
Report To:	Community Health & Care Partnership Sub Committee	Date: 20 October 2011
Report By:	Robert Murphy Corporate Director Inverclyde Community Health & Care Partnership	Report No: CHCP/42/ 2011/BM
Contact Officer:	Brian Moore Head of Health & Community Care	Contact No: 01475 - 715379
Subject:	DIRECT PAYMENTS REVISED PROCEDURE & GUIDANCE (2011)	

1.0 PURPOSE

- 1.1 The purpose of the report is to inform members of the CHCP Sub Committee of the revised ICHCP Direct Payment Procedures and associated workstreams.

2.0 SUMMARY

- 2.1 The report outlines the background and key proposed changes to Direct Payments Procedures & Guidance.

3.0 RECOMMENDATIONS

- 3.1 The Sub Committee is asked to note the content of the Direct Payments Revised Procedures & Guidance.

**Robert Murphy
Corporate Director
Inverclyde Community Health & Care Partnership**

4.0 BACKGROUND

- 4.1 The revised procedures reflect learning from the implementation of the existing procedures to date and also issues raised through the Complaints procedures. The changes to the procedures also reflect anticipated legislative changes resultant from the National Self Directed Support strategy which is expected to result in an increased demand for direct payments / self directed support arrangements.
- 4.2 The key changes to the procedures include a financial framework for delivering direct payment including rates of payments for services purchased with direct payments. Changes have also been made to the financial monitoring process.
- 4.3 Inverclyde CHCP have worked jointly with SPAEN, the Scottish Assistants Employment Network, to provide training for staff and the organisation has contributed to revising the Direct Payments guidance and procedures.
- 4.4 Resulting from the above, briefing sessions will be organised for staff and public information will be updated.
- 4.5 Negotiations are also taking place to identify an independent support organisation who will provide advice and assistance to individuals interested in obtaining direct payments.
- 4.6 Inverclyde CHCP will establish a monitoring and implementation group to take forward the full implementation of the revised processes and procedures. The proposed training and monitoring arrangements will ensure that CHCP staff have the capacity and skills to deliver on their key area of social care policy.

5.0 PROPOSALS

- 5.1 Members are asked to note the revised guidance and procedures for the future operation of direct payments.
- 5.2 Members are also asked to note the ongoing work in relation to public information and the identification of an independent support organisation.

6.0 IMPLICATIONS

6.1 Legal:

Legal colleagues have been involved in drafting the revised procedures and guidance.

6.2 Finance:

There are no implications for the Council's capital and revenue budgets.

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments

6.3 Personnel:

There are no implications for Human Resources.

6.4 Equalities:

Equalities Impact Assessment requires to be completed.

7.0 CONSULTATION :

7.1 Inverclyde CHCP have worked jointly with SPAEN, the Scottish Assistants Employment Network.

8.0 LIST OF BACKGROUND PAPERS :

8.1 None.

**Guidance on
Self Directed Support
(Direct Payments)**

Version 4.0

Produced :

September 2011



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1. Guidance for Staff

1.2 What Is A Direct Payment?

A **Direct Payment** is a cash payment made by a local authority to an individual whom it has assessed as needing community care or children's services. Recipients can then arrange their own services. The aim is to give people more control, choice and independence in arranging the services that they need.

The key point for staff is that there is no change in practice relating to referral, assessment and care planning. The change occurs in how the service will be delivered.

1.3 What is Self Directed Support?

The Guidance issued from the Scottish Government in July 2007 uses the term. **Self Directed Support** as it encompasses the potential for its usage more fully than Direct Payment. The term Direct Payment should be read interchangeably with the term Self Directed Support.

Self Directed Support is a way of organising social care so that people can take control of their lives and fulfill their role as citizens. Self Directed Support can contribute to promoting equality of opportunity where people are supported to participate and reach their potential in society. It is not the name of a particular service or provision.

(Self Directed Support - National Guidance – Scottish Government July 2007)

Self Directed Support (Direct Payments) are elements of the wider personalisation agenda.

1.4 What is Personalisation?

Personalisation is the term to describe how an individual is enabled alone or in groups to find the right solutions for them to participate in the delivery of a service. From being a recipient of services, citizens can become actively involved in selecting and shaping the services they receive.

Personalisation enhances the notion of citizenship, inclusion and the uniqueness of the individual as a means of enabling people to fulfil their potential within the community.

Reference:

Changing Lives - Personalisation - Service Development Group.

www.scotland.gov.uk/resource/doc/2691093/0

2. Introduction

This guidance relates to the operation of Self Directed Support (Direct Payments). The aim of Self Directed Support (Direct Payments) is to increase people's choice, flexibility and control over the way their assessed needs are met.

The guidance should be read in-conjunction with procedures for care management.

The legislation and other key reference documents about SDS are listed below

- Community Care Direct Payments Act 1996
- Community Care Direct Payments Scotland Regulations 2003
- Community Care Direct Payments Scotland Regulations 2007
- National Guidance on Self Directed Support 2007
- Adult With Incapacity (Scotland) Act
- Adult Support and Protection (Scotland) Act 2007
- Children (Scotland) Act 1995

It is important that people considering self directed support/direct payments have good information and specialist advice from the outset to enable them to understand all the responsibilities involved, such as administering the direct payment and being an employer. They will then be able to decide if this way of arranging services is the best for them.

People who are already receiving services may want to switch to Self Directed Support (Direct Payments).

Many people will still want the local authority to arrange services for them. People can receive a combination of Self Directed Support/ Direct Payment and services provided or purchased by the local authority.

2.1 Eligibility

The person must be:

- **Eligible** assessed as 'a person in need' or 'a child in need' of community care services
- **Able to manage** the direct payment, with or without help.
- **Willing to Consent** to receive the payment. The person or the person with parental responsibilities in the case of children or attorneys and guardians in the case of adults.
- **Accept** responsibilities involved to manage self directed support (direct payments), understanding the responsibilities involved to account for expenditure on care needs and safe recruitment practice. Formalised in a written agreement.

2.2 Who Can Receive a Direct Payment?

The following groups of people are eligible to receive Direct Payments:

- Disabled adults 16 years or over, assessed as needing community care services.

- Disabled people aged 16 or 17 years for the purchase of children's services.
- The person with parental responsibilities for a disabled child, to buy services their child is assessed as needing.
- A disabled person with parental responsibilities to purchase services for their child.
- Disabled people (including 16/17 year olds) to purchase housing support services.
- An Attorney or Guardian can receive Direct Payments on behalf of a disabled adult who is unable to give consent to arranging their own services. An Attorney or Guardian is someone who is legally appointed to make such decisions.
- Older people aged 65 years and over who are assessed as needing community care services. Including people who are accessing Free Personal and Nursing Care can arrange for the free personal care element of a support package to be received as self directed support.

Local authorities have a duty to offer all eligible people Self Directed Support (Direct Payments) instead of arranging services for them.

2.3 Who Cannot Get A Direct Payment?

People who are affected by certain mental health or criminal justice legislation will not be able to receive Self Directed Support/ Direct Payments. This means people who are:

- People receiving after-care through a Community Care Order under mental health legislation.
- People detained under mental health legislation who are on leave of absence from hospital.
- Restricted patients conditionally discharged under mental health or Criminal Justice legislation.
- Offenders serving a probation order with an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency.
- Offenders released on licence with a requirement to have treatment for a mental health condition or drug or alcohol dependency or
- Under equivalent mental health or criminal justice legislation applicable in England, Wales or Northern Ireland.

