

DORSET

COUNCIL

**Children’s Services**

**DIRECT PAYMENTS**

**Policy**

Reviewed April 2019

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**Direct Payments :**

**Carers of Children Who Are Disabled**

# A: Introduction to the Policy

1. The overall purpose of this policy is to increase choice and control, flexibility and social inclusion for children and young people who are disabled. People who choose Direct Payments will be able to:
	* Exercise control over their support arrangements.
	* Access a range of flexible services and activities.
	* Find ways to have their needs met more fully reflecting their cultural needs and requirements.
	* Have increased understanding of the risks and safety choices when choosing how care for their child is purchased.
	* Receive support in managing their Direct Payments.
2. This policy covers children and young people from the Dorset Council area. It is designed to standardise the provision of Direct Payments across the Local Authority and to make Direct Payments easily accessible for families and young people. It has a particular emphasis on:
	* Enabling children and young people from all ethnic groups to have access to the choices that Direct Payments bring.
	* Promoting the use of Direct Payments for young people aged sixteen or seventeen to support independence and the effective transition into adulthood.
3. The policy provides guidance to assist Local Authority lead professionals, Early Help services managers and Social Care Staff in the management and administration of setting up Direct Payment arrangements.
4. The policy will ensure that the Authority discharges its statutory responsibilities for providing Direct Payments and for managing the spending of public funds in an equitable and cost-effective basis.

# B: Introduction to Direct Payments

1. Direct Payments are a different way of the Local Authority fulfilling their existing responsibilities to children who are disabled and their parents. A Direct Payment is a cash payment made by the Local Authority to an individual who has been assessed as needing children’s services. The Local Authority makes the cash payment to the people with parental responsibility (or directly to the young person) so that they themselves can arrange the services that they need. The payment is then used to secure the relevant services.
2. So long as the Local Authority is satisfied that the person's assessed needs will be met through the arrangements made using the Direct

Payments, the Local Authority is relieved of its responsibility to arrange those services for that person.

1. Direct Payments are not intended to replace informal care arrangements and in normal circumstances should not be used to employ relatives living in the same household.
2. If the conditions are met, a Local Authority has a duty to make a Direct Payment. Payments may only be made if the person agrees and they have a choice of whether to receive services provided by the Local Authority. Recipients of services should not be unfairly influenced in their choices one way or the other.

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| …local councils will be required to make Direct Payments where an individual who requests and consents to one meets the criteria’.**The Health and Social Care Act 2001**  |

1. Before a Direct Payment can be offered an assessment must be undertaken. The involvement of the Local Authority and complexity of the assessment process should be proportionate to the needs and outcomes of the child and family.
2. The assessment will take account of the circumstances of both the child and the child’s parents or carers and will meet the requirements within the Children Act 1989, Carers and Disabled Children Act 2000 and the Children and Families Act 2014.

# C: Eligibility for Direct Payments

1. **Local Eligibility Criteria**

The Local Authority has a legal obligation to publish an Eligibility Criteria which clearly identifies who may qualify for a service and how this decision will be reached. The Childrens Services Eligibility Criteria is published as part of the Local Offer.

1. **Who can Direct Payments be offered to?**

Within Children’s Services Direct Payments can only be offered to three groups of people:

* 1. Persons with parental responsibility for a child who is disabled who undertake a ‘caring role’ for the child.
	2. A young person who is disabled aged sixteen or seventeen.
	3. Young carers over the age of sixteen (in exceptional circumstances[[1]](#footnote-1)).

### 03. Parental responsibility

In most situations parents have ‘parental responsibility’ for the child. This means that they assume all the rights, duties, powers, responsibilities and authority that a parent of a child has by law.

People other than a child's biological parents can be given parental responsibility through:

* being granted a child arrangements order.
* being appointed a guardian.
* adopting the child.

### 04. Child who is disabled

For Direct Payments a child is deemed a ‘disabled child’ if Section 17a of the Children Act [CA 1989] applies:

*“a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—*

05. ‘*development’ means physical, intellectual, emotional, social or behavioural development; and*

*‘health’ means physical or mental health.”*

Children Act 1989

### 06. Caring role

For Direct Payments the definition of a carer is found within the Carers (Recognition & Services) Act 1995:

 *“Someone who provides (or intends to provide) a substantial amount of care on a regular basis for a disabled/ill/elderly person”.*

### 07. Substantial amount

As a guide to what is a ‘substantial caring role’ the acquisition of Carers Allowance indicates that a carer must spend at least thirty five hours a week regularly caring for a person. This figure of thirty five hours can only apply to carers of adults and does not consider that the person with ‘parental responsibility’ already has substantial caring role responsibilities for the child.

1. LAC(96)7 suggests that 'substantial' should be given a wide interpretation and fully take into account the individual circumstances of the carer.
2. The Local Authority should not keep strictly to a 'time' criteria when defining whether the person with parental responsibility is a carer as the impact of the caring role is different for individual circumstances.

### 10. Regular

'Regular' simply means an event which recurs at uniform intervals (i.e. not necessarily frequent).

1. **When is a Direct Payment not suitable?**

A Direct Payment cannot be used to purchase services provided directly by the Local Authority or used to replace NHS services or services provided by housing departments (such as Disabled Facilities Grants).

1. Direct Payments will not be provided if the Local Authority is not satisfied that the person’s needs for the service can be met by using a Direct Payment or if the Direct Payment is not safeguarding or promoting the child’s welfare.
2. Where the Local Authority decides that it is taking all reasonable steps to offer a Direct Payment (over and above the cost of a Local Authority provision) but the costs are too prohibitive to be 'reasonable'.
3. The Local Authority may decide to discontinue the Direct Payment with immediate effect if there is reasonable reason to consider that Direct Payments may be misspent.
4. If the Direct Payment funds overnight care the child is not considered ‘looked after’ by the Local Authority.

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| In calculating the period of 4 weeks a period of less than 4 weeks shall be added to any succeeding periodwhere the two periods are separated by a period of less than 4 weeks.**Community Care, Services for** **Carers and Children's Services** **(Direct Payments) (England)** **Regulations 2003. Paragraph 76.**  |

1. A Direct Payment cannot be used to fund overnight provision for a single period of more than four weeks (28 days) in any twelve-month period. The Direct Payment recipient should be advised that they need a gap of four weeks between overnight stays otherwise the overnight stays become one single period and the four-week rule applies.
2. A Direct Payment can not be used for overnight care in excess of 75 days in any period of twelve months.

# D: Direct Payments and registration as a childminder

1. Childminding regulations apply to all child care arrangements for children under the age of 8 years. These regulations state the 'anyone caring for a child under eight for over two hours a day in their own home has to be registered as a childminder' (Section 79D, Children Act 1989).
2. Carers of children aged 8 and over are encouraged to join the Childcare Approval Scheme, a voluntary scheme for approving childcare providers and enabling parents and employers to check if a carer is approved, has a suitable childcare qualification, and has had an enhanced Criminal Records Bureau check.

