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Useful Information:

Care Act: Care Act 2014 (legislation.gov.uk) Direct Payments:
 Care Act 2014 (legislation.gov.uk) (Sections 31-33)
 Guidance: 40573_2902364_DH Care Guidance accessible pdf
 (publishing.service.gov.uk) (Section 12, p163)
 National Framework for NHS Continuing Healthcare

Introduction:

In Torbay, health and social care services are provided by Torbay and South Devon NHS Foundation Trust ('the Trust') and funded by Torbay Council ("the Council"). This policy explains Direct Payments in Torbay.

Our purpose is to support and help people to stay as well and independent as possible, able to manage their own well-being in their own homes wherever possible. Where care is needed, we want people to have a choice about how their needs are met and only tell their story once. People receiving services need to be at the heart of what we and providers deliver together.

This document includes:

- Our principles
- What is a Direct Payment
- Who can have a Direct Payment
- Who cannot have a Direct Payment
- Direct Payments for equipment
- How Direct Payments work

Our Principles

- We want people to remain in control of their lives, to remain independent and to have the opportunity to make their own choices about their care and support arrangements.
- We will achieve this by our Direct Payment system being as simple as possible and allowing people true autonomy to meet their eligible care and support needs.

What is a Direct Payment?

A Direct Payment is one way of having a personal budget/Personal Health Budget. It is funding given to a person who has been assessed as being eligible for social care support. It will give them flexibility to arrange and purchase care and support for themselves to achieve the outcomes agreed in their care and support plan. Receiving a Direct Payment will not affect any entitlement to benefits.

Who can have a Direct Payment?

A person can have a Direct Payment if:

- They have the capacity to ask for a Direct Payment or, if they do not have capacity, a request by a nominated or authorised person is made on their behalf.
- Their needs meet the Care Act 2014 eligibility criteria for care and support.
- For Social Care Funded people their income and capital are below the capital threshold, which will mean that the local authority must contribute to the cost of their care and support.
- They can manage the Direct Payment either by themselves or with support from a nominated or authorised person. If someone doesn't have the capacity to manage a Direct Payment, we can arrange for someone to receive the Direct Payment on their behalf, for example, a friend or family member. It cannot be a paid carer unless they are directly related. People may still choose for us to arrange some or all their care and support. If someone is already receiving care and support from us, they can choose to

change to a Direct Payment at any time. Similarly, someone receiving a Direct Payment may choose to cease receiving the payments and have us arrange their care and support.

Who cannot have a Direct Payment? (See appendix 1)

The law specifically excludes people who are placed under certain conditions by courts relating to drug/alcohol dependencies.

Direct Payments for equipment

At present equipment that has been prescribed by the Council's Occupational Therapists is ordered directly from an independent organisation contracted by the Council. They provide a range of good quality and good value equipment from which choices can be made. You can only use a Direct Payment for equipment if we cannot procure the item from our contracted provider.

Direct Payments for young people

Financial assessments do not apply to Direct Payments provided to children and young people under the age of eighteen. The national eligibility rules are only relevant to Adult Social Care, they do not apply to assessments carried out by Children's Social Care.

How Direct Payments work

We aim to make setting up and managing Direct Payments as simple as possible. We will provide clear information and advice to support people with a Direct Payment.

Direct Payments Support Guide - [Direct Payments](#) for TSDFT staff access/ [Direct Payments for Adult Social Care - Torbay Council](#) for public access.

Our procedures will be as "light touch" as possible. The procedures we do have are to make sure that we:

- Adhere to the law and national Direct Payment guidance
[The Care and Support \(Direct Payments\) Regulations 2014](#)
[\(legislation.gov.uk\)](#)
[Personal budgets and direct payments - Social care and support guide - NHS \(www.nhs.uk\)](#)
[NHS England » Personal health budgets](#)
- Protect Direct Payment users and/or the people who manage a Direct Payment on their behalf, for example, from financial abuse.
- Make sure that people's eligible care and support needs are being met.
- Protect council tax money to make sure it is spent on meeting eligible care and support needs.