2.4 What Can Self Directed Support (Direct Payments) Be Used For

Self Directed Support (Direct Payments) can be used to buy:

- **Personal assistance** provided by a personal assistant to enable the recipient to do everyday things. This can include dressing, having a bath, assistance with using the toilet, getting in and out of bed, preparing a meal, doing housework and laundry, going shopping and other domestic tasks inside and outside the home and the activities of

everyday living that enable people to go about their business(e.g. going to further education or work).

- Recipients may become **employers** in their own right and have responsibility for the recruitment and management of their personal assistants.
- **Daytime activities** or services, for example, as an alternative to attending a resource centre.
- **Short breaks (respite care).** There are rules about the length of time between breaks. Details of this are included in the appendices.
- **Equipment and adaptations** to help with independent living for people with disabilities and sensory impairments.
- **Children's Services**
The guidance from the Scottish Government (July 2007) provides clarification on eligible groups and services in relation to children in need.

2.5 What Can Direct Payments Not Be Used For?

- Buying a place in a care home.
- Health services, such as nursing, medical care (with the exception of where health services would be funding a joint package of care).
- Services normally provided by education.

2.6 Partners, close relatives and personal assistants

Recipients are **not** able to pay for personal assistance purchased from:

- their partner (married, unmarried or same sex);
- a close relative living in the same household (a close relative is a parent, parent-in-law, aunt, uncle, niece or nephew, grandparents, son, daughter, son-in-law, daughter-in-law, stepson or daughter, brother or sister, or the spouse or partner of any of these); or
- a close relative living elsewhere.

The relationship between the Recipient and the personal assistant must be contractual rather than personal. A live-in personal assistant can be employed, if they are not a partner or close relative. In all cases the relationship should be professional.

2.7 Exceptional Circumstances / Employing a Close Relative

A local authority may exercise discretion to allow the employment of a close relative, who would normally be prohibited, where the authority is **satisfied** that requiring a service from that person is necessary to meet the persons need for a service, or is necessary to safeguard or promote the welfare of a child in need.

The local authority must be satisfied that the provision of care by a family member accords with the wishes of the cared for person.

Each situation will be considered on an individual basis.

The application of 'Exceptional Circumstances' requires agreement from the appropriate Head of Service/Chief Social Work Officer. A report detailing the exceptional circumstances must be submitted to the Service Manager who will seek approval from the Head of Service/Chief Social Work Officer.

2.8 Termination or Withdrawal of Self Directed Support/Direct Payment

Self Directed Support/Direct Payment will be withdrawn in the following circumstances:

- Someone employs a close relative as a Personal Assistant without the agreement of the Local Authority (refer to page 12 of this document Exceptional Circumstances).
- The Self Directed Support/Direct Payment recipient is unable to manage a Direct Payment, e.g. staff have not been paid.
- The Self Directed Support/Direct Payment recipient's care needs are not being met through the services purchased.
- Self Directed Support/ Direct Payment is mis-spent.
- A temporary absence from home, e.g. holiday (unless Personal Assistant accompanies the service user), hospital admission, short stays excluded.
- Other exceptional circumstances deemed appropriate eg non-compliance with the terms of the agreement.

2.9 How much can Self Directed Support (Direct Payments) be?

Self Directed Support (Direct Payments) must be sufficient to enable the person to legally obtain an adequate standard of service to meet their assessed needs. There may be cases where the person thinks that the total value of self directed support/ direct payment should be greater than what has been assessed as required and/or that the contribution should be less than has been calculated. There is no obligation to increase the payment in such cases.

The Self Directed Support Financial Framework will determine the arrangements for adjusting levels of service and payments in discussion with the relevant service manager and Head of Service.

There is discretion to increase the amount if satisfied that the benefits outweigh the costs and that it is still cost effective in comparison with directly provided or commissioned services. In all cases it is up to the Service manager and appropriate resource allocation group to decide on the appropriate level of payment.

Challenges against the level of the Self Directed Support (Direct Payments) are actually challenges against the size of the care package. Appeals should be dealt with in the first instance by the appropriate Service Manager.

Appeals or complaints in relation to decisions not to provide a Self Directed Support (Direct Payment) to an existing user should be made to the appropriate Head of Service. In all cases the Complaints Procedure should be followed.

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3. Local Authority Obligations

3.1 Obligations

The obligations aim to ensure that people who receive Self Directed Support (Direct Payments) are treated no less or more favourably than people who receive services arranged by them directly or who receive a combination of both. The Local Authority must ensure:

- The needs-led assessment process is no different regardless of whether the person receives Self Directed Support (Direct Payment) or services.

Nb: The difference is in the delivery of services required and in the payment mechanism. The key point for staff is that there is no change in practice up to the point where consideration is being given to 'how the service will be delivered'.

- The buying of local authority services must not be a precondition of making Self Directed Support (Direct Payment) available.
- The request to purchase a local authority service is set within existing resources. The local authority must ensure that the needs of the people to whom it has an obligation to arrange services are fully met.
- Services are not 'sold' at any more or less than the full cost to the local authority of providing that service.
- Appropriate accounting systems are in place to meet audit requirements.
- The '**person in need**' or their **representative** understands fully the responsibilities involved in receiving Self Directed Support (Direct Payment) including financial responsibilities, safe employment and recruitment practice.

3.2 Where the local authority is not obliged:

The local authority is not obliged:

- To build in extra costs which a person might incur as a result of purchasing services from another local authority. For example, additional travel expenses.
- To insist that services can only be purchased from providers included in the Authorised Providers List.

3.3 Recipient's Obligations

Self Directed Support (Direct Payments) gives recipients greater control and independence but increased freedom is accompanied by increased responsibilities. When people consent to Self Directed Support (Direct Payments) they take responsibility for arranging and purchasing the services to which the payments relate.

The responsibilities of the person accepting Self Directed Support (Direct Payments) for themselves or for those with the authority to manage Self Directed Support (Direct Payments) on behalf of others include ensuring:

- The service appropriately meets the agreed, identified needs.
- The service provided is of an acceptable quality.
- They have knowledge of relevant legal responsibilities in respect of being an employer or dealing with contractual issues refer to Section 6 and 7 for more detail on the training needs of an employer and for a Personal Assistant

and

- Being accountable to the local authority for the way in which the money is spent to meet the local authority's financial monitoring requirements.
- Contributing to the needs assessment and review process.
- Establish a unique bank account, comply with the charging policy and adhering to financial monitoring arrangements

3.4 How May The Recipient Secure Their Service?

- By advertising then recruiting personal assistants. A Self Directed Support Service can help with this.
- By employing someone who is known to the person, who is not a partner or a close relative.
- By purchasing services from a private or voluntary care agency. In this case, the agency has all the responsibilities of being an employer, but the person controls the money and what service is provided when, where and how. the Approved Providers List has a list of organisations and businesses that are 'approved' by them and meet certain standards. This list can be supplied by the Contracts and Commissioning Team and should be provided to people wishing to contract with a provider.
- Local Authorities have the power to sell their services to Self Directed Support (Direct Payments) Recipients.