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| If the recipient of the Direct Payment intends to employ a person to look after a child under 8 years in their own home for more than two hours the lead professional should advise them that it is a requirement that the employee is registered as a childminder and be regulated by Ofsted.  |

1. 'Start-up' grants from local authorities can be made available for new childminders to cover the costs of registration and getting their business going. The local Family Information Service (FIS) should be contacted via the Childcare Link line on 0800 096 0296 to find out about availability of these grants.
2. If a grant is not available the Direct Payment paid to the parent will include a 'setting up' element and this element should be sufficient to cover the cost of registering as a childminder if the person employed through Direct Payments is not already registered.
3. Direct Payments may not be the best way to support the use of childminder to provide after school assistance. If on a low income the parent may be eligible to claim Working Family Tax credit and claim her/his child care costs through this method. If the parent wishes to obtain the childcare element of working tax credits, the person caring for the child needs to be either registered as a childminder (if caring for a child under the age of eight in the carer's home) or as a home child carer if the child is cared for the in child's home.
4. Further information about childminding can be found on the Dorset Council website.

# E: Using Direct Payments to look after another child in the household.

1. Direct Payments can only be used for those assessed needs that the Local Authority has agreed to meet. The Local Authority must be satisfied that the services bought with Direct Payments safeguard and promote the welfare of the child for whom the Direct Payment is intended.
2. Direct Payments guidance states that people should be encouraged to identify alternatives that meet their needs more effectively by exploring innovative and creative options. Lead professionals should therefore work flexibly in partnership with children and parent carers.
3. The Children Act 1989 emphasises a child 'in need' as part of their family. Lead professionals should discuss with parents and siblings how they can best be supported via services purchased to meet the needs of a child who is disabled. A personal assistant could for example supervise siblings of a disabled child whose care needs are particularly complex, requiring skilled support which only their parent can provide.
4. It is not lawful in the current legal and regulatory framework to use Direct Payments to routinely provide child care or other services solely for children who are not disabled.

# F: Other Direct Payment information

1. Where a child is in a setting in which he or she is receiving what may be regarded as a package of care and this can be broken down into clearly identifiable and separate elements, regulation 7(3) does not affect the use of Direct Payments to pay for elements of that package that meet the child's assessed care needs where the other elements are being self funded. *R (on the application of M) v Suffolk County Council, [2006] All ER (D) 363 (Jul)*.
2. A Direct Payment cannot be used for overnight stays of more than 28 consecutive days or more than 75 days per year. Regulation 7(3) of the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003, (S.I. 2003/762).
3. 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. However, where the Local Authority decides that it is taking all reasonable steps to offer a Direct Payment (over and above the cost of a Local Authority provision) but the costs are too prohibitive to be 'reasonable' it may impose an upper limit to Direct Payment levels.
4. The responsible manager may decide to discontinue the Direct Payment if the person fails to comply with a condition to which the Direct Payments are subject, for example that the payments must be used to obtain services that the user has been assessed as needing and the Local Authority has reasonable reason to fear that further payments may be misspent.
5. Should the parent choose to purchase a service that is more expensive than the reasonable level (benchmarked rate) then they can ‘top-up’ this rate from their own funds.
6. The Direct Payment should not be used to employ a spouse, partner or close relative living in the same household as the Direct Payment recipient[[2]](#footnote-2).
7. However, employing someone who falls into this category could be agreed if it is the only effective way to meet a child or young person's complex needs.
8. Families may employ a relative who does not live in their household.
9. An individual wishing to work with the child may make a direct application to the Local Authority for a criminal records DBS check to be carried out. In this situation the application will be counter-signed by the Local Authority and a fee is required for each background check. The Direct Payment recipient can ask to see the DBS check held by the prospective employee. An organisation commissioned by the Local Authority to find and train carers will require funding under this category.

# G: Moving into adulthood – Direct Payments for young people who are sixteen or seventeen.

1. There are a number of differences between the legislation around Direct Payments for children and for adults. Of particular relevance is the focus in Children’s Services to – *‘keep families together*’ whereas the legislation for Adults focuses more on – *‘the promotion of independence’*.
2. 16 and 17 year olds can apply to manage their own Direct Payments and should have “sufficient understanding” to make an informed decision. The Local Authority lead professional will be able to tell a young person if they are eligible for a Direct Payment as part of their assessment. Direct Payments can be used for young people going to college, or for transport and leisure. Parents can still receive a Direct Payment in their role as a carer at the same time.

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| Direct Payments for children and young people should be used as an opportunity to prepare young people for the self-directed support and to help them in the transition into adulthood.  |

1. Parents often face challenges or problems in supporting and preparing their children for an independent adult life. The transition to financial independence and independent living is not usually a single event, nor does it happen quickly. Families with a child who is disabled often face additional challenges that may delay or limit the child’s move towards independence. For any young person the process of growing up involves the gradual taking on of more and more responsibility for himself or herself.
2. In some cases the young person at age 16 or 17 may wish, as part of the transition to adulthood, to take control of parts or all of the Direct Payment that has to date been managed by the person with parental responsibility. This can allow them to gain experience of managing Direct Payments in a gradual way prior to reaching adulthood.
3. Young people who are disabled aged 16 or 17 are entitled to take advantage of the flexibility of Direct Payments where this will safeguard and promote their welfare. Direct Payments enable them to make more decisions for themselves and to provide opportunities for them to have more control over their lives.
4. There will be situations where young people who are disabled aged 16 or 17 will express their wish to manage a Direct Payment but their parents and the Local Authority have reason to believe that they are not at the moment capable of managing a Direct Payment by themselves or with help. In such circumstances the requirements of the Mental Capacity Act should be followed to determine what the young person’s capacity and best interests are. If the young person does not agree with the Local Authority’s judgement, they should have access to advocacy and the opportunity for discussions with the Local Authority to ensure that their arguments are properly considered. The Local Authority’s complaints procedure should also be open to the young person.

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| Where there is a difference of view between children and their parents over such matters, provided that the children have sufficient understanding to make informed decisions, the Local Authority should give precedence to the views of the children. **Carers and Disabled Children** **Act 2000 and Carers (Equal Opportunities) Act 2004** **Combined Policy Guidance**  |

1. A way to develop a young person’s ability to manage the Direct Payment can be to put in place. The young person can be enabled to manage only a proportion of their support with a Direct Payment. This proportion could increase as the young person matures, with the objective of full management of the support package at age 18.
2. Young people who receive Direct Payments may also find it helpful to have access to advocacy support. This should be separate from any support/advocacy provided to their parents.
3. It follows that there may be situations where it would be right for a young person to receive a Direct Payment whether the parents agree or not, although it is important that the Local Authority considers the welfare of the young person in such circumstances.
4. The *Special Educational Needs and Disability (SEND) Code of Practice* requires that where a young person has an Education, Health and Care Plan this addresses outcomes, needs and provision related to their transition to adulthood. It is a key document for the agencies involved with the young person and should inform any other assessments of the young person, join up with other plans (such as a Pathway Plan) and should inform decisions made about Direct Payments to young people who are disabled.
5. It will be important for local authorities to respect the views of parents who have been managing the delivery of support for their child and take account of those views in setting in place any new arrangements once the young person reaches eighteen.
6. Direct Payments for children and young people operate according to different criteria than Direct Payments provided by Adult Services. During the transition phase planning should occur regarding the continuation of the care plan. If arrangements are to change the Local Authority lead professional must inform the carers of the changes both to the care plan and the future payment arrangements.

# H: Intimate care for a child using Direct Payments.

1. Parents may use Direct Payments to purchase services of an intimate nature to meet the assessed needs of their child. However, as children mature parents should be encouraged to give greater weight to the child’s views about how their intimate care needs are to be met.
2. The parent should employ people with the skills and knowledge required to care for their child. If extra or more specialised training is required the cost of this training should be included within the Direct Payment funding. The Local Authority lead professional should encourage the parent to discuss training and should assist the parent in securing the training required.

