

## Direct payments factsheet – 4

### **Making sure you receive the right amount of direct payment**

Deafblind people and families who use direct payments have reported that they can be offered varying rates of direct payments. It can be difficult to make sure that councils understand why it may cost more to meet the assessed needs of deafblind people. This factsheet should help you to make sure you receive an amount of direct payment that will enable you to meet your assessed needs.

### **How much money should your direct payment be?**

You should be clear on how much it would cost for you to buy the services you need before you agree to the amount that social services decide on. The amount must be enough to cover the costs of purchasing services that meet your needs, as well as other costs, for example costs related to employing people. The guidance states:

‘This means that the direct payment should be sufficient to enable the recipient lawfully to secure a service of a standard that the council considers is reasonable to fulfill the needs for the service to which the payment relates.’<sup>1</sup>

### **How can you make sure that the direct payment will be enough?**

You may only be able to think about this once you have had your social services assessment and your eligible needs have been identified.

- Think about how much it could cost to meet your needs – try to find out about local people who could support you and what they charge.
- For more advice on how to decide how much you think your direct payments should be, see ‘Direct payments: one-off direct payments for equipment, minor adaptations, holidays and leisure activities’ and ‘Purchasing your own support: deciding on your needs and finding support’.
- Present your findings to your social worker and explain the amount of direct payments that you think you will need to be able to meet your assessed needs.

### **The hourly rate of your direct payment**

If you are using staff to meet your needs, make sure that the hourly rate of direct payment is enough. This rate will need to cover the salary for your staff as well as other associated costs (see below). Your council might offer you what they call their ‘higher’ hourly rate of direct payment. This still might not be enough to recruit staff with the right skills as well as cover additional costs. The hourly rate should be enough to enable

people to have choice over who they wish to provide their care. If it is clear that the rate of direct payment will not be enough, then it can be raised.

### **The direct payment must cover ‘all reasonable associated costs’**

Councils must make sure that the direct payment will cover all reasonable costs involved in receiving the service you need. The direct payment must also cover the cost of using staff lawfully. The guidance gives these examples:

‘...such costs might include recruitment costs, National Insurance, statutory holiday pay, sick pay, maternity pay, employers’ liability insurance, public liability insurance and VAT.’<sup>2</sup>

Don’t forget to include the cost of covering for staff if they are sick or on leave and recruiting new staff if staff leave. The guidance does not include training in the list of associated costs. However, it may be that training staff is the only way for you to receive support that meets your assessed needs. In this case it may be possible to include the cost of training in your direct payment. Your local direct payments support service should be able to advise you on making sure all costs are covered.

### **What happens if your council says there is a fixed ‘higher rate’ or maximum amount of direct payment?**

Be prepared to question the amount that your council offers you, even if they say it is the higher rate or the maximum. The guidance states:

‘There is no limit on the maximum or minimum amount of a direct payment either in the amount of care it is intended to purchase or on the value of the direct payment.’<sup>3</sup>

This means that your direct payments must be enough for you to be able to purchase a service that meets your assessed needs.

### **Case study: receiving the right rate of direct payment**

Jonathan is a young man with Usher. He uses BSL. He wanted to receive direct payments as he thought this would allow him the flexibility to receive support when he needs it. At first his council was only offering him their ‘higher’ rate of direct payment. This was £13 per hour. However, to receive the support he needs and cover associated costs, Jonathan needed a direct payment of £25 an hour. This would allow him to recruit a communicator guide with BSL skills, as well as skills in guiding and deafblind awareness. Jonathan complained using his council’s complaints procedure but this wasn’t successful. After sending the council a letter from a solicitor and a long wait, Jonathan has been allocated the right amount of direct payment.