3.5 Safeguards and Ensuring the Quality Of Personal Assistance

For anyone considering employing personal assistants they should be made aware of Protection of Vulnerable Groups Scheme (PVG) for all people employed by a recipient that will have contact with children and adults whose circumstances make them vulnerable to harm.

The policy on Protection of Vulnerable Groups and Personal Assistants Employed using Self Directed Support (Direct Payments) should be followed.

3.6 Social Care and Social Work in Scotland

Social Care and Social Work in Scotland inspects and regulates registered services. This covers personal assistants recruited through an agency. National standards are available now for many services including care at home, short breaks (respite care), housing support services and nurse agencies. From these, it should be clear what recipients could expect to get from agencies providing personal assistants.

National Standards are available from Social Care and Social Work in Scotland (SCSWIS) (formerly Care Commission) on:

<http://www.scswis.com/>

3.7 Reviews

The allocated worker and the recipient will arrange reviews of Self Directed Support (Direct Payment) in line with normal Care Management Procedures. These reviews will be used to monitor the appropriateness and effectiveness of the services purchased with Self Directed Support (Direct Payments) and the management of the payments. Further information about reviews are detailed in this guidance.

3.8 Consent and Capacity

Self Directed Support (Direct Payments) can only be made with the consent of the person. The allocated worker will need to make sure that the person understands and accepts the responsibilities involved. These include legal responsibilities of being an employer, accounting for how the money is spent and ensuring the quality of the service.

It will be assumed that an individual has the capacity to consent, unless he or she has been assessed otherwise under the Adults with Incapacity (Scotland) Act 2000. The decision about someone's ability to consent should not be made on the basis of the person's capacity to give consent in other areas of his or her life. If there are doubts about someone's ability to consent it may be necessary to arrange an assessment.

To consent, the person (or where that person already has a representative such as a welfare guardian or power of attorney) they need to understand what self directed support (direct payment) can provide for them and they would have legal responsibilities as an employer if they employed a personal assistant. It is not necessary for someone to read or understand the legal document or sign on the dotted line. The main thing is to observe what is being expressed (not necessarily through speech). The person does not have to be able to say, "I understand" to get a Direct Payment. The person and their representative needs to understand and sign up to a legal agreement.

When the person requiring the service is felt not to have capacity in any area relating to Self Directed Support (Direct Payments) Adult with Incapacity Act (AWIA) procedures should be considered.

For adults with disabilities a parent should only be able to consent if they are a guardian or attorney

Parents of children can consent and receive Self Directed Support (Direct Payments). It is important to plan for a child's transition into adulthood particularly in circumstances where

there will be issues of capacity for them. AWIA legislation may have to be used to enable the parent/s to support the continuation of the support package.

A person can withdraw their consent for Self Directed Support at any time. Services then have to be provided in the usual way.

No decision should be made until full contractual obligations have been explored.

If a person decides to stop using self directed support (direct payments) cognisance has to be taken of the employment rights of the employee. No decision should be taken until this has been explored and discussed fully with the person. The person or representative should seek advice about contractual rights of the employed Personal Assistant's

Refer to Section on Employing Staff for more details.

Consent and Capacity is referred to in more detail in the appendix to this document

3.9 Case Recording and Safeguards

The allocated worker should record s/he has advised the potential Self Directed Support (Direct Payment) recipient of safeguards.

The quality of personal assistance and ensuring safeguards are in place are essential to the operation of Self Directed Support (Direct Payments). The National Guidance on Self Directed Support and the Adult Support and Protection (Scotland) Act 2007 have provided further clarification and strengthened the importance of these issues.

Recording therefore is important for both the allocated worker and for the person.

The allocated worker carrying out the assessment will need to form a judgement of whether the individual is capable of directing and managing a package. For example, some people with dementia or profound and multiple impairments may need help with planning and running a care package. (Section 2 paragraph 23 of National Guidance on Self Directed Support)

This could include any of the following:

- advocacy
- communication support
- record keeping
- pay roll service
- good employment practice
- managing self-directed support on an ongoing basis even through periods of fluctuating or deteriorating conditions.

3.10 Managing Direct Payments

People must be able to manage their Self Directed Support (Direct Payments) with or without assistance. Self Directed Support (Direct Payments) can be refused if the person is not able to manage or has not got the necessary support to manage.

If someone needs help to manage a direct payment, assistance should be given to find reliable and competent help. The person can have as much help as they need but they remain accountable for the way Self Directed Support (direct payment) is spent.

Payments may be made via a third party, a family member or a carer acting for the person. A recipient may say how the services should be provided, then leave all the details and organisation to others acting on their behalf. But the recipient must remain in control of the arrangements and is accountable for them.

There is no restriction on who may help a person, for example carer, family, friends, advocate, support group, relative but, the person helping to manage the direct payment should not be the provider of the service being paid for.

If recipients are unable to manage their Self Directed Support (Direct Payments) without assistance they must provide explicit information on who will provide the support to manage the direct payment to the allocated worker before payment commences.

3.11 The Role of a Supporting Organisation

Appropriate support is crucial to the success of Self Directed Support (Direct Payment). The time of greatest support is when people are considering or setting up their direct payment. Adequate information should be available to allow individuals to make an informed choice which should include signposting to appropriate support organisations and/or involving the local support officer. Assistance or advice may also be required with issues such as recruitment and the management of Self Directed Support (Direct Payments). Some recipients may also have ongoing support needs.

3.12 People with Fluctuating Conditions

Some people with fluctuating needs may require help to manage their support at certain times for example people with mental health issues may go through periods where their health deteriorates and they are not able to manage payments. In these circumstances there is a need to plan and make arrangements whereby a designated person or a group of people (e.g.-circle of support, trustees) can be given permission by the user to take over during a period when unable to manage.

3.13 If the person's condition is likely to deteriorate (where they are unable to manage even with assistance)

People whose condition is likely to deteriorate permanently should also be given the opportunity to explore how to manage their support. In those circumstances it is important that safeguards are in place. People should be advised in such cases that the local authority can decide to stop Self Directed Support (Direct Payments) to the individual and arrange for services to be provided.

The key is to find ways around the obstacles: for people with deteriorating conditions, this could include setting up a Living Will, an Advanced Directive or a User Controlled Trust. Details about advice from a range of providers can be found to the rear of this document.

3.14 Emergency Assistance

Recipients will need to have arrangements in place for emergencies, when their usual care arrangements break down, for example due to personal assistants ill health. The allocated worker should be satisfied that contingency plans are in place from the outset.

Contingency plans could include arrangements for emergency cover or having casual employees who are able to work additional shifts at short notice. It is recognised that not all eventualities can be anticipated. Therefore it is important that a recipient knows to contact a named individual (the allocated worker).

In circumstances where a person is unable to arrange support, the local authority can arrange services in usual way.

3.15 Stopping Self Directed Support (Direct Payments)

The allocated worker should inform the person of the circumstances in which Self Directed Support (Direct Payments) may be discontinued, before the person begins to receive a payment.