# I: Monitoring and review

1. When a person chooses to receive Direct Payments, he or she takes on the responsibility for securing the provision of services to which the Direct Payment relates. Monitoring arrangements should be consistent both with the requirement for the Local Authority to be satisfied that the person’s needs for the service can and will be met and with the aim of promoting and increasing choice and independence.
2. Wherever possible Local Authorities should focus on achieving agreed outcomes, rather than on the service being delivered in a certain way. The Local Authority should discuss with individuals what steps it intends to take to fulfil its responsibilities. It may also wish to discuss how it might support them in securing adequate quality care. It should be prepared to consider variations to what it proposes.
3. Local Authorities should aim to ensure that the information that the Direct Payment recipient is asked to provide is as straightforward and the least onerous possible, consistent with monitoring requirements.
4. The Direct Payment should be formally reviewed every six months.
5. Financial monitoring arrangements for audit purposes are in place. Before people decide to accept Direct Payments, the Local Authority lead professional should ensure the Direct Payment recipient is aware of the information they will be expected to provide and the way in which monitoring will be carried out.
6. It is important that audit arrangements are as simple and easy to understand as possible. Complicated paperwork can be a significant disincentive for people considering Direct Payments. It is worth taking time to discuss with individuals what is required in order to avoid being needlessly intrusive.

# J: Discontinuing Direct Payments

1. A person for whom Direct Payments are made may decide at any time that they no longer wish to continue with Direct Payments. The Regulations provide that a Local Authority shall cease making Direct Payments if the person no longer appears to the Local Authority to be capable of managing the Direct Payment or of managing it with help.
2. The Regulations also state that a Local Authority shall also stop making Direct Payments if it is not satisfied that the person’s needs for the service can be met by using a Direct Payment or if the Direct Payment is not safeguarding or promoting the child’s welfare.
3. The Local Authority might also discontinue payments if the person fails to comply with a condition to which the Direct Payments are subject, for example that the payments must be used to obtain services that the user has been assessed as needing and the Local Authority has reasonable reason to fear that further payments may be misspent.
4. The Local Authority lead professional [or Team Manager] should discuss with individuals as soon as possible if they are considering discontinuing Direct Payments to them. They should be given an opportunity to demonstrate that they can continue to manage Direct Payments, albeit with greater support if appropriate. A minimum period of notice will be established that would normally be given before Direct Payments are discontinued. This should be included in the information to be provided to people who are considering Direct Payments.
5. It will be extremely unlikely that the Local Authority will discontinue Direct Payments without giving notice. For example Direct Payments may be discontinued without giving notice if a child or young person is put at risk of significant harm or if Direct Payments are used in a fraudulent way.
6. Unless there are exceptional circumstances the notice period for the discontinuation is 28 days. This may be extended to 3 months if the Direct Payments recipient has a contractual obligation requiring a longer notice period, for example as an employer.
7. The Local Authority lead professional should explain to people, before they begin to receive Direct Payments, the *exceptional* circumstances in which a Direct Payment might be discontinued and discuss with them the implications this has for the arrangements that individuals might make. *The council should not automatically assume when problems arise that the only solution is to discontinue or end Direct Payments.*
8. Direct Payments should be discontinued when a person no longer needs the services for which the Direct Payments are made. This might particularly happen in situations where the Direct Payment is for short-term care packages.
9. There may be circumstances in which the Local Authority suspends or discontinues Direct Payments temporarily, which may be with immediate effect, if this is reasonable. An example might be when an individual does not require assistance for a short period because their situation has improved, and they do not require the services that the Direct Payment is intended to secure, or if the DP cannot be used for any reason. Such a change in circumstances will in most circumstances be facilitated alongside a reassessment. However, there may be short term situations, for example if the child is admitted into hospital, where a reassessment is not required.
10. If Direct Payments are discontinued, some Direct Payment recipients may find themselves with ongoing contractual responsibilities or having to terminate contracts for services (including possibly making employees redundant). The Local Authority lead professional should take reasonable steps to make people aware of the potential consequences if Direct Payments end. The Direct Payment recipient is responsible for the cost of funding such contractual arrangements and in usual circumstances this cost is reimbursed to the recipient by provision of an additional Direct Payment.

# K: Complaints

1. Local authorities are required to operate a procedure for considering any representations (including any complaints) which are made to them with respect to the discharge of their social services functions or about any failure to discharge those functions. The making of Direct Payments is a social services function within the meaning of section 1A of the Local Authority Social Services Act 1970.
2. People who receive, or consider that they should receive, Direct Payments are entitled to have access to this procedure in the same way as someone who receives services provided or arranged by the Local Authority.
3. There is also a complaints procedure under section 26 of the Children Act 1989 which may be used to complain about Direct Payments made under section 17A of that Act

# L: Provision of equipment

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| Direct Payments Guidance states: ‘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 fulfil the needs for the service to which the payment relates.’ **Department of Health,** **Paragraph 82, page 22** |

1. When an assessment has been undertaken by a Paediatric Occupational Therapist a Direct Payment may be used to purchase some equipment.
2. When the person with parental responsibility uses Direct Payments to employ their own carers equipment may be required to ensure that the health and safety (moving and handling) requirements for their employees can be fully met.
3. In such circumstances the Local Authority lead professional/social worker should decide whether the equipment requested is an essential requirement if the care is to be safely undertaken. To make this decision they may need to consult with a paediatric occupational therapist.
4. If there is a genuine health and safety requirement confirmed by a paediatric occupational therapist the Local Authority must meet the equipment needs identified within the assessment. The amount of the Direct Payment must be sufficient to cover the reasonable full cost of purchasing services that meet the identified needs, this includes equipment.
5. The equipment can be directly provided by the Local Authority or a Direct Payment to purchase the equipment can be given to the parent.

# M: Direct Payments and Early Help.

1. The Carers (Recognition and Services) Act 1995 allows for the assessment of the carers to be undertaken *‘in such manner and take such form as the Local Authority considers appropriate’*. This flexibility alongside the need for ‘proportionate assessment’ enables the Local Authority to, in some circumstances and if they so choose, use an Early Help assessment to identify needs and plan for services.
2. In these circumstances the appropriate Local Authority lead professional from the Council’s Children who are Disabled Team may instigate a Direct Payment following a Team Around the Child/Family (TAF) Meeting.
3. This can only happen where the proper application of the Childrens Services Threshold Tool identifies that involvement with a child who is disabled and their parent carer(s) and family by specialist services (social workers) is not required.
4. Under these conditions the Local Authority lead professional will be responsible for the setting up of the Direct Payment (supported by the Direct Payment Support Service) and will follow the procedures as outlined above.
5. The Local Authority may wish to use Direct Payment vouchers to stabilise or stimulate the potential sources of provision for families. Direct Payment vouchers are given to the parent following assessment to purchase services to meet the identified outcomes from the child’s plan. The parent is limited as to which organisations will accept the voucher. The organisation then has a period of secured funding to provide sufficient opportunity for sustainable growth. Dorset Council does not however currently run a voucher scheme.

# N: Review

1. The Local Authority will review the Direct Payments every six months. Complex packages (high cost or intensive packages) may require more frequent monitoring. As part of the review the following areas will be covered:-

02.  The needs identified within the child’s and carer’s assessment are

 being met by the use of the Direct Payment. If not is a change to

 the package required?