### **How much money should the council give to allow you to purchase your preferred choice?**

Councils only have to provide a direct payment that meets the reasonable cost of you receiving the service you require. They will estimate what the cost should be and should tell you if they think your idea on how to meet your needs seems too expensive. The guidance states:

‘The council is not obliged to fund the particular costs associated with the individual’s preferred method of securing the service if, taking into account the

user’s assessed contribution, the costs exceed the council’s estimate of the reasonable cost of securing it and the service can in fact be secured more cost effectively (but still to the required standard) in another way.’<sup>4</sup>

This means that although the council should not tell you exactly how to meet your assessed needs, they are allowed to object if they think the cost of your preferred service is unnecessary to meet your needs. If you require more expensive specialist services, you may have difficulty explaining the cost of services you wish to buy through direct payments. You must be very clear why the service will cost the amount it does and why you need the specialist service. Tell your council if this is the only way to meet your assessed needs.

However, the guidance does let councils fund more expensive options if it seems that this would be the best way for an individual’s needs to be met:

‘The council might decide that they are able to increase the amount nevertheless so as to enable the person to secure his or her preferred service if it is satisfied that the benefits of doing so outweigh the costs and that it still represents best value.’<sup>5</sup>

### **The costs of meeting your needs if they change**

It’s important to remember that costs may increase. Reasons for this may be:

- if staff are sick, on holiday or leave the job, you may have to advertise, recruit and train new staff or contact an agency for staff cover (using agencies will probably cost more);
- if you have to use staff from further away, they may charge a higher rate;
- if your needs change, for example you may need to start communicating with hands-on sign instead of BSL, you may need to find new staff or provide training for existing staff.

### **What to do if you are unhappy about the rate of direct payments you are offered**

If you are not happy with the amount of direct payment you are being offered you can:

- contact your local direct payment support service for advice;
- contact Sense for advice on arguing your case;
- ask for support from an independent advocate;
- make a complaint using your council’s complaint system;
- make a complaint to the Local Government Ombudsman;
- in extreme cases, seek legal advice;
- refuse to receive direct payments and ask for your council to provide you with a service.

## **Resources:**

**An easy guide to direct payments: giving you the choice and control, includes audio tape and CD-ROM (free)**

**A guide to receiving direct payments from your local council, Department of Health, August 2007 (free)**

**Direct Payments Guidance: Community Care, Services for Carers and Children's Services (Direct Payments) Guidance England 2003**

The Department of Health,  
Richmond House,  
79 Whitehall,  
London, SW1A 2NS.  
Telephone: 020 7210 4850  
Email: [dhmail@dh.gsi.gov.uk](mailto:dhmail@dh.gsi.gov.uk)  
Web: [www.dh.gov.uk](http://www.dh.gov.uk)

**A parent's guide to direct payments (free)**

Every Child Matters,  
Department for Children, Schools and Families,  
Sanctuary Buildings,  
Great Smith Street,  
London, SW1P 3BT.  
Telephone: 0870 000 2288  
Textphone: 01928 794274.  
Fax: 01928 794248  
Email: [info@dcsf.gsi.gov.uk](mailto:info@dcsf.gsi.gov.uk)  
Web: [www.everychildmatters.gov.uk](http://www.everychildmatters.gov.uk)

**Keeping Control: Direct Payments Guide for people over 65**

(Brief guide £5.99, complete guide £9.99)

Counsel and Care,  
Twyman House,  
16 Bonny Street,  
London, NW1 9PG.  
Telephone: 0845 300 7585  
Email: [advice@counselandcare.org.uk](mailto:advice@counselandcare.org.uk)  
Web: [www.counselandcare.org.uk](http://www.counselandcare.org.uk)

**Community Legal Advice**

Telephone: 0845 345 4 345  
Textphone: 0845 609 6677  
Web: [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

**Advocacy**

For information on advocacy see the Sense factsheet 'Direct payments: what are your rights?'

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**Endnotes:**

- <sup>1</sup> Direct Payments Guidance, Department of Health, paragraph 82, page 22
- <sup>2</sup> Direct Payments Guidance, Department of Health, paragraph 83, page 23
- <sup>3</sup> Direct Payments Guidance, Department of Health, point 82, page 22
- <sup>4</sup> Direct Payments Guidance, Department of Health, paragraph 84, page 23
- <sup>5</sup> Direct Payments Guidance, Department of Health, paragraph 84, page 23