Examples of circumstances include:

- Where the person is placing his/herself at an unacceptable risk, e.g. the recipient is unable to employ or purchase sufficient care to meet his/her assessed needs.
- Where the person or representative does not add the personal contribution to the unique bank account.
- Where the person or person's representative uses the payment for a purpose other than meeting their assessed needs, without agreement e.g. the recipient uses the payment to buy alcohol.
- Where the person is no longer able to manage their payment or care arrangements and no one else, who is deemed appropriate, is available to carry this out on their behalf.

Before the Self Directed Support (Direct Payment) has been initiated, the allocated worker should discuss and agree how such situations would be handled with the person and their carers. Where payments are discontinued, **this must be discussed with the recipient.**

If the payment is withdrawn then services to meet assessed need will need to be arranged. Normally a minimum of **28 days** notice will be given about the discontinuation of self directed support (direct payment), although this could be reduced depending on the situation.

3.16 Arrangements for Hospital Admission

In all cases, the allocated worker should make a record of when and why the payments are suspended, reduced or discontinued in the file notes before payments are changed. Any unused monies in the account will be returned to Social Work Services.

On hospital admission Self Directed Support (Direct Payment) may be

- Discontinued immediately
- Be discontinued after 28 days
- Be discontinued temporarily
- Continue at a reduced level
- In exceptional circumstances continue beyond 28 days
this requires a Service Managers agreement

The above will be dependant on whether hospital admission was planned or was unplanned and whether the payment is being used to employ a personal assistant or to purchase from an agency.

Where the reason for hospital admission results in a change of needs a review would be required in the normal way.

Refer to Effect of Hospital Admission on payment level and remember to check contractual and employers obligations when arrangements are being considered to stop a payment.

3.17 Effect of Hospital Admission on Payment Level

During assessment potential recipients should be advised they have responsibility to tell their allocated worker as soon as possible of any planned or unplanned hospital admission.

The National Guidance on Self Directed Support Section 2 paragraph 105 states

‘Local authorities should fund PA employer packages during short stays in hospital, where appropriate. This will enable individuals to continue paying employees (not service providers) for the initial four weeks of any hospital stay. Where the hospital stay is planned and sufficient notice can be given, a period of annual leave could be included. Local authorities should encourage PA employers to include arrangements for hospital admission within the employment contract and terms and conditions. In all circumstances the statutory requirements governed by employment legislation must be applied’.

In the event of an unplanned admission to hospital, funding levels will not be effected for the first week of admission. Where a recipient employs personal assistants ongoing funding will be considered for a maximum period of 28 days from admission date, after which the situation should be reviewed.

Should the recipient use a care agency to meet his/her needs the Self Directed Support (Direct Payments) will be suspended from the day after the date of hospital admission. Should the recipient feel that a suspension of payment will have had an adverse effect on the long term care package a discretionary payment may be considered.

In the event of a planned hospital admission, payments will normally be suspended from the day after admission as it is expected that recipients will have time to adjust care arrangements accordingly.

Should the recipient continue to require assistance from his/her personal assistant(s)/care agency whilst in hospital he/she should be advised to contact his/her allocated worker immediately to discuss further and seek approval of funding.

Care should be taken to ensure that this is covered in the employee’s contract of employment

When Self Directed Support (Direct Payments) are discontinued whether temporarily or permanently, careful consideration should be given to any ongoing contractual responsibilities which the recipient has. The allocated worker, the service user with support from e.g. the Independent Living Service, need to discuss such issues prior to any Self Directed Support (Direct Payments) agreement being finalised.

3.18 Complaints and Suggestions About Self Directed Support Direct Payments

The allocated worker should inform the person and person's representative about the Complaints Procedure throughout the process where a person or representative is considering self directed support and including where self directed support(direct payments) are refused . Decisions and the reasons for any decisions which result in changes to Self Directed Support (Direct Payments) should be communicated in writing advising the individual that they can use the complaints procedure.

Social Work and Social Care Improvement Scotland (SCSWIS) deals with complaints about any registered service or agency that is regulated by them.

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4. Self Directed Support (Direct Payments) for Children in Need

This section aims to clarify the context in which the guidance on Self Directed Support (Direct Payments) may apply to Children In Need.

Guidance accompanying the Children's Act 1995 and recent publications on the integrated planning of children's services emphasise the importance of:-

- Promoting the upbringing of children and young people within their families
- Giving children and young people the opportunity to have more independence
- Working in partnership with families
- Recognising that children and young people are individuals
- Listening and taking into account children and young people's views
- Actively involving children, young people and parents in decision making
- Having regard to issues of race, language, religion and culture

4.1 Eligibility

- Disabled 16 and 17 year olds assessed as requiring community care services, including housing support services
- Disabled people with parental responsibility to purchase children's services
- Parents and people with parental responsibility for a child in need under the age of 16 who has been assessed as requiring children's services
- Parents and people with potential responsibility for children whose health and development may be impaired or below a reasonable standard without services from the local authority

All forms of disability and personality disorders are included.

Parents should be encouraged and supported to use Self Directed Support (Direct Payments) with a view to enabling children and young people to access the same kinds of opportunities and activities as their non-disabled peers.

Children and Families have a responsibility to provide children, young people and families with information about the full range of services available including Self Directed Support (Direct Payments).

Under Section 23 of the Children (Scotland) Act 1995 an integrated assessment should be undertaken to establish the needs of a child in a holistic manner.

The assessment process should be co-ordinated between Children and Families services and other services including education and health.

Self Directed Support (Direct Payments) is available for children's services under Section 22(1) of the 1995 act. Children are defined as aged under 16.

Services are excluded under other sections of the act or services provided under the Education (Scotland) Act 1980.

Young People aged 16 and 17 can use Self Directed Support (Direct Payment) to meet their assessed needs and have the capacity to manage with support. Parents can access Self Directed Support (Direct Payment) if a child does not have capacity until they are age 18.

People with parental responsibility for a child cannot continue to use Self Directed Support (Direct Payment) to purchase services once the child reaches the age of 18.

4.2 Transition

Section 22(1) 1995 Act

Refers to providing a range of services to safeguard and promote the welfare of "children in need" includes:-

- Children under the age of 16 who have a disability themselves
- Those affected adversely by a disability of any other person in the family
- Those whose health or development may be impaired

While the focus of Section 22 is services to support the child, services can be provided to the wider family if those services help to safeguard or promote the welfare of the child.

Each case needs to be assessed individually to identify what would be beneficial and whether Self Directed Support (Direct Payments) would apply.

Self Directed Support (Direct Payment) will not be suitable for every child in need. Care managers will need to consider whether Self Directed Support (Direct Payment) "would help or potentially add another stress at a particular time".

The support purchased does not have to be the same as the services that would have been delivered by the local authority.

For example, a disabled child who might have attended local authority facilities may choose to employ a personal assistant.

Parents may choose to use a payment to employ a person or contract with a service provided or a combination of both.

A Self Directed Support (Direct Payments) can be used to purchase:-

4.3 Disabled Parent

Disabled people who are parents can use Self Directed Support (Direct Payments) for services available under Section 22(1) of the 1995 Act to help with their parenting role.

In addition parents with a disability can receive services to meet their own assessed needs under Section 12 of the Social Work Scotland Act 1968.