* + Have the needs changed. If so is a re-assessment required?
	+ Has managing the Direct Payment been problematic in any way?
	+ Are funding arrangements working?
	+ Financial monitoring, review and audit
	+ Are proper records being kept?
	+ Is the child being adversely affected by the arrangements?
	+ How is the package of care to continue?
1. The Direct Payments Review may take place as part of an Early Help review, Team Around the Child/Family Review, Child in Need Review, or other Childrens Services process.

# O: Commissioning and Managing Process.

1. The local authorities should take care to ensure financial planning systems and commissioning arrangements take account of changing patterns of demand, including increases in demand for Direct Payments.
2. Problems with internal budget management procedures may not be used as a reason to refuse or delay the offering or start of a Direct Payment to a person to whom there is a duty to make a Direct Payment.

# P: The role of the Direct Payment recipient

1. **The Direct Payment recipient will:**

Enter into an agreement regarding the plan and the associated expenditure.

1. Spend the Direct Payment only to meet outcomes identified within the plan.
2. Provide information so that expenditure can be monitored
3. Open a bank account for use with the Direct Payments
4. Recruit staff and purchase services safely
5. Pay staff using cheque or bank transfer (not cash)

# Q: The role of the Local Authority

1. **Allocation of a Direct Payment**

The Direct Payment is awarded to the main carer who has the legal parental responsibility for the child.

1. The Direct Payment can be awarded to meet all or part of the identified outcomes within the child’s plan.
2. The Local Authority must be satisfied that the agreed outcomes are being achieved through the use of a Direct Payment.
3. The Local Authority has to be satisfied that the Direct Payment will ‘safeguard and promote’ the welfare of the child for whom the service is needed.
4. It is important that people with parental responsibility for children who are disabled are fully alerted to any risks of abuse and provided with advice to minimise those risks. The Local Authority should make clear the steps that people with parental responsibility for a child who is disabled ought to take to satisfy themselves that the person offering help with the care of their child is a suitable person[[3]](#footnote-3). This advice is provided by the contracted Direct Payments support agency and can be supplemented by the lead professional.

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| To offer a level of payment that is insufficient for the purpose is deemed as declining the recipient of a Direct Payment. Direct Payments must be provided if requested and cannot be declined unless the council considers that provision of a Direct Payment is not safeguarding or promoting the child’s welfare.  |

1. The amount of the Direct Payment must be

 sufficient to cover the full cost of purchasing services that meet the identified needs as well as other costs, for example costs related to employing people.

1. *Direct Payments Guidance states:*

*‘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 fulfil the needs for the service to which the payment relates.’* ***Department of Health, paragraph 82, page 22***

1. The amount of Direct Payment should be sufficient to cover expenditure such as:

*National Insurance, Holiday Pay, Sickness Pay, Insurance Costs and Enhancements, i.e. increased wages for overtime, bank holidays,*

*additional recruitment etc. It should also include the cost of training (e.g. invasive treatment, lifting), covering the cost of sleeping arrangements if staying overnight and the employee’s expenses, such as entrance fees to a swimming pool.*

*Direct Payments Guidance, 2003 (Para 83)*

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| In estimating the reasonable cost of securing the provision of the service concerned the Local Authority should include associated costs that are necessarily incurred in securing provision, without which the service could not be provided, or could not lawfully be provided.' Direct Payments Guidance, 2003 (Para 83)  |

1. **Calculating the amount of Direct**  **Payment**

A Direct Payment is not intended to purchase a homogenous service, but a service that maximises user choice and flexibility. The amount of Direct Payment allocated may vary considerably between individuals and more generally between user groups.

1. Direct Payments are designed to be a mechanism to enhance the role of the consumer in the market place. The setting of Direct Payment rates at below market value reduces the opportunities to stimulate a thriving and competitive market place.
2. **Guiding principles:**
	1. The payment should be in line with local average costs of the main substitute service (typically home care or domiciliary care), but with a deduction for the proportion of the cost of that service that can be attributed to direct and indirect overheads.

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| “We have changed the law so that where there was a power, there is now a duty so that councils must make a Direct Payment to people who can consent to have them. This means that Direct Payments should be discussed as a first option with everyone, at each assessment and each review.” Secretary of State for Health (2006) Our health, our care, our say: a new direction for community services. Department of Health.  |

* 1. If employing a personal assistant the rate of Direct Payment should be set at a level which is sufficient to pay a ‘market’ wage rate’ that matches the rate of pay to the skills, knowledge and level of difficulty of the task.
	2. If purchasing a service through an organisation or voluntary sector provider the Direct Payment should be set at a level which is sufficient to purchase this service.
1. 4. Allowances should be made for
	* Rurality (where recruitment or transport issues apply)
	* The complexity of the individual’s needs.
	* The frequency of expecting the employee to work unsociable hours, bank holidays, late evenings or overnights
2. The use of Direct Payments should not be viewed as an opportunity for efficiency (cost) saving.

# R: The role of the Social Worker or Local Authority lead professional

1. Discuss with the carer whether a Direct Payment may be a way to meet the identified outcomes within the child’s plan.
2. Provide information regarding the Direct Payment support service.
3. If the Direct Payment recipient is intending to employ their own carers ensure that they have access to information regarding safe recruitment techniques and they have sufficient understanding of these techniques to ensure that the welfare of their child is safeguarded. This is provided by the Direct Payment support service. Referral is optional and lead professionals should be careful to ensure advice is given if a referral is declined by the recipient of the Direct Payment.

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| The Care Standards Act 2000 contains provisions that ensure local councils have to undertake criminal recordchecks on behalf of parents using Direct Payments toemploy someone to care for their child if the parent wishes. |

1. Record that the Direct Payment recipient has received guidance as to following safe practice and recognises their responsibility to safeguard the child’s welfare (by the Local Authority lead professional/social worker or through the DPSS). The Local Authority lead professional/social worker should inform the recipient and the Local Authority of any concerns. The Local Authority may decide to decline a Direct Payment on the basis that the child’s welfare is compromised.
2. Record that the Direct Payment recipient has had strong advice to request a criminal records (DBS) check for their prospective employees (by the Local Authority lead professional/social worker or through the DPSS).

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| Guidance states that local councils should not ‘lay down health and safety policies for individual Direct Payment recipients. Individuals should accept that they have a responsibility for their own health and safety, including the assessment and management of risk’. Personal assistants are not covered by the Health and Safety at Work Act 1974, due to an exemption under Section 51 of the Act. However parents have a common law duty of care towards any person they employ. 'As part of the process of informed choice, local councils will wish to take appropriate steps to satisfy themselves that recipients and potential recipients are aware of health and safety issues that affect them as individuals, anyone they employ, and anyone else affected by the manner in which their support is delivered' **2003 Direct Payments Regulations (para 97).**  |

