

Health and Adult Social Care Overview and Scrutiny Committee

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Direct Payments and Self Directed Support

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Summary

This report provides the Committee with an explanation of a direct payment (DP) and how individuals and their carers use a direct payment to meet their eligible needs to achieve positive outcomes. It provides an overview of the support that is provided to individuals via the Self-Directed Support Team to receive, manage and maintain their care and support via a direct payment.

The report provides insight into the percentage of people in receipt of a direct payment, and the rationale as to why there has been a reduction in the percentage uptake of direct payments, it also highlights the actions taken to promote the uptake of direct payments and challenges faced by the local authority when trying to increase the uptake.

Appendix 1 also provides case studies to demonstrate how direct payments are used to support carers and the cared for.

1. Recommendations

1.1 The Committee is recommended to note the report.

2. Budget and policy framework

2.1 The Care Act 2014 is the cornerstone for adult social care in England. Key aspects relevant to direct payments are:

- Promoting wellbeing: Local Authorities must promote the wellbeing of individuals, considering their personal dignity and control over their day to day lives.
- Personalised care: The Act supports personalised care planning. Direct payments are a tool for delivering this, enabling individuals to buy tailored care solutions.

- Choice and Control: It emphasises the principles of choice and control, directly supporting the ethos of direct payments.
- Support Planning: The Act requires local authorities to produce a care and support plan. Users opting for a direct payment must have a clear plan detailing how the funds will be spent.

- 2.2 The Health and Social Care Act 2012 introduced the legal right to receive direct payments for eligible people.
- 2.3 The Care and Support (Direct Payments) Regulations 2014 make provision for local authorities to meet a person's needs by the making of a direct payment in accordance with sections 31 to 33 of the Care Act 2014.
- 2.4 The Mental Capacity Act 2005 is essential when considering direct payments for individuals who may lack the mental capacity to manage their finances. It ensures that decisions that are made on behalf of an incapacitated person still promote their best interests and preferences. Often, this involves a suitable person such as a family member or advocate managing the funds on their behalf.
- 2.5 Key Policies supporting Direct Payments
- 2.5.1 Personalisation Agenda - The Personalisation Agenda is a policy framework aimed at tailoring care services to meet individual needs. Direct Payments are central tenet of this agenda. They empower users by allowing them to decide on the services and care providers that best meet their needs. This approach reflects the user led planning and control encouraged under the Care Act 2014.
- 2.5.2 Putting People First (2007) - 'Putting People First' is a concordat signed by several major adult care stakeholders. It emphasises giving users maximum independence and greater control over their lives. Direct Payments are a practical tool in achieving these goals.
- 2.5.3 NICE Guidelines – The National Institute for Health and Care Excellence (NICE) provides evidence-based guidance on health and social care. NICE supports the use of direct payments where appropriate. It underscores that individuals' needs and preferences should drive care planning, making direct payment an ideal means for executing person centred care.
- For definition Person Centred care is an approach used in health and social care to focus on the individual receiving the care. It ensures the person's values, preferences, needs and personal goals are respected. This practice puts the individual in control of their own care, making them an active participant rather than a passive recipient. It views people as unique individuals rather than just patients, clients or service users within a system.
- 2.5.4 One Medway Council Plan - Priority 1 - Delivering quality social care and community services. Ensuring that the most vulnerable in our community are cared for and supported is one of the most important roles of the Council and

sub priorities - provide effective, targeted support for our most vulnerable residents to enable them to fulfil their potential and improve their quality of life and support all adults, including those living with disability or physical or mental illness to live independently and stay safe.

3. Background

3.1 A direct payment allows individuals in need of care to receive funds directly from their local authority. This cash payment is intended to cover the cost of the personalised care service chosen by the individual. Instead of the local authority arranging care services on their behalf, the individual receives the money to pay for their own care. In essence the direct payment provides the individual with the financial resource to tailor their care plan according to their specific needs.

3.2 Direct Payments are available to various groups, including:

- Adults with Disabilities including mental health:
- Those who require assistance to live more independently
- Elderly individuals: Older Adults who need help with daily activities.
- Parents of Disabled Children: To arrange suitable care and support for their children, including transition to adulthood.
- Carers: Those who care for someone with a disability or chronic illness.

3.3 How do direct payments work?

3.3.1 Needs Assessment - A social worker/social care officer evaluates a person's circumstances to determine the level of support required.

Following the assessment the social worker identifies a personal budget. This budget is an estimate of the funds needed to meet the assessed care needs. At this point an individual can choose to receive a standard commissioned service arranged by the local authority or consider a direct payment to tailor a more personalised and bespoke service.

3.3.2 Support Plan - Where an individual chooses a direct payment, they are enabled by a self-directed support coordinator to develop a bespoke care plan that outlines how they will use their personal budget to purchase support to meet their eligible need and ensure their values, preferences, needs and personal goals are respected.