This means that Self Directed Support (Direct Payments) can be used to meet the assessed needs of a child's family arising from the parent's disability. In all cases Children and Families assessment and resource allocation arrangements should be followed where Self Directed Support (Direct Payments) are being considered.

The importance of co-ordinating the assessment process between Children and Families and Community Care Services will be necessary at periods of transition.

4.4 Involving Children

A Parents Guide to Direct Payments emphasises the importance of the children's views being taken into account when service options are being considered.

Children should be given appropriate help to express their views and should have access to independent advocacy when appropriate.

Parents may use Direct Payments to purchase personal care. However as children mature parents should be encouraged to give greater weight to the child's views.

Ref: www.everychildmatters.gov.uk/socialcare/disabledchildren/directpayments/faqs

4.5 Parental Consent

A parent or person with parental responsibility for a child under 16 may give consent to Self Directed Support (Direct Payment). Local Authorities must be satisfied that the parent giving consent will make arrangements that will meet the child's needs. Increased weight is given to the child's views from the age of 12. Where the young person is 16 or 17 the local authority must seek consent from the young person ensuring he/she has the support required to help make a decision.

4.6 People with parental responsibility for disabled children

Self Directed Support (Direct Payments) may be considered where a child is subject to a Home Supervision Order or has been compulsorily removed from home under child protection procedures. Where the local authority is satisfied that the needs of the child and family are met. The local authority retains responsibility to assess and review the needs of children and families in the normal way.

4.7 Disabled 16 and 17 year olds in Transition

As part of preparation for the transition to adulthood the allocated worker needs to consider the appropriateness of adult with incapacity legislation for children/ young people whose parents are in receipt of a direct payment to meet the child's needs. This will ensure continuity of care. (See Section on Capacity and Consent)

The flexibility of self directed support or a direct payment has the potential to enable 16 and 17 year old young people with a disability to be more independent and have greater control over their lives. Parents may need support to let their child take more risks in everyday life, including allowing their 16 or 17 years old to manage their own support.

The Transition Service should be involved in preparation, planning and assessment.

The young person should be made aware of independent advocacy services.

The young person should receive practical support to enable them to manage Self Directed Support (Direct Payment). Support may include assistance from:-

- Parents
- Carers
- Local support services
- Circles of support
- User controlled trusts

The local authority has a duty to ensure arrangements put in place will ensure the young persons safety and promote their welfare. Where this is not the case the local authority should explain in writing why Self Directed Support (Direct Payment) is inappropriate.

A young person's ability to manage Self Directed Support (Direct Payment) will depend on:-

- The size of the support package
- May change as the young person matures
- May change as the young person gains experience

The local authority may want to make transitional arrangements e.g. manage a small proportion of their support increasing this as the person matures.

These arrangements will require to be kept under review.

It will be important for the views of parents to be recognised and respected when any new arrangements are considered once the child reaches 16.

4.8 Childminders

There are 2 main restrictions on whom parents can employ to care for their child.

- Cannot employ a close relative who lives in the same house
- If the child is being cared for by a person in that persons own home, the person needs to be a registered childminder
- For non-residential short breaks away from home the childminder must apply for a condition to be added to their registration

4.9 Looked After Status

Direct Payments can be used to purchase flexible short breaks options where the care will safeguard and promote the welfare of the child.

The child does not become “looked after” under Section 25 of 1995 Act if the parent is in complete control of the respite arrangements.

Paragraph 78 to 80 give details of how much respite a person can receive.

4.10 Employing Personal Assistants

The procedure described in section 6 should be followed to ensure people take steps to satisfy themselves that the person offering help is a suitable person. This guidance refers to the steps required to be taken which includes the following

- Protection of Vulnerable Groups
- Support services
- References
- Training
- Employer health and safety

A Parent’s Guide to Direct Payments emphasises the importance of the employee having a positive attitude towards disability in general and towards assisting the child to reach their full potential.

Further sources of guidance and other sources of information are contained in the appendices of this document.

5. Employing Staff – Personal Assistants

The option of employing a personal assistant can be attractive to some people as the best means of meeting their individual needs. Whilst it can increase the choice and flexibility of the package, the role of employer carries important tasks and responsibilities. Those who choose this option need advice and assistance to enable them to meet their obligations as an employer. Assessors can help potential recipients by signposting them to appropriate support agencies and or involving the local support officer and explaining the direct payment for personal assistants includes monies to purchase independent pay roll.

It is important that care is taken when recruiting Personal Assistants and that the individuals know where to get the type of information, training and practical support that they need. This section outlines some best practice that individuals will need to follow if they are to fulfil their employer's role, and where advice and support can be found.

Ensure Safeguards and issues relating to the quality of personal assistance are discussed along with safe employment and recruitment practice

5.1 Safe Recruitment

Safe and effective recruitment by Personal Assistant employers require commitment by the user, the local authority, any support organisation and others to:

- Explore what is best for the individual and how this may be achieved
- Put in place all the various recommended stages in the recruitment process, and
- Provide appropriate targeted advice and training on roles and responsibilities

The responsibility for ensuring the quality of support rests with the individual. This is because the Social Care and Social Work in Scotland (SCSWIS) system does not cover situations where an individual employs a person directly (i.e. personal assistants), whether paid for through direct payment/ self-directed support or using private means. Individuals may contract with or employ people who are not regulated by SCSWIS, provided that those individuals are not certain categories of close relative.

Using safe and effective recruitment and employment processes should also help. This means:

- Taking up references, on paper and by telephone
- Protection of Vulnerable Groups (PVG)
- Staff induction and training
- Probationary periods of employment
- Local peer support
- Staff management including meetings
- Staff appraisals, including disciplinary procedures
- Obtaining employer's liability insurance
- Obtaining employer's indemnity cover

Her Majesty's Revenue and Customs (HMRC) guidelines suggest a PA could not meet the criteria to be self-employed and should therefore be treated as an employee.

The Data Protection Act 1998, the Human Rights Act 1988, the common law duty of confidentiality and current guidance on information sharing are relevant when discussing with a potential Self Directed Support (Direct Payments) recipient safe recruitment and employment practice.

The agreement that Inverclyde Council has with an individual will include the following:

- The individual assumes the responsibilities of an employer if they choose to employ Personal Assistants and that they adhere to good employment practice;
- The individual should ask prospective Personal Assistants to become a member of the PVG scheme.

5.2 Advice on setting up Payroll

Self Directed Support (Direct Payments) recipients arrange their own payroll services. Where a Self Directed Support (Direct Payments) recipient requests assistance identifying payroll services, the Independent Living Service can provide information on companies and agencies that provide services to assist with the setting up of tax and N.I. payments and payroll. The cost of this is included in the payment.

5.3 Financial Assistance for Payroll Services, National Insurance, Holidays etc

The Finance Section will calculate a set amount for Payroll Services, National Insurance, insurance etc where the recipient is directly employing a personal assistant.