1. The Local Authority should make clear the steps that people with parental responsibility for a child who is disabled ought to take to satisfy themselves that the person offering help with the care of their child is a suitable person. It is important that people with parental responsibility for a child who is disabled are fully alerted to any risks of abuse and provided with advice to minimise those risks.
2. Record that the Direct Payment recipient has had strong advice regarding the importance to undertake other checks, such as contacting previous employers and writing to the Local Authority in which the person previously lived (by the Local Authority lead professional or through the DPSS).
3. The recipient should be informed that it is in the Local Authority’s discretion whether or not to make a Direct Payment.
4. Record that the Direct Payment recipient has received information guiding them to monitor the care provided and respond adequately should the care for the child fall below a defined standard (by the Local Authority lead professional/ social worker or through the DPSS).
5. Record that the Direct Payment recipient has been made aware that additional funding through a Direct Payment is available so that they can adequately induct and train their staff to undertake the tasks identified within the job specification (by the Local Authority lead professional/ social worker or through the DPSS).
6. Record that the Direct Payment recipient is aware of health and safety issues and consider whether there are costs associated with health and safety training (by the Local Authority lead professional/ social worker or through the DPSS).
7. Record that the Direct Payment recipient has been given information about undertaking health and safety risk assessments specific to the family situation (by the Local Authority lead professional/ social worker or through the DPSS).
8. Record that the Direct Payment recipient has received information regarding appropriate and sufficient insurance cover (by the Local Authority lead professional/ social worker or through the DPSS).
9. Clarify what arrangements are being made to cover emergencies.
10. Facilitate the purchase of any essential equipment that is required for the service to be provided at the required standard (through the Local Authority OT service).
11. Monitor a minimum of every six months as part of the regular review process whether the Direct Payment continues to meet the defined outcomes of the child’s plan – record the outcome of this review.
12. Clarify what action should be taken should the Direct Payment recipient not want to continue with the Direct Payment.
13. **Summary of the role of lead professional when facilitating a Direct Payment:**

1. Confirm the Direct Payment recipient has received guidance about:

* 1. Safe practices to follow when employing people and;
	2. Monitoring the service that their employee provides.

*The Direct Payment Advisory Service provides information to the recipient and completes a checklist that is signed by the recipient. Permission to share this document is obtained by the Direct Payment Advisory Service and a copy of this checklist is sent to the lead professional. The lead professional reinforces this position with the recipient.*

* 1. Record that the Direct Payment recipient has had strong advice to request a Criminal Records Bureau check for their prospective employees.

*As part of the checklist provided by the Direct Payment Advisory Service the recipient signs to indicate that they have received advice as to CRB checks. The Direct Payment Advisory Service sends a copy of this checklist to the social worker. The social worker reinforces this position with the recipient.*

* 1. Record that the Direct Payment recipient has been made aware of the risks involved in employing a 'stranger'.

*As part of the checklist provided by the Direct Payment Advisory Service the recipient signs to indicate that they have received advice about CRB checks. The Direct Payment Advisory Service sends a copy of this checklist to the social worker and this is stored on the child’s record. The social worker reinforces this position with the recipient where possible.*

* 1. Record that the Direct Payment recipient has had strong advice regarding the importance to undertake other checks, such as contacting previous employers and checking gaps in employment history.

*As part of the checklist provided by the Direct Payment Advisory Service the recipient signs to indicate that they have received advice about checking employment history. The Direct Payment Advisory Service sends a copy of this checklist to the social worker. The social worker reinforces this position with the recipient.*

* 1. Record that the Direct Payment recipient is aware that they should regularly and properly monitor the care provided by the carer and that the recipient has information regarding how they should respond should the care for the child fall below a defined standard.

*The Direct Payment Advisory Service gives an information pack to the recipients regarding monitoring the care and managing staff. The lead professional reinforces this position with the recipient.*

* 1. Record that they are satisfied that the Direct Payment recipient is aware to request the resources they require to adequately induct and train their staff to undertake the tasks identified within the job specification.

 *The Direct Payment Advisory Service completes a form with the Direct Payment recipient covering the training and induction issues. This is signed by the recipient and can be requested from the Direct Payment Advisory Service. The lead professional reinforces this position and supports the Direct Payment Advisory Service in finding the appropriate training if required.*

# S: The process of arranging a Direct Payment



# T: The role of the Direct Payment support service

1. The Direct Payment recipient may be reluctant to manage a Direct Payment as they consider it to be complex and difficult. If they agree to have Direct Payments they accept certain responsibilities. These include only spending the money they receive on meeting assessed needs and complying with the local financial and monitoring requirements.
2. Other responsibilities may arise depending on how the Direct Payment recipient chooses to spend the Direct Payment. If they choose to employ personal assistants, they will become the employer, with all the responsibilities that entails. If they hire a personal assistant from an agency or buy a short-break from a voluntary provider then a significant amount of the responsibility is reduced.
3. The role of the Direct Payment Support Service is to:
	* Give information to people who want to know more about Direct Payments so that they can decide whether or not to use a Direct Payment.
	* Consider the communication needs of the Direct Payment recipient and impart information in the most appropriate way.
	* Establish the level of Direct Payment advice and support that is required for each Direct Payment recipient.
	* Work with the parent (or young person) to determine what they want to do with the Direct Payment and offer a variety of ways that the assessment outcomes can be achieved.
	* Support the Direct Payment recipient to plan their budget and establish the payments for staff and any contingency costs.
	* Help set up bank accounts.
	* Assist the Direct Payment recipient to follow safe recruitment practice when recruiting and training their own staff.
	* Assist the Direct Payment recipient in how to support and induct employees.
	* Provide advice on tax and insurance.
	* Provide information on payroll (provide support to access a payroll service if required).
	* Liaise with professionals and services to ensure that such agencies have the information required, including supporting the development of the benchmarking table.

# U: Overnight care funded by the Direct Payment in the carer’s own home.

1. Using a Direct Payment to fund carers to provide care in the carer’s own home is not currently available for Direct Payment recipients within all three of the Local Authority areas. Where this is available this option is not considered appropriate for packages of support facilitated by Lead Professionals within Early Intervention or Preventative Services.
2. When supporting the use of overnight care in the carer’s home additional requirements are expected.
3. If the recipient chooses to use their Direct Payment to fund a carer to provide overnight care in the carer’s home there are additional responsibilities on the Direct Payment recipient, the Local Authority, the lead professional, the Direct Payment advisory service and the providers of Direct Payment carers.
4. When the Direct Payment is being used to purchase overnight childcare in the carer’s home this is a private arrangement between the Direct Payment recipient and the provider. The role of social care is to ensure that the arrangement is:
	1. Appropriate to meet the identified needs, and;
	2. Safe and suitable for the child.

#### 05. Appropriate to meet the identified needs

The Direct Payment must be used to meet the needs identified in the assessment and should be flexible so that the recipient has full choice of the method by which they obtain their care and support. The recipient should be encouraged to select the method of obtaining their care and support which best suits their circumstances.

1. The provision of overnight care in the Direct Payment carer’s home can only be deemed an ‘appropriate’ method of obtaining care and support if the assessment identifies that:
	1. The parent would be better able to continue to provide care for the child if they have a number of regular short breaks from the caring role, and;
	2. The parent considers night time or early mornings to be a particular time when the caring role is particularly pressurised or difficult.

**OR**

* 1. Other need for an overnight break is agreed by the Team Manager.
1. There may be circumstances when the parent makes a request for overnight care in the carer’s home and the criteria above do not apply. In these circumstances:
	* + The social worker should inform the parent that the needs identified in the assessment do not warrant the use of overnight provision and social care will not fund support of this nature.
		+ The parent can make their own arrangements to purchase overnight care in the carer’s home without using a Direct Payment.

The social worker does not become involved in such arrangements but, if for any reason, the social worker considers this to be inappropriate for the child the social worker should advise the parent of their concerns.