3.3.3 Receiving the funds - Once the support plan is approved, the individual receives a direct payment every four weeks via a prepaid card, or managed account. They can use the funds to purchase the services specified in their care plan.

3.3.4 Auditing the direct payment to ensure funds are spent in line with the agreed care plan - Ensuring a person's financially assessed contribution is paid into the direct payment account, any unspent funds are returned to the local authority or unauthorised expenditure refunded to the DP account.

3.4 Advantages of a Direct Payment

- Choice and Control: The individual decides who provides their care and how and when it is delivered
- Personalised Care: The individual can tailor service to meet their unique needs
- Flexibility: The individual can change services as their needs evolve
- Quality: The individual can choose providers based on reviews and personal preferences

3.5 Perceived Disadvantages of a Direct Payment

- Responsibility: Managing finances and care services can be burdensome
- Complexity: Organising care requires time and effort
- Risk of Mismanagement: Funds must be used appropriately, and mismanagement could lead to issues.
- Employment Laws: If the individual directly employs staff, they need to comply with employment regulations.

3.6 The Role of the Self Directed Support Team

3.6.1 Through the lifetime of the direct payment the direct payment recipient is supported by a self-directed support coordinator to receive and manage the budget and purchase the care. If a person is wary regarding the responsibility or complexity of managing a direct payment the coordinator can provide options to reduce the burden:

- Managed account - A provider is engaged to receive the four weekly direct payment and pay any invoices or Personal Assistant (PA) salaries relating to the individual's care plan.
- Payroll – A payroll service is engaged to act as the persons agent to liaise with HMRC regarding PAYE and Pension contributions for a directly employed personal assistant and calculate the personal assistant's pay and pension auto enrolment entitlement.
- Suitable Authorised Person – If it is in the person's best interests to arrange a bespoke service but the person lacks capacity to understand and receive a direct payment and has no family member or advocate that is available to develop or manage a direct payment, the local authority can instruct a suitable authorised person to oversee the direct payment.
- Employer Liability Insurance – Where an individual has opted to employ a personal assistant the Self Directed Support Coordinator will arrange to provide employer liability insurance policy, the policy also provides access to a dedicated legal advice service. If any employment related issues arise the self-directed support coordinator can act on the individual's behalf and liaise with the legal advice service to resolve any issues.

- Safer Recruitment – Support the individual to develop a job description and person specification and recruit a personal assistant with the skills and qualities necessary to provide personalised support. Carry out safer recruitment checks, provide contracts of employment. Provide HR support to each DP employer.
 - Dedicated phone line for all queries relating to a direct payment and an allocated keyworker to support the individual to manage the direct payment as and when required throughout the lifetime of the direct payment.
- 3.7 Personalisation requires that an individual can choose how they receive their care and support, either through a commissioned service or via a direct payment.
- 3.7.1 Statistically it is cheaper per hour to employ a personal assistant than it is to receive an hour of support from a commissioned home care provider. This is because home care providers have additional business overheads that do not apply to a DP user who directly employ PAs.
- 3.7.2 The framework cost per hour of a commissioned home care service is £20.32. The cost of employing a personal assistant is £15.25 per hour to support an individual with less complex needs and £17.00 per hour to support an individual with more complex needs.
- 3.7.3 The commissioned home care framework contract enables DP employers to directly purchase support from a home care agency, a reduction in cost to the local authority is achieved through the reduction in variation requests to the brokerage team if an individual wishes to cancel a care call, or because the client pays their assessed contribution towards the cost of care directly into their DP account, removing the need for the local authority to generate a four weekly care invoice.
4. Advice and analysis
- 4.1 As at the 2 January 2025, a total of 851¹ adult social care (ASC) individuals were in receipt of a direct payment of which 365 were carers and 486 were individuals with care needs.
- 4.2 Currently, 22.6% of individuals with care needs receive direct payments. Additionally, 25.6% of the 1,436 carers recognised by the local authority receive a carer's direct payment.
- 4.3 Although the combined percentage is 24%, the national indicator for direct payments only accounts for the direct payment figure for individuals with care needs.

¹ Data extracted from Mosaic B13 report

4.4 Prior to September 2022, Medway consistently exceeded its target of 30% of social care clients in receipt of a direct payment. However, from September 2022 this percentage declined due to some day care services becoming eligible to apply an additional 20% VAT charge.

4.5 To enable the local authority to recoup the VAT individuals who used a direct payment to attend a day service were transferred to a commissioned service in September 2022. 38 people were transferred to a commissioned service and any new referrals for a day service were commissioned.

5. Challenges in increasing the number of direct payments

5.1 The Department of Health and Social Care (DHSC) have acknowledged that there is a fall in the take up of direct payments nationally and they are looking at the Care and Support Statutory Guidance (CASS), in particular section 12, to include information to support good practice and increase the uptake of Direct Payments.

5.2 The DHSC are working with Think Local Act Personal (TLAP), Independent Living Group (ILG) and the National Direct Payment Forum, of which Medway is an active member, with a view to revising the statutory guidance to promote the DP uptake.