5.4 Employing Staff

PA employers have a range of important responsibilities, all of which they can receive training on. Other practical support can be given from the Independent Living Advisor . This list is not exhaustive:

- Staff recruitment
- Induction training
- Managing staff and relationship building
- Staff appraisal
- Equal opportunities
- Fair and unfair dismissal
- Handling employee grievances
- Health and safety
- Insurance and indemnity (for you as an employer and for your employee)
- National Insurance contributions
- Pay negotiations and awards
- Period of notice
- Redundancy
- Salary
- Statutory sick pay, maternity and paternity pay, adoption pay and leave
- Tax
- Unions
- Written statement of employment particulars

(SPAEN) – Scottish Personal Assistant Employers Network

<http://www.spaen.co.uk/services/training.htm>

For more information about employment see the following websites:

Advisory, Conciliation and Arbitration Service (ACAS)

<http://www.acas.org.uk/>

Citizens Advice Bureau

http://www.adviceguide.org.uk/scotland/life/employment_scotland.htm

Direct Gov

<http://www.direct.gov.uk/Employment/Employees/fs/en>

Trade Union Congress (TUC)

http://www.tuc.org.uk/tuc/rights_main.cfm

Glasgow Centre for Inclusive Living

<http://www.gcil.org.uk/services.html>

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6. Protection of Vulnerable Groups (PVG)

6.1 Safe Recruitment

Eligible service users can use Self Directed Support (Direct Payments) to employ their own staff, personal assistants, to provide care to meet assessed need

The Protection of Vulnerable Groups (PVG) scheme replaces 'Disclosures'.

The PVG is a membership scheme which ensures that people who are barred from working with certain groups are not able to do so. Disclosure Scotland will maintain lists of people who are barred from working with children and protected adults.

A person who is barred from working with one group is not necessarily barred from working with the other group.

It is illegal for a person to undertake regulated work if they are barred from doing so and illegal for an organisation to employ a barred person.

It is not a legal requirement that a person doing regulated work is a member of the PVG scheme.

However the only way for a person to prove that they are not barred is to become a member of the scheme. Therefore an employer must satisfy themselves that a prospective employer is not barred from working with certain groups by seeing the individual's scheme membership statement.

6.2 Self Directed Support (Direct Payments)

We would highly recommend that an employer seeks evidence of scheme membership or encourages a prospective employee to take out membership of the PVG scheme.

Membership of the scheme is evidence that the Personal Assistant is not a barred person.

The local authority can not make a request of the employee to see an individual's scheme statement or record to satisfy them selves that the Council is fulfilling its duty of care.

This sharing of statement or record would have to be agreed to by the individual seeking employment, as no information must be passed onto a third party without the employees consent.

The merits of the scheme should be fully discussed with a recipient during the assessment process. Responsibilities as an employer should also be discussed during this process.

As the local authority cannot insist on seeing evidence of scheme membership it is important that a prospective employee's understanding of the PVG scheme and acceptance of the responsibility and management of any risk entailed are fully documented and confirmed in the user agreement. Information can be given to potential employers encouraging them to follow safe recruitment practice.

Refer to National Guidance on Protection of Vulnerable Groups and Self Directed Support

<http://scotland.gov.uk/Resource/Doc/354604/0119720.pdf>

7. Procedure for Setting up Self Directed Support

7.1 Assessment: Community Care And Children's Services

The Local Authority has a duty to provide self directed support (direct payments) to those people who meet the required conditions.

The allocated worker should complete a single shared assessment with the recipient to identify their needs. Children's Services staff will use their own normal assessment techniques. Normal practice should be followed. The difference is how those services are delivered through a direct payment/ self directed support.

The recipient may be new, or someone already receiving services who wants to switch to Self Directed Support (Direct Payments). Good practice should involve the recipient, their carers, family, and professionals who provide services. This will identify specific needs for personal assistance or support to do everyday activities, or to achieve a particular aim.

The Community Care and Health (Scotland) Act 2002 places a duty on local authorities to tell carer's that they may be entitled to a carer's assessment in their own right. If appropriate, their views must also be taken into account in setting up services.

The following process applies to Community Care and Children and Families although it is recognised that Children and Families staff will follow their normal assessment processes. The difference is in how these services will be delivered

7.2 Referral, Assessment, Care Planning and Approval

The procedure should be followed from referral, screening through assessment and care planning. Existing service users may be re-referred because they want a Direct Payment following a review.

A Single Shared Assessment in respect of adults or equivalent in respect of children in need should be completed. Assessments should be needs led with identified needs being agreed with the client. Risk assessments should be completed in line with current practice.

7.3 Care Planning

The Care Plan should detail the agreed, identified needs and detail the tasks required to meet these needs, quantifying the time required where appropriate to undertake the tasks. The Care Plan (and any risk assessment) will form part of the Self Directed Support (Direct Payments) Agreement the client will enter into if they decide to join the Scheme.

Interim arrangements to meet needs may have to be put in place by the allocated worker where Self Directed Support (Direct Payments) funded (or partially funded) care plan requires time to set up e.g. recruitment of personal assistants.

7.4 Calculating the amount of the Self Directed Support (Direct Payment)

Potential Self Directed Support (Direct Payment) recipients will require some detail on the amount a payment is likely to be to enable them make a decision about joining the scheme.

Costing will depend on a number of factors which would include whether:

- the payment is a one-off e.g. for equipment, residential respite, etc.
- the payment will require to be made on a regular basis e.g. to purchase personal assistance
- the payment is a combination of the above
- the potential payment recipient is considering becoming an employer whereby additional amounts such as N.I. contributions, contingency funds, etc need to be included
- the potential recipient is considering purchasing directly from an agency or another local authority

The allocated worker with support of the Finance Section will calculate the amount Self Directed Support (Direct Payments) will be.

An identified officer of Finance Section will be available to advise notionally what amounts will be on the basis of the allocated worker outlining what the potential recipients would intend doing and the period/s of time the assessor would allocate for this.

7.5 Eligibility and Resource Allocation

Where the potential recipient wishes to proceed to having all or part of their agreed, assessed needs met by joining the Self Directed Support (Direct Payments) Scheme, the assessor must complete paperwork and present to the relevant resource group.

Community Care Resource Group, Mental Health Resource Group, Learning Disability Commissioning and Resource Team. The resource groups will consider eligibility, available resources and priorities for resource allocation.

Children & Families Workers should seek approval following the usual process.

The Care Plan must detail the needs to be met by the Self Directed Support (Direct Payments), the periods of time required to meet these, and the nature of service the recipient intends purchasing (agency, directly employ a personal assistant, weekend break, etc). Start up costs where a potential recipient intends becoming an employer should be highlighted in the initial care plan.

7.6 Allocation of Resources

A Self Directed Support (Direct Payments) Agreement Contract will be drawn up by the Finance Section based on the information detailed on the Care Plan. This along with a request for details of their Exclusive Bank Account will be sent to the potential recipient or their representative. The assessor will be notified by the Finance Section when the Self Directed Support (Direct Payments) Agreement Contract is issued. There may be a role for the assessor in ensuring their client has support to help him understand the Self Directed Support (Direct Payments) Agreement Contract. Allocated workers may be witnesses or their client may choose their own witness when signing the Self Directed Support (Direct Payment) Agreement Contract process.

7.7 Setting the Spending Conditions

When signing the Self Directed Support (Direct Payments) agreement, the recipient will be taking on the responsibility of arranging their own personal assistance and spending the cash payment in the way it is detailed in the care package agreement. It is essential that the care manager makes clear to the recipient what the money may or may not be spent on and how much flexibility the person has over the way the money is spent. Again this will be determined during the assessment and care planning process, in which the recipient will be fully involved. The Care Plan will become part of the recipient's agreement with Inverclyde Council. The Care Plan should detail the nature of the need/s and detail the assistance (including number of hours per week) required to meet the identified needs.