* + - If the parent wishes to combine the purchase of self funded overnight provision and day time care using the Direct Payment a flexible approach with the parent is to be followed.
1. The social worker should contact the Direct Payment Advisory Service at an early stage in the Direct Payment process. The Direct Payment Advisory Service will advise the parent of the need to identify those methods by which they obtain their care and support in a way that best suit their circumstances and meets the identified needs.

#### 09. Safe and Suitable

The social worker has a responsibility to ensure that the Direct Payment recipient has a sufficient level of accurate and up to date information to enable them to make a judgement that the overnight provision to be purchased is safe and suitable for the child.

1. **When do childminding regulations apply?**

The statutory requirements for carers of children under 8 apply in the case of Direct Payments as they do for all other children. If a Direct Payment is made to enable a parent to pay a carer to look after a child under 8 years old in the carer's home for more than two hours a day, the carers must be registered as a child minder. The exceptions to this are if the carer is a relative of the child, a registered or private foster carer, or only looks after the child between the hours of 6pm and 2am, or during the day for less than 5 days a year.

1. Social workers should explain the requirements to parents if arrangements are being made for a Direct Payment for a child under 8 to be cared for in the carer's home, and also should direct them to the council's list of registered childminders.
2. Childminders may be registered by Ofsted to look after a child overnight, provided they meet additional registration criteria.
3. Carers who look after children under 8, in the child's own home for payment, have to be registered with Ofsted as a home child carer if the parent is claiming the working child tax credit towards the cost of their child's care.

1. **Changes to the role of the lead professional when facilitating a Direct Payment for overnight short breaks:**

Confirm the Direct Payment recipient have received additional guidance as to:

1.1 The health and safety responsibilities associated with this form of provision (Appendix Four) and how as the employer they have full liability should safe health and safety practices not take place.

*The Direct Payment Advisory Service advises the recipient that a health and safety checklist is both beneficial and strongly advised. The social worker provides a health and safety checklist form to the recipient. The recipient completes this checklist with help from the social worker or Direct Payment Advisory Service if the completion of this form causes difficulties. The recipient sends the signed completed checklist to the social worker. The social worker receives the signed health and safety checklist from the recipient and stores this on the child’s record*

* + 1. If requested by the Direct Payment recipient, facilitate the provision of equipment that may be required in the carer’s home, including meeting the recommendations from the health and safety checklist.

*The Direct Payment Advisory Service will advise the recipient to seek funding through the social worker for any equipment that they require.*

* + 1. Record that the Direct Payment recipient has seen information about the required level of insurance cover.

*The PA recruitment organisation will provide information to the carer regarding the insurance cover required. This information is available for the social worker on request. If not using the PA recruitment organisation the social worker will rely on the checklist completed by the Direct Payment Advisory Service to affirm whether information regarding adequate insurance has been given to the recipient.*

* + 1. Record that the Direct Payment recipient has had strong advice to request a Criminal Records Bureau check for their prospective employees and other household members.

*The PA recruitment organisation will undertake CRB checks on all members of the carer’s household. This information is available for the social worker on request.*

*If not using the PA recruitment organisation the social worker will ask the recipient for details of the other household members aged over 16 who may come into contact with the child in the carer’s home. The recipient will provide this list and the social worker will facilitate a check on both the Local Authority systems and facilitate a CRB check.*

* + 1. Record that the Direct Payment recipient is made aware that they should develop an employer / employee relationship with the carer and will regularly observe/monitor the carer working with their child

so that a decision can be taken by the recipient as to whether the standard of care observed is satisfactory.

*As part of the checklist provided by the Direct Payment Advisory Service the recipient will sign to indicate that they have received advice about effective employer/employee relationship. If the Direct Payment recipient chooses not to use the Direct Payment Advisory Service the social worker will need to complete the elements in the checklist (Appendix Three) that are covered by the Direct Payment Advisory Service. In such circumstances the social worker should strongly encourage the recipient to request assistance from the Direct Payment Advisory Service. The completed checklist is stored on the child’s record.*

*The social worker to reinforce this position with the recipient where possible.*

* + 1. Record that the Direct Payment recipient is aware that they should make clear arrangements to visit the child in the carer’s home on a regular basis to monitor the care provided by the carer and that the recipient has information regarding how they should respond should the care for the child fall below a defined standard.

*The Direct Payment Advisory Service gives an information pack to the recipients regarding monitoring the care and managing staff. This includes information about regular visits to the child in the carer’s home. The social worker reinforces this position with the recipient.*

* + 1. Record that the Direct Payment recipient is aware that they should consider any additional training needs for the carer because of the changed environment.

*The PA recruitment organisation will provide an intensive training package for the carer prior to the child being linked.*

*The Direct Payment Advisory Service to complete the form with the Direct Payment recipient. This form covers the training and induction issues and is signed by the recipient and can be requested from the Direct Payment Advisory Service.*

*The social worker to respond to the request from the recipient for any additional training needs of their employee(s).*

* + 1. Record that the Direct Payment recipient is aware that they need to provide the carer with full and accurate details about the needs of the child, including any first aid or use of medication that may be required and contact and emergency contact details.

*The Direct Payment Advisory Service will advise the recipient to have contingency arrangements in place. The social worker should record contingency arrangements within the child’s plan. The PA recruitment organisation provides training to the PA regarding the information required on the child. If not using a PA recruitment organisation the social worker ensures the recipient is aware of this requirement.*

* + 1. Monitor a minimum of every six months as part of the regular CIN Review process. Within the review the recipient should be questioned as to whether they are aware of the need to maintain the required level of monitoring of the overnight care.

*The social worker to undertake a regular review that includes a review of the overnight provision. The Direct Payment Advisory Service is invited to attend the review*

1. **Changes to the role of the Direct Payment Advisory Service**

Where the Direct Payment recipient is employing a carer to provide care for the child in the carer’s home the Direct Payment Advisory Service has additional responsibilities:

* + - * + Give information to the recipient about overnight care provided away from the child’s home
				+ Promote the use of the PA recruitment and training organisation.
				+ Go through the safe recruitment checklist with the Direct Payment recipient and notify the social worker should they consider the Direct Payment recipient does not have a sufficient understanding of safe recruitment processes.
				+ Assist people to go through the health and safety checklist if requested to do so.
				+ Ensure that the parent has had access to information regarding appropriate and sufficient insurance.
				+ Participate in the CiN review process so that continued up to date advice can be offered to the recipient if requested.
				+ Provide information on pay scales for overnight stays.
1. **Changes to the role of the Personal Recruitment Organisation**

Where the Direct Payment recipient is employing a carer to provide care for the child in the carer’s home the Personal Assistant Recruitment Organisation has additional responsibilities:

* + - * Assist the Direct Payment recipient to find carers that meet standards of safe recruiting and have the required skill set to provide high quality care for the child in their own homes.
			* Provide training on the legislation and local arrangements, i.e. local policies and procedures.
			* Ensure that the recruitment for the PA follows safe recruitment techniques, i.e. gaps in work history are explored, references are checked etc.
			* Ensure that the PA has the required knowledge and experience
			* Ensure that the PA is aware of the different nature of providing

care in their own home.

* + - * Gather information on other household members and arrange to undertake an enhanced Criminal Record Check on the household members
			* Establish whether training is required for other household members
			* Establish whether the PA has an understanding of the requirements of their property, i.e. safety, access etc.

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 Policy Manager

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July 2012

Terminology reviewed and updated without substantive content change April 2019 by Ed Kopecky, Operational Manager for Children who are Disabled, Dorset Council.