5.3 Medway Adult Social Care's Self Directed Support Team are involved with the Care Quality Commission (CQC) via the Plumbing and Wiring Network², which is coordinated by Social Care Futures as part of the workshops with CQC to develop their inspection criteria for good practice regarding direct payments, to enable LAs to achieve outstanding in this area.

5.4 There are several challenges that Medway has faced in meeting Key Performance Indicators. The information below provides detail of the challenges and where possible, mitigations and actions taken/being taken.

5.4.1 Restrictions due to VAT liability for larger day services who are VAT registered.

5.4.2 The lack of a Resource Allocation Tool (RAT) that generates an appropriate level of budget to inform the care planning process. Adult Social Care are currently liaising with other local authority areas to considering options for implementation of the tool.

5.4.3 A backlog of referrals for a direct payment, which resulted in social workers referring for commissioned services and this has become the default option. The waiting list has now reduced to 30 days and the Self Directed Support Team have recently provided bespoke training to all social work practitioners to reinforce the benefits of a direct payment and change the culture around cared for referrals.

² <https://socialcarefuture.org.uk/wp-content/uploads/2024/04/Plumbing-and-wiring-for-Adult-Social-Care-April-2024.pdf>

5.4.4 Gaps in bespoke services that can provide personalised support. The Self Directed Support Team have worked with Personal Assistants to develop micro enterprises that can provide bespoke support to individuals in hard to reach areas or with more complex needs. The Self Directed Support Team secured bespoke training for Personal Assistants within the micro enterprise to enable them to have the skills required to provide bespoke support to more complex individuals.

5.4.5 Working with the Performance and Intelligence Team to develop Power BI dashboards to include relevant DP data. This includes the numbers of referrals received each month, referrals allocated each month, source of referrals, set up time from allocation to completion, total number of DP recipients set up each month. The report also includes information regarding other DP interventions i.e. employment related support, supporting with changes to a person's care plan, issues identified during the direct payment audit, recruitment and retention of staff. By tracking this information via Power BI, it enable us to identify areas to target in order to increase DP referral and uptake.

6. Risk management

6.1. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Non-compliance with National Policy	Paragraph 3 sets out the policy framework which underpins direct payments	The new Adult Social Care pathways and processes promote the uptake of direct payments during assessment and review process.	CII
Not achieving Medway Council Plan priorities	Paragraph 3 set out the Priority 1 and sub priorities in the Medway Council Plan to provide effective, targeted support for our most vulnerable	The SDS Team ensure that support is provided to an individual to ensure a direct payment is a viable option for the majority.	
Non Compliance with Inspections and Increased Complaints	Failure to achieve the required CQC standards regarding direct payments and personalisation. Potential ombudsman challenge or judicial review regarding the	Paragraph 6 sets out the DHSC intention to focus on personalisation and the uptake of direct payments and CQC's intention to develop greater guidance on the uptake of direct payments and scrutiny in the inspection framework for local authorities.	CIII

Risk	Description	Action to avoid or mitigate risk	Risk rating
	option of receiving a direct payment	TLAP have identified Medway Council SDS Team as a market leader in the delivery of direct payment support. Medway SDS Team are working with CQC via the plumbing and wiring network, which is coordinated by social care futures as part of the workshops with CQC to develop their inspection criteria for good practice regarding direct payment to enable LAs to achieve outstanding in this area	
ASC Budget Pressures	The increase in demand and complexity is having a detrimental impact on the ASC budget.	<p>Paragraph 4 demonstrates the cost per hour of a direct payment is less than the cost per hour of a commissioned service</p> <p>Increasing the number of direct payment employers will reduce the pressure on the ASC budget.</p> <p>It will also enable the recouping of unspent funds as individuals are more frugal with a budget when they are directly purchasing their care.</p>	BII

Likelihood	Impact:
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	IV Minor

7. Climate change implications

- 7.1. The Council declared a climate change emergency in April 2019 - item 1038D refers and has set a target for Medway to become carbon neutral by 2050.
- 7.2. Adult Social Care and Partnership Commissioning continue to work with all providers and personal assistants to reduce their carbon footprint.

8. Financial implications

- 8.1. Direct Payments provide choice and control of a person's care at best value.
- 8.2. The cost of a commissioned service for 14 hours a week per annum is £14,793.
- 8.3. The equivalent cost of employing a personal assistant is £11,102.
- 8.4. The equivalent cost of employing a PA for a person with complex needs is £12,376.
- 8.5. Increasing the numbers of directly employed PA's creates the potential of achieving savings for each directly employed PA, in addition to the potential to recoup any unspent funds in the direct payment account.
- 8.6. The total budgeted expenditure for 2023/24 on Direct Payments for Adult Social Care is £11.013million.

9. Legal implications

- 9.1. The legal implications are set out in section 2 of this report.

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Appendices

Appendix 1 Case study of direct payment recipients.

Appendix 2 Glossary of terms

Background papers

None