7.8 How will Payments be made

The initial payment will be based on 8 weeks at the agreed standard weekly amount plus a start up cost if applicable. Thereafter payments will be made 4 weekly in arrears. All payments will be made net of any applicable charges assessed in line with Inverclyde Council's Charging Policy (unless the recipient formally requests otherwise). The assessor must complete the appropriate Financial Assessment form/s. It is anticipated that, by providing an initial payment of 8 weeks, this will offer the recipient more flexibility and comfort in the following respects.

It will help ensure that there is adequate initial funding should a float be required from a payroll company.

It will enable recipients to, in effect, pay any assessed charge in arrears and will help ensure there is always adequate funding to pay for invoices when received.

7.9 Start Up Costs

Start up costs are to meet legitimate extra expenses at the time the Self Directed Support (Direct Payments) package is set up for example recruitment costs, training costs, Employer's Liability Insurance etc. Expenses which would not be legitimate would include food and travel expenses for carers', telephone costs or any other similar costs the tax authority would consider taxable benefits. The allocated worker and the recipient or their representative should agree legitimate Start Up needs and record these on the Care Plan.

7.10 Exclusive Bank Accounts for Direct Payments

It is essential for the local authority to ensure that the monies made available are being used to meet the needs and objectives outlined in the assessment. It is not appropriate for the local authority to have access to records from the recipient's general bank account, only access to the transactions relating to Self Directed Support (Direct Payments).

The authority expects every recipient of Self Directed Support (Direct Payments) to have a separate and exclusive bank account in their own name from which to manage their payment. Other monies the local authority would agree to being paid into this account would include ILF and DLA monies where these are funding parts of the total care package. Direct Payments will be deposited directly into recipient's identified bank account.

7.11 People without an Exclusive Bank Account

In circumstances where it is not possible for the recipient to have a separate and exclusive bank account, payments other than the initial payment, will only be made in arrears on receipt of a four weekly payment sheet supported by paid invoices.

7.12 Income Maximisation

Many service users do not claim benefits which could increase their income. The task of exploring potential resource availability is the role of the allocated worker as part of their assessment and care planning role. The viability of a Self Directed Support (Direct Payment) package may, in certain circumstances, rely crucially on resources obtained from other sources to the local authority.

Clients have the right to decline completing Financial Assessments and in these circumstances would be liable for the maximum charge under the Charging Policy.

7.13 Integrated Charging

The Local Authority operates a Charging Policy for Adult Services.

Recipients receive into their exclusive bank account the net amount of their payment (i.e. the gross amount of the Payment minus their assessed contribution).

7.14 Independent Living Funds and Direct Payments

If the person is in receipt of monies from the Independent Living Fund (ILF), this may have a bearing on whether they are charged for local authority services. These issues should be discussed with the Independent Living Service and other appropriate Services. (refer to the independent living advisor and appendices for more details on Independent Living Services).

7.15 Jointly Funded Packages

It is important that all organisations that have a responsibility to the individual are engaged in determining the most appropriate way for that person to receive services. It may be appropriate in certain circumstances when complex needs are identified, for an agreement to be made involving Inverclyde Council and other agencies. In exceptional circumstances where a payment is used to meet needs which are the responsibility of other agencies, the partner agencies concerned would need to contribute towards the cost of the care package.

7.16 Payment Adjustments and Emergency Care

Recipients must be advised to put in place contingency plans when setting up their support to meet certain emergencies such as their support worker being ill. Where emergencies arise which contingency plans cannot meet, the Local Authority has a responsibility to ensure immediate needs are met. The allocated worker will co-ordinate this response and notify the Finance Section. Pay adjustments may be made to future payments but this would be determined by individual circumstances. The Finance Section would notify the recipient of any such adjustment.

7.17 Arrangements for Hospital Admission

In all cases, the allocated worker should make a record of when and why the payments are suspended, reduced or discontinued in the file notes before payments are changed. Any unused monies in the account will be returned to Finance Section.

Refer to the sections on **Arrangements for Hospital Admission** and **Effect of Hospital Admission** on payment level and remember to check contractual and employers obligations when arrangements are being considered to stop a payment.

7.18 Monitoring Finances

Each recipient must provide the local authority, with 6 monthly returns indicating how their Self Directed Support (Direct Payments) has been spent. The 6 monthly returns will be based on a standard format and will be issued with the Self Directed Support (Direct Payments) Agreement Contract. The purpose of this return is to ensure that the recipient is receiving the payment on a regular basis whilst at the same time ensuring that the monies are being spent on the services agreed.

The recipient's payroll operator (if s/he uses one) may be able to assist and support the recipient as appropriate in completing this process.

For financial monitoring purposes, the service user or their representative must keep the following:

- a record of all income on bank statements and bank pay-in books
- a User's Record of Expenditure. All items of expenditure must be recorded separately on the form
- up-to-date information on the User's Record of Expenditure with invoices and receipts for payments made
- timesheets (or rotas) indicating the days and times carers have worked
- PAYE, National Insurance and other payroll records where the recipient employs their own personal assistant

All of these records must be available for inspection by the Local Authority.

7.19 Who is Responsible for the Financial Monitoring

Financial monitoring of Self Directed Support (Direct Payments) is primarily the responsibility of the service user along with the Finance Section.

7.20 Recovering Monies

If the local authority is not satisfied that the payments have been used for its intended purpose or if the conditions imposed have not been met, it has the power to recover all or part of the monies. Should an overpayment be made at any time, this would be recouped in the next payment or by cheque as appropriate. It is the responsibility of the recipient to advise the local authority of an overpayment.

7.21 Discontinuing Self Directed Support (Direct Payments)

Either the recipient or the local authority may decide that they no longer wish to continue with Self Directed Support (Direct Payment). If a decision to discontinue is made, a full and frank discussion should take place with all relevant parties involved. These discussions should be recorded fully and sent to all those involved. Again care should be taken to ensure any contractual obligations for employees are addressed.

Allocated workers should immediately notify the Finance Section of a Self Directed Support (Direct Payment) recipient's death. Once all outstanding invoices and all payroll costs have been met any outstanding money should be returned to the local authority.

7.22 Reviews

The Local Authority remains responsible for reviewing the services purchased with Self Directed Support (Direct Payments). The aim is to check that needs identified in the care plan are still being met and that the quality of service is at least adequate in meeting these needs. Following a review by the allocated worker, the amount of payments may need to be increased, reduced or stopped if needs are not being met appropriately and/or in accordance with the letter of agreement and conditions. Where payments are to stop, all relevant parties should be included in the decision making process and reasons given in writing. The allocated worker is responsible for arranging these reviews and advising the Finance Section of their outcome.

If Personal Assistants are engaged care should also be taken to ensure that all contractual employment rights are addressed.

7.23 Multiple Recipients in one family

If there is more than one Beneficiary in a family who are receiving Self Directed Support (Direct Payments) they should have been assessed separately and a care plan for each produced. A separate direct payment will be made in respect of each Beneficiary. However it is recognised that personal assistance may be purchased collectively and, for monitoring purposes, a joint bank account and a joint return will be acceptable provided the link between expenditure and the care plan for each Beneficiary can be seen.