We always recommend people obtain independent financial advice and can provide details of how to do this.

Your opportunity to feedback:

We welcome your comments about the services you receive. If you would like to tell us what you think, please do so by choosing from the options below.

- Contact us by going to our website: [Home - Torbay Council](#)
- Phone Customer Services on 01803 219700
- Contact the Adults Social care team via our PALS service on tsdft.feedback@nhs.net

Appendix 1

Adults Whose Needs the Local Authority Must Not Meet by Making Direct Payments

Direct payments may not be used to meet the needs of people who are:

- a) **subject to a drug rehabilitation requirement**, as defined by section 209 (drug rehabilitation requirement) of the Criminal Justice Act 2003 ("the 2003 Act"), specified in a community order (as defined by section 177 (community orders) of that Act, or a suspended sentence order (as defined by section 189 of that Act).
- b) **subject to an alcohol treatment requirement**, as defined by section 212 of the Criminal Justice Act 2003, specified in a community order (as defined by section 177 of that Act), or a suspended sentence order (as defined by section 189 of that Act).
- c) **released from prison on licence –**
 - i. under Chapter 6 of Part 12 (sentencing: release, licenses and recall) of the 2003 Act or Chapter 2 of Part 2 (effect of custodial sentences: life sentences) of the Crime (Sentences) Act 1997 ("the 1997 Act"), **subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour**; or
 - ii. **subject to a drug testing requirement** under section 64 (as amended by the Offender Rehabilitation Act 2014) (release on licence etc: drug testing) **or a drug appointment requirement** under section 64A (release on licence etc: drug appointment) of the Criminal Justice and Courts Services Act 2000.
- d) **required to comply with a drug testing or a drug appointment requirement** specified in a notice given under section 256AA (supervision after end of sentence of prisoners serving less than 2 years) of the 2003 Act.
- e) **required to submit to treatment for their drug or alcohol dependency** by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act.
- f) **subject to a drug treatment and testing order** imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000.
- g) **required to submit to treatment for their drug or alcohol dependency** by virtue of a requirement of a community payback or probation order within the meaning of sections 227 to 230 of the Criminal Procedure (Scotland) Act 1995 **or subject to a drug treatment and testing order** within the meaning of section 234B of that Act; or

- h) **released on licence under section 22 or section 26** of the Prisons (Scotland) Act 1989 (release on licence etc) or under section 1 (release of short-term, long-term and life prisoners) or 1AA (release of certain sexual offenders) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and subject to a condition that they **submit to treatment for their drug or alcohol dependency**.

***Taken from the Care and Support (Direct Payments) Regulations 2014.
Regulation 2, Schedule 1.***

Document Control Information

This is a controlled document and should not be altered in any way without the express permission of the author or their representative.

Please note this document is only valid from the date approved below, and checks should be made that it is the most up to date version available.

If printed, this document is only valid for the day of printing.

This guidance has been registered with the Trust. The interpretation and application of guidance will remain the responsibility of the individual clinician. If in doubt contact a senior colleague or expert. Caution is advised when using clinical guidance after the review date, or outside of the Trust.

Equality Impact Assessment Template	
Name and role of person completing the EIA	Sharon O'Reilly Deputy Director of Adult Social Services
Date of completion of the EIA	23/09/25
Summary of the project/ policy proposal	Direct Payment Policy
Decision being taken	The policy has been reviewed with minor amendments no less than 20%. The revised policy needs to be approved via the Divisional Directors meeting Framework. The policy needs an updated Torbay Council EIA.
Date of the decision being taken	02/10/25

