

Title/Status-	GUIDANCE- Direct Payments (Short Breaks through self-assessment)
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Leicestershire Procedure for Direct Payments (Short Breaks through self-assessment)

Applies to- Children in particular circumstances

3.1.2 Direct Payments (Short Breaks through self-assessment)

Scope of the guidance

This document details what a Direct Payment is. It covers the eligibility criteria and what the funding can/cannot pay for.

Statutory Legislation and Guidance

- The Special Educational Needs (Personal Budget and Direct Payments) Regulations (2014)
- The Special Educational Needs (Miscellaneous Amendments) Regulations (2014)
- Care Act 2014
- DHSC, Care and Support Statutory Guidance – issued under the Care Act 2014
- SEN Code of practice (2015)
- Children and Families Act 2014
- Equality Act 2010

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1. What Are Direct Payments

A direct payment within a Short Break context is money given to children aged 16 / 17 years who have a disability and to parents or carers aged 16 or over of children and young people (aged 5 to 17), by the local authority to enable them to buy in support that is assessed as being needed, instead of the authority providing that support through their own services. Direct payments do not affect benefits.

The local authority must be satisfied that the person who receives the direct payment is able to manage the direct payments by themselves and will use them in an appropriate way to meet the needs in question and that they will act in the best interests of the child or young person.

The self-assessment process will initially make the presumption that the person receiving the direct payment is able to manage payments. The local authority will hold the right to quality assure 10% of all direct payments being made to ensure that funds are being spent appropriately. This will be part of the initial agreement with families upon receipt of a direct payment.

2. Who Can Get Direct Payments?

Those who have been assessed as meeting the eligibility criteria for a short break as defined within the Short Break statement aged 5 to 17 years.

3. How Often Are Direct Payments Made?

For those families receiving the summer direct payment card, a one-off payment will be made.

For those families receiving a year-round package, direct payments will be made on a direct payment card every four weeks, resulting in thirteen payments over a year.

4. What Is The Process?

Direct payments can be awarded through the self-assessment process (initially if participating in the pilot until fully rolled out). The process will assess a specified amount of

money across a year. Under the self-assessment process, a yearly reassessment is needed by parents to ensure that the funding continues. If this is not completed, within the month, the funding will stop, and any remaining money reclaimed. A new assessment can be submitted but this may lead to a delay in receiving a direct payment.

5. Direct Payments (self-assessed) can be spent

Parent/carers have been requesting to use direct payments in more innovative ways to better meet the needs of their child or young person.

- After school clubs and holiday play schemes;
- Memberships, e.g. gym, theme parks;
- Family days out, community activities;
- Toys/equipment/resources.

6. Direct Payments (self-assessed) cannot be spent/used on

- The running costs (e.g. cost of electricity) or maintenance costs (servicing mechanical equipment or replacement of tyres/brakes, etc) of items purchased through a direct payment.
- The employment of a Personal Assistant or any other paid role, i.e. household cleaner
- Alcohol, cigarettes, repayment of debts, any form of gambling or goods or services that are obtained unlawfully or which are illegal (for example drugs);
- Everyday living expenses for the whole family, i.e., groceries, utilities, etc.

Healthcare

Services that the NHS are required to provide - and not to be purchased through a direct payment:

- nursing care;
- physiotherapy, dressings;
- medication;
- operations;
- support while in hospital (see also 8. Hospital stays)
- transport to access medical appointments or equipment/ resources, dental treatment or prescriptions).

7. Hospital Stays

It could well be that those in receipt of Direct Payments require stays in hospital. This would not necessarily mean that the direct Payments should cease. Guidance advises that consideration should be given by the local authority, the carer, the holder and NHS Trust to as to how the payments might be used to meet non-health need.

8. What are the benefits of Direct Payments?

Direct Payments allow parents and young people greater choice, flexibility and control. Children and young people can be involved in deciding what they want to do with their funds and parents and carers will know what best will meet their child's needs. Families will have 12 months to spend the funds and can decide whether to use a regular monthly amount or save funds for periods of the year which they often find more challenging, such as the long summer holidays.

9. Decisions not to make Direct Payments

During the self-assessment process, there are set points where a decision to not award a direct payment will be made:

- a) Not meeting the eligibility criteria (level 1);
- b) Meeting the eligibility criteria but not meeting the second stage questions.

A message will appear at either of these points detailing that the criteria has not been met and will signpost to the Local Offer. There is also the option of requesting an assessment of need through a Short Break assessment with either a Family SEND Support Worker or a Social Worker. A separate application will need to be made to access the assessment.

10. Monitoring and Review of Direct Payments

The self-assessment process does not include a formal review of the use of Direct Payments. Families will need to apply on an annual basis. Monitoring will take place on 10% of families for quality assurance purposes. This may include a home visit or telephone call and could include requesting receipts for items purchased.

11. Reducing the amount of Direct Payments

The local authority may reduce the direct payments, where:

- The circumstances of the child or young person have changed in a manner which has impacted on the appropriateness of the agreed provision;
- All or part of the Direct Payments have not been used to secure the agreed provision;
- Theft, fraud or another offence may have occurred in connection with the Direct Payments;
- Payments have continued after a child or young person has died.
- If a child or young person is no longer living with the family that had originally applied for the short break, a re-assessment will take place via the self-assessment process, to ensure needs are being met at the appropriate level.

12. Repayments and Recovery of Direct Payments

The local authority may require the recipient to repay part or all of the direct payments, where:

- The circumstances of the child or young person have changed in a manner which has impacted on the appropriateness of the agreed provision;
- All or part of the Direct Payments have not been used to secure the agreed provision;
- Theft, fraud or another offence may have occurred in connection with the Direct Payments;
- Payments have continued where a child or young person has died;
- A child or young person is no longer living with the family that had originally applied for the short break
- Any remaining balance left over at the end of the year (anniversary of the first payment).

It must give notice in writing (including email) to the recipient, setting out the reasons for the decision, the amount to be repaid and a reasonable timescale within which the amount must be repaid.

The local authority must reconsider its decision when requested to do so by the recipient (but it is not required to undertake more than one reconsideration of a decision). When conducting its reconsideration, the local authority must consider the representations made by the recipient (and where the recipient is a nominee, any representations made by the child's parent or young person) and must then provide written reasons of its decision following the reconsideration to the recipient (and to the child's parent or young person, where the recipient is a nominee).

The local authority may only seek repayment of any portion of the Direct Payments that has not already been spent on the agreed provision.

13.Ceasing Direct Payments

The local authority must stop making Direct Payments if:

- The recipient has notified the local authority in writing that he or she no longer consents to receive the Direct Payments;
- The parent/carers or recipient does not re-apply for the subsequent 12 months.
- The child/young person no longer meets the eligibility criteria, for example, moves out of the county.

14. Appeals Process

If the recipient does not agree with the level of support that has been assessed, or a decision to discontinue direct payments, the recipient is able to request an assessment which will be carried out by a SEND Family Support Worker or a Social Worker.

Leicestershire County Council complaints procedure

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