8. Payment Levels

8.1 The Assessor and Payment Levels

The assessor needs to ensure Direct Payments are a cost effective way of meeting agreed needs. The local authority is not obliged to fund costs associated with the potential recipient's preferred method of meeting their needs and/or their choice of service provider if the care can be supplied to the same standard at a cheaper cost.

Direct Payments do not come with additional resources and assessors need to ensure they 'fit' within existing eligibility criteria. Overnight one to one care is not a service provided. There are a very small number of cases who receive this on a time limited basis in exceptional circumstances.

8.2 Personal Assistant Payment Levels

Three needs groupings have been identified which reflect both the nature of the identified need/s and tasks and skill required to appropriately meet these.

8.3 Level 1. Intensive Personal Care and Rehabilitation Needs Group

There would be needs arising from a chronic health prognosis where specialist care is required. Promoting independence may involve undertaking tasks which are rehabilitative in nature requiring specialist knowledge in this area.

8.4 Level 2. Personal Care Needs Group

These would include needs covered by Free Personal Care criteria and are likely to be of an intimate nature such as assistance with bathing washing, dressing, continence care, assistance of another for eating.

8.5 Level 3. Domestic and Non-Rehabilitative Housing Support Needs Group

These would include significant well-being and safety needs arising from being unable to manage household tasks such as bed changing, collection of benefits, prescriptions, bill paying, cleaning, shopping etc.

8.6 Non-Residential Respite Rate

The hourly rate to meet respite care needs where the Self Directed Support (Direct Payment) recipient's home is the respite base will be determined by their highest need grouping.

8.7 Agency Rate

Our contracted rates.

8.8 Residential Short Term, Respite Breaks

Rates for short term respite breaks will be determined on an individual and personalised basis.

Self Directed Support (Direct Payments) may not be used to purchase long term residential care. They may however, be used to purchase short breaks (or respite care) subject to the maximum period specified by regulations made under section 12B (4) of the 1968 Act in a care home. For children this might take the form of a short break with a specialist carer. Local authorities should check the latest Regulations, but currently the Regulations specify that where two periods of residential care are less than 4 weeks apart, they should be added together to make a cumulative total. If the two periods are more than 4 weeks apart, they are not added together. The cumulative total, calculated in this way, cannot be more than 4 weeks in any twelve-month period.

For example, someone might have one week of residential care every 6 weeks. Because each week in residential care is more than 4 weeks apart, they are not added together. The cumulative total is only one week and the 4 week limit is never reached. Another person might have three weeks in residential care, 2 weeks at home, and then another week in residential care. The 2 episodes of residential care are added together to make 4 weeks, so the person cannot use their direct payment to purchase any more residential care within a 12 month period.

People can receive additional residential care once they have reached the 4 week maximum. They cannot purchase the residential care using Self directed Support (Direct Payment), but if the local authority considers that further residential care is needed, it can still arrange and fund residential care for the person in the traditional way. There is no restriction on the length of time for which the local authority may arrange residential care for someone.

8.9 Adult Day Care Services

Rates for adult day care services will be determined on an individual basis and personalised support.

8.10 Overnight Care

Inverclyde Council does not routinely offer overnight care on an ongoing basis. Overnight care within a person's own home may be considered in specific situations such as end of life, care to support family and health carers or for carer's respite support.

Each case will be assessed on an individual basis and discussed with the appropriate Service Manager.

8.11 Equipment

Self directed Support (Direct Payments) may be used by an individual to purchase equipment or temporary adaptations. The allocated worker will need to ensure the individual knows how to use, arrange repairs and maintain any equipment as these responsibilities would lie with the recipient of Self Directed Support (Direct Payment). Direct Payments may be used to facilitate the recipients ability to carry out these responsibilities i.e. specialist training in use.

8.12 Review of Rates

Rates will be subject to review. Finance will provide updated information on rates on an annual basis which will form an appendix to these procedures

9. Advice, Assistance and Support

9.1 Day to Day Management of Self Directed Support (Direct Payment)

Recipients must be able to manage Direct Payments with or without assistance. Direct Payments can be refused if it is assessed the potential recipient is not able to manage a Direct Payment or does not have the necessary support. Recipients can have as much help as they need but the recipient remains accountable for the way the Direct Payment is spent. Recipients may say how the services should be provided and then leave all the details and organisation to others acting on their behalf. This can include another organisation running a payroll service. Potential recipients often find the thought of becoming an employer a burden therefore it is important that assessors are able to give advice to alleviate concerns. But the person must remain in control and making decisions about the arrangements and is accountable for them.

9.2 Who can Assist with Managing Self Directed Support (Direct Payments)?

People may receive as much assistance as they require with managing the Direct Payments whether they are the recipient, an attorney or a guardian. With the written consent of the recipient, an attorney or guardian, payments may be made to a third party, advocate, support group, relative, circle of support. The service user remains the employer with the day to day management of money or personal assistants carried out by the third party. The third party managing the Direct Payment should not be the service provider. For people with complex needs, Independent Living Trusts can be established - a named person within the Trust would legally have employer responsibility.

9.3 Service Brokerage

Service brokerage is an option available to provide a person who does not necessarily meet all the requirements for Self Directed Support (Direct Payment) with a service which maximises their quality of life within the spirit of Self Directed Support (Direct Payments). A Service Broker or their representative arranges care and/or personal assistance and monitors the effectiveness of it. They are, in effect, care managing.

9.4 Advocacy and Support

People need clear information to be able to weigh up the implications of Self Directed Support (Direct Payments) as it relates to their circumstances, if an informed decision is to be made. They may also need practical support in order to develop and maintain independent living using a Payment. Inverclyde Council is committed to supporting the development of a user-led support organisation to provide independent information, peer support and practical help with Self Directed Support (Direct Payments). Until this development happens, potential recipients can receive support from the Independent Living Service.

The Independent Living Service can provide information directly or signpost people to other organisations who can provide information on all aspects of the processes involved as well as information regarding good practice in relation to purchasing services and employing

personal assistants. Details of dedicated support available are contained within the public information leaflet and appendices.

There are many types of advocacy both formal and informal. Advocacy services generally would represent the views of an individual through assessment and review processes.

Advice and support are available independently from a number of sources support can also include support for people with communication support needs. Refer to the appendices for more information.

An Advocacy Project operates within Inverclyde Council along with other voluntary organisations who can be approached to provide advocacy services to anyone seeking them.

9.5 Consent and managing Self Directed Support (Direct Payment)

If the service user knows that they want Self Directed Support (Direct Payment) at the assessment stage, ensure that the person consents to receiving Self Directed Support (Direct Payment) and is able to manage it with as much help as required.

The assessment should include written details about the person's ability to consent to and manage Self Directed Support (Direct Payments). The starting point is that all people are able to consent to and manage Self Directed Support (Direct Payments), if the required help is there if needed. All people involved should concentrate on finding answers rather than identifying obstacles to consent and management of Self Directed Support (Direct Payments). Family, carers, friends and other professionals should be involved as early as possible in the process.

Lead Officer for Self Directed Support (Direct Payments) in Inverclyde

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