
- PA's can self refer themselves for testing here: <https://self-referral.test-for-coronavirus.service.gov.uk>
- Employers can use the employers referral portal. Visit <https://www.gov.uk/guidance/coronavirus-covid-19-getting-tested> for more information



Where to find further information?

GOV.UK is the official site for the latest information on the COVID-19 outbreak. The advice is updated regularly by the UK Government.



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FAQs



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