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	18 per cent of Torbay residents are under 18 years old. 55 per cent of Torbay residents are aged between 18 to 64 years old. 27 per cent of Torbay residents are aged 65 and older.	The policy is the same for anyone of any age. Direct Payments offer choice and control to all people, who draw on care and support	An assessment of eligibility for Direct Payments is not restricted by an individual's age therefore there is equal access to Direct Payments of all Age groups. There is scope for age related review of access to Direct Payments should this be required by Adult Social Care Governance processes.	N/A
Carers	At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.	Direct Payments can be used to support individual carers with their own caring needs. Direct Payments can also provide support to the person to enable respite for the carer.	There is scope for carers receiving Direct Payments to be identified and reported on, should this be required by Adult Social Care Governance processes.	N/A
Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities	Direct Payments offer choice and control to all people, who draw on care and support.	There is scope for identifying anyone with a disability receiving Direct	N/A

	were limited a little or a lot by a physical or mental health condition or illness.		Payments to be identified and reported on, should this be required by Adult Social Care Governance processes.	
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.	Direct Payments offer choice and control to all people, who draw on care and support.	Our current care management system is limited, with identifying people who have identified their gender as not the same as at birth.	EDI data capture is a key component of the CMS project within Adult Social Care.
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	Direct Payments offer choice and control to all people, who draw on care and support.	Our current care management system is limited and only identifies some people who have identified their marriage. Civil partnerships are not reliably captured.	EDI data capture is a key component of the CMS project within Adult Social Care.
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of	<p>Direct Payments offer choice and control to all people, who draw on care and support.</p> <p>The offer of a Direct Payment can offer increased choice and control and reduce the risk of likely discrimination as it provides more choice and control over individual care arrangements</p>	Our current care management system is limited and only identifies some people who have identified as being pregnant.	EDI data capture is a key component of the CMS project within Adult Social Care.

	the last decade across all geographical areas.			
Race	In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.	<p>Direct Payments offer choice and control to all people, who draw on care and support.</p> <p>The offer of a Direct Payment can offer increased choice and control and reduce the risk of likely discrimination as it provides more choice and control over their care arrangements</p>	Our current care management system is limited and is not efficient in recording reliably a person race, and ethnicity description	EDI data capture is a key component of the CMS project within Adult Social Care.
Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	<p>Direct Payments offer choice and control to all people, who draw on care and support.</p> <p>The offer of a Direct Payment can offer increased choice and control and reduce the risk of likely discrimination as it provides more choice and control over individual care arrangements</p>	Our current care management system is limited and is not efficient in recording reliably a person's religious beliefs and culture.	EDI data capture is a key component of the CMS project within Adult Social Care.
Sex	51.3% of Torbay's population are female and 48.7% are male	Direct Payments offer choice and control to all people, who draw on care and support.	There is scope for gender related information to be captured within the current Adult Social Care database. Should this be required by Adult Social Care Governance processes.	N/A

Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	<p>Direct Payments offer choice and control to all people, who draw on care and support.</p> <p>The offer of a Direct Payment can offer increased choice and control and reduce the risk of likely discrimination as it provides more choice and control over individual care arrangements</p>	Our current care management system is limited and is not efficient in recording reliably a person's sexual orientation.	EDI data capture is a key component of the CMS project within Adult Social Care.
Armed Forces Community	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.	Direct Payments offer choice and control to all people, who draw on care and support.	Our current care management system is limited and is not efficient in recording reliably a person's community within the armed forces.	N/A
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		<p>Direct Payments offer choice and control to all people, who draw on care and support.</p> <p>The review of this document reinforces the option of a direct payment for people who draw on care and support.</p> <p>The republication of this document will also serve as a drive to increase</p>	No mitigation action needed	N/A

		the number of people accessing Direct Payments and will include targeted training for all adult social care staff. This provides a further opportunity to reduce the socio-economic impacts on people in our community.		
Public Health impacts (Including impacts on the general health of the population of Torbay)		<p>Direct Payments offer choice and control to all people who draw on care and support.</p> <p>The review of this document reinforces the option of a direct payment for people who draw on care and support.</p> <p>The republication of this document will also be a drive to increase the number of people accessing Direct Payments and will include targeted training for all adult social care staff. This provides a further opportunity to reduce the public health impacts on people in our community</p> <p>The provision of a direct payment will offer increased opportunities to access relevant support, to access relevant health support and keep well within their own homes.</p>	No mitigation action needed	N/A