Reference to benchmarking table has been deleted as not implemented.

# Appendix One – Questions and Answers

1. **What are Direct Payments?**

Direct Payments are cash payments made by the Local Authority *instead* of

 providing or arranging for the provision of the services.

1. **Who can have Direct Payments?**

People with parental responsibility for a child who is disabled, young people who are disabled aged 16 and 17 or young people aged 16 and 17 who have a substantial caring role.

1. **Does the Local Authority have to offer Direct Payments?**

**Yes.** Under the Health and Social Care Act 2002 if the conditions are met,

 a Local Authority has a duty to make a Direct Payment.

1. **What can Direct Payments be used for?**

Direct Payments can be used to enable the carers to purchase all or part of

 an assessed package of support.

1. **What can Direct Payments not be used for?**

Direct Payments can not be used to pay for general living expenses, health or housing services. They can not be used to pay for services provided by a

public-sector organisation or for long-term residential care. They can usually not be used to pay a person who lives in the same household.

1. **How much is the Direct Payment?**

The amount of Direct Payment should be sufficient for the recipient to lawfully purchase an equal quantity and standard of service to that which would have been provided by the Local Authority.

1. **Is independent advice available?**

 **Yes.** ADirect Payments Support Service is available.

1. **Can a Direct Payment be withdrawn?**

 **Yes.** If the recipient fails to comply with the condition to which the Direct

Payment are subject, for example that the payments must be used to obtain services that the user has been assessed as needing and the Local Authority has reasonable reason to fear that further payments may be misspent.

 **What happens if the Direct Payment recipient doesn’t spend all of the**

1. **money, or if they spend it on something that they have not been assessed as needing?**

 The Direct Payment recipient should be encouraged to contact the Direct

Payment Advisory Service or their lead professional before significant difficulties arise. Any money that is left over should be returned to the council. If the social worker or lead professional believes that the Direct

Payment has been used inappropriately the recipient will be asked to repay

the money. A decision is then required whether or not to stop the Direct Payment and have the council arrange services instead.

**10. If the child has a Direct Payment for overnight care are they a child who is looked after by the Local Authority?**

**No.** If the Direct Payment recipient chooses to use the Direct Payment to fund overnight care the child is not considered ‘looked after’ by the Local Authority.

**11. Can a Direct Payment be used to fund a placement in residential**

**school?**

**No.** A Direct Payment can not be used to fund overnight provision for a single period in excess of four weeks in any twelve month period. The

 Direct Payment recipient should be advised that they need a gap of four weeks between overnight stays otherwise the overnight stays become one single period and the four week rule applies.

**12. When does the worker employed by the recipient have to become a**

**childminder?**

Section 79D of the Children Act 1989 states that anyone caring for a child under eight for over two hours a day in their own home has to be registered

as a childminder. Carers of children aged 8 and over are encouraged to join the Childcare Approval Scheme.

**13. Can Direct Payments be used to look after all the children in the**

**family?**

 **Yes.** Direct Payments can only be used for those assessed needs that the

Local Authority has agreed to meet. The Local Authority is encouraged to

be flexible in how the recipients use the money they receive. Supporting the family as a whole is therefore permissible.

1. **Is there a limit to the amount of Direct Payment a person can receive?**

**No.** In principle 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.

 However where the Local Authority decides that it is taking all reasonable steps to offer a Direct Payment (over and above the cost of a Local Authority provision) but the costs are too prohibitive to be 'reasonable' the payment may be limited.

1. **Do Direct Payments automatically transfer to adult services?**

**No.** Direct Payments for children and young people operate to different criteria than Direct Payments provided by Adult Services. During the transition phase planning should occur regarding the continuation of the care plan.

1. **Can Direct Payments pay carers to undertake intimate care tasks?**

**Yes.** Parents may use Direct Payments to purchase services of an intimate  nature to meet the assessed needs of their child. However, as children mature parents should be encouraged to give greater weight to the child’s

views about how their intimate care needs are to be met.

1. **How often are Direct Payments reviewed?**

 The Direct Payment should be reviewed as the plan is reviewed at a

 minimum of every six months.

1. **When does a Direct Payment stop?**

A person can decide at any time that a Direct Payment is not working for them. All effort should be made to provide solutions to any difficulties. The regulations provide that a Local Authority shall cease making Direct Payments if the person no longer appears to the Local Authority to be capable of managing the Direct Payment or of managing it with help.

**19. How does the social worker/Local Authority lead professional decide**

**the needs of the family?**

Assessment should be proportionate to the needs of the family circumstances. The needs of the family are identified using either the Common Assessment Framework (CAF) or the Assessment Framework (Initial Assessment or Core Assessment). The needs of the carers are assessed at the same time as the needs of the child.

1. **What happens when the young person reaches 16?**

The agreement to fund a Direct Payment for the carers of the young person can continue until the young person’s eighteenth birthday. However, when the young person reaches the age of16 the young person should be encouraged to explore whether or not they wish to manage their own care arrangements and if so information and support is provided to them

regarding how this can be achieved. In this situation the lead professional will need to establish whether the young person is “willing and able” to receive Direct Payments under Adult Services Procedures *(Community Care Manual DPI – 7 – Feb 07)*. The involvement of Adult Services would be sought to ensure that the Direct Payment can continue post eighteen.

1. **Can the Local Authority give a Direct Payment to a 16-year-old in**

**permanent foster care in order to encourage independence and in preparation for adulthood?**

**Yes.** Although foster carers cannot receive Direct Payments, it might be appropriate to give a Direct Payment to this young person. If the young person is able to consent to a Direct Payment but would have difficulty in managing the financial arrangements then the payment may be made to a third party and day-to-day management of finances may be delegated in this way. However, the young person should have control or a say over how services are delivered.

**22. Can 16 / 17 year olds jointly manage Direct Payments with their**

**parents?**

**Yes.** The 17-year-old can receive Direct Payments in their own right alongside the person with a parental responsibility receiving them on their behalf. The young person may wish to start managing their own care package by taking over just one element of the care package while their parents continue to receive and manage the Direct Payment for other aspects of the total care package. An arrangement like this would allow a young person to begin to develop the skills needed to manage Direct

Payments, such as understanding the recruitment process, without having

to assume too much responsibility too soon.

**23. What if the parent feels that the 16 / 17 year old is not up to managing**

**their own Direct Payment?**

As with all young people and their parents, conflict may arise from time to time about the degree of independence a young person should be given. Guidance is given in the Children Act 1989, relating to working in partnership with both children and their parents. (Department of Health 1991, The Children Act 1989 Guidance and Regulations, Volume 6, Children with Disabilities, Pages 13-15).

In such a situation the Local Authority should make their own assessment of whether it believes that the young person has the ability to manage the Direct Payment. If in their opinion the young person is able to manage a Direct Payment, albeit it with a significant amount of support, and that it is in their best interests to do so, they have a duty to make the payment.

On the other hand if the Local Authority were inclined to agree with the parent's view of the young person's ability to manage they would not be able to make the payment directly to the young person. If the young person does not agree with the Local Authority's judgment, they should have access to advocacy and the opportunity for discussions with the Local Authority to ensure that their arguments are properly considered. The complaints procedure is open to them.