Human Rights impacts		The policy meets the statutory duties under the Care Act 2014	No mitigation action needed	N/A
Child Friendly	Torbay Council is a Child Friendly Council and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	The provision of a Direct Payment supports the whole family approach as Directed by the Care Act 2014.	No mitigation action needed	N/A

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Purpose of document:	Policy		
Date of issue:	2 October 2025	Next review date:	16 October 2027
Version:	6	Last review date:	2 October 2025
Author:	Principal Social Worker		
Directorate:	Adult Social Care Professional Practice		
Equality Impact:	The guidance contained in this document is intended to be inclusive for all patients within the clinical group specified, regardless of age, disability, gender, gender identity, sexual orientation, race and ethnicity & religion or belief		
Committee(s) approving the document:	Care and Clinical Policies Group		
Date approved:	2 October 2025		
Links or overlaps with other policies:			

Have you identified any issues on the Rapid (E)quality Impact Assessment. If so, please detail on Rapid (E)QIA form.	Yes <input type="checkbox"/>	
	Please select	
	Yes	No
Does this document have implications regarding the Care Act? <i>If yes, please state:</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
People will need to be assessed under S9 of the Care Act to be eligible for Direct Payments.		
Does this document have training implications? <i>If yes, please state:</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Yes, colleagues will need to understand purpose and benefits of Direct Payments. Colleagues will need to understand Direct Payments are strengths based and offer choice and control to people.		
Does this document have financial implications? <i>If yes, please state:</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Yes people will need to be financially assessed, to be eligible for Direct Payments.		
Is this document a direct replacement for another? <i>If yes, please state which documents are being replaced:</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
New version and update.		

Document Amendment History

Date	Version no.	Amendment summary	Ratified by:
8 January 2021	1	New	Care and Clinical Policies Group
16 October 2024	2	Revised	Care and Clinical Policies Group
26 June 2025	3	Revised	Minor amendments
04 July 2025	4	Revised	Minor Amendments
02 October 2025	5	Revised	Minor Amendments
02 October 2025	6	Revised	Minor Amendments

The Mental Capacity Act 2005

The Mental Capacity Act 2005 provides a statutory framework for people who lack capacity to make decisions for themselves, or who have capacity and want to make preparations for a time when they lack capacity in the future.

It sets out who can take decisions, in which situations, and how they should go about this. It covers a wide range of decision making from health and welfare decisions to finance and property decisions.

There is a legal duty placed upon all staff to apply the Mental Capacity Act 2005 in all circumstances where a person is required to consent to 'acts in connection with care and treatment' and where there is reason to doubt the person's mental capacity to do so.

Guidance can be accessed via [The Mental Capacity Act - Torbay Council](#)

Infection Control

All staff will have access to Infection Control Policies and comply with the standards within them in the workplace. All staff will attend Infection Control Training annually as part of their mandatory training programme.

A Ratification sheet for Protocol and Guideline Ratification

Ref No: 2646
Title: **Direct Payments Policy**

Responsible for review	Designation	Approval of policy	Date
Sharon O'Reilly	Deputy Director ASC	Approved	13/11/2025

*Ratified By Name	Designation	Signature	Date Approved
Gary Patch	ASC Divisional Director		19/11/2025
Sam French	Associate Director of Operations		20/11/2025
Jon Anthony	Associate Director of Professional Practice		27/11/2025
Sharon O'Reilly	Deputy Director ASC		13/11/2025

***Please note:**

- Your new/revised document will not be published on the intranet until a fully signed off Ratification Sheet is received by the Clinical Effectiveness Department.
- Please ensure that your document is approved by your peer group and ratified by your Clinical Lead.
- If your document contains references to any form of drug, ratification from the Clinical Director of Pharmacy is required **in addition** to your Clinical Lead ratification.

Links or overlaps with other policies:

The Mental Capacity Act 2005 Policy

The Care and Support (Direct Payments) Regulations 2014

Equality and Diversity Policy

Financial Assessment and Charging Policies