**24. When the young person reaches 18 how can we ensure there is**

**continuity within their care package?**

Direct Payments have the potential to be a very useful tool for promoting the independence of young people through the period of transition for adolescence to adulthood. For this potential to be realised it is vital that Adult and Children's Services work effectively together. When the Direct Payment is set up it should have been anticipated that the young person would soon be accessing services from Adult Services and a rate set accordingly. It is also important that there is harmonisation of assessment and eligibility criteria, so that a young person can maintain and build upon support mechanisms set up during transition to allow them to move towards independent living in adulthood.

The young person concerned should ask the Local Authority to reconsider and present the case that his needs will not be met so effectively if there is a loss of continuity of care. The person should have information about complaints procedures.

#  Appendix Two – The tools for the Direct Payment recipient to use

The Direct Payment recipient is expected to provide information relating to two main areas:

* The Health and Safety Checklist
* The Criminal record Bureau checks of the carer and any members of the household aged 16 or over.

When completed the Direct Payment recipient uses this information to make a judgement as to whether or not the child’s welfare is adequately safeguarded within the proposed Direct Payment arrangements.

**Introduction to the Health and Safety Checklist**

1.2 The Health and Safety Checklist is attached in Appendix Four.

 The Health and Safety checklist is for the Direct Payment recipient to complete during a visit to the environment where the child is to be cared for. All parts of the checklist should be completed.

It is acknowledged that the Direct Payment recipient is not usually a trained health and safety inspector or a specialised expert in fields such as electrical or plumbing maintenance. Therefore, the extent to which they are able to apply the checklist will be determined by their own experience and competency. The checklist is written in a way that should be simple to understand without any specialist knowledge and a “common sense” approach should be all that is needed to make appropriate judgements. Support to complete the checklist should be offered to the Direct Payment recipient if this is requested.

The health and safety checklist covers twelve main subject areas:

1. Electrical safety
2. Slips, trips and falls
3. Choking hazards
4. Glass safety
5. Safe storage
6. Food hygiene
7. Fire/fumes safety
8. Garden/outdoor safety
9. Vehicle safety
10. household hygiene
11. *Pet safety*
12. *General safety*

The checklist indicates which elements of health and safety are deemed as “essential” to be met and those which are “desirable”.

There are other health and safety issues which are not covered by the checklist. Such issues will include moving, lifting and handling and behaviour management. These should be dealt with within the information to be given to the carer by the Direct Payment recipient. Other issues such as First Aid training should be discussed with the carer by the Direct Payment recipient in the context of current training needs.

Each subject area will have some relevance to all children but the extent to which the topics should be considered will depend on the age and ability of the child. For example glass safety will have more relevance for young children than it will for older teenagers.

To attempt to create a totally risk free environment is unrealistic; however some risk can be easily managed by the provision of essential health and safety items such as:

* First Aid boxes
* Fire blankets
* Cooker guards
* Stair gates
* Play pens (where appropriate)
* Fireguards
* Child car seats
* Cots and beds

If the carer does not have these essential items they should be provided by the Direct Payment recipient and funded as an additional item within the Direct Payment allocation.

If larger items are required or essential work undertaken for the environment to be deemed as safe for the child then the cost of this work should be met by the Direct Payment recipient and funded as an additional item within the Direct Payment allocation. Note: where the Local Authority decides that it is taking all reasonable steps to offer a Direct Payment (over and above the cost of a Local Authority provision) but the costs are too prohibitive to be 'reasonable' it may impose an upper limit to Direct Payment levels – see Direct Payment Policy 2011 (Section I 3 pp11).

### Appendix Three – Example of a Direct Payment Checklist for Lead Professionals

|  |  |
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| **1.**  | **Undertake an assessment.**   |

* The assessment (CAF or Initial/Core Assessment) identifies the needs of the child and family and clearly defines the outcomes expected from Early Intervention or Social Care involvement.
* The assessment identifies any barriers to inclusion experienced by the child or family.
* The assessment establishes that the parent provides or intends to provide a substantial amount of care for the child.
* The assessment includes consideration of whether the carer Carers works, or wishes to work, and is undertaking or wishes to undertake, education training or any leisure activity. *Carers (Equal Opportunities Act 2004)*.
* The assessment includes a plan of what action is required.
* How the needs can be met is discussed with the child and person(s) with

|  |  |
| --- | --- |
| **2.**  | **Identify the level of services to be provided.**   |

parental responsibility. A Direct Payment is discussed as part of the options available.

* The assessment is presented to a decision making panel (Team Around the

Child or Resource Panel). This decision making panel identifies the level of services that are to be provided to meet the identified need.

* The level of services should be sufficient to enable the recipient to lawfully secure a reasonable standard of service to meet the identified need.

*DH Guidance on Direct Payments 2009*

* The cost of the Direct Payment should be in line with local average costs of equivalent provision and associated costs such as insurance and training are additional to the hourly rate to be paid to the recipient’s employee.

|  |  |
| --- | --- |
| **3.**  | **Offer a Direct Payment.**   |

* If services are to be provided to parents of children who are disabled, Direct Payments must be offered. *DH Guidance on Direct Payments 2009*
* In Dorset Direct Payments should be considered as the primary way to meet the identified need.
* The Direct Payment can be offered to meet all or part of the identified outcomes.
* When the Direct Payment is offered the Direct Payment Advisory Service can become involved to talk to the recipient about Direct Payments.

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| **5.**  | **Provide advice about the Direct Payment.**   |

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| **7.**  | **Payment made into the recipient’s bank account.**  |

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| **8.**  | **Complete the Direct Payment Agreement with the recipient.**  |

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| **4.**  | **Provide a Direct Payment.**   |

* If the carer requests a Direct Payment this has to be provided unless the welfare of the child is compromised

 *DH Guidance on Direct Payments 2009*

* Refer to the Direct Payment Advisory Service to provide advice to the recipient on setting up a bank account, recruitment, payroll, insurance etc.

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| **6.**  | **Complete the *Direct Payment Authorisation Form***  |  |

* Refer to the Direct Payment Advisory Service to discuss with the recipient the flexible use of Direct Payments.
* This requires details on the recipient’s bank address, sort code, account name and account number.
* This form is signed by the Locality Manager (Early Intervention) or Team Manager (Social Care).
* For Social Care this form is sent to the Direct Payments Officer.
* Information from the form is recorded on the Direct Payment spreadsheet –

For Early Intervention this is held within the locality and is completed by the locality admin.

For Social Care this is held in County Hall and is completed by the Direct Payments Officer.

* For Early Intervention a ‘Non-trade’ Payment Request Form is completed and signed by the Lead professional and is countersigned by the Locality Manager. The ‘Non-trade’ Payment Request Form is sent to Accounts Payable. The recipient is set up as a vendor and the money is sent to the recipient’s bank account.
* For Social Care the Direct Payment Officer makes a payment to the recipient’s bank account through Raise Finance.
* A recurring payment can be set up.
* The agreement details the flexibility of use, the process of review and financial governance arrangements.

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| **9.**  | **Confirm the Direct Payment recipient have received guidance as to:**  |

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| **11.**  | **Provide equipment.**  |

 **If the recipient intends to use the Direct Payment to employ their**  **own carer:**

* The availability of a PA recruitment organisation to find and train personal assistants for the provision of care for the child.
* How to write a job description for the care tasks.
* How to safely advertise and recruit employees (including the risks involved in

employing a 'stranger'). Using the Direct Payment Advisory Service

* The importance of undertaking other checks, such as Checklist contacting previous employers and checking gaps in employment history.
* The need for the employee to become a childminder (if the child is under eight years old and providing care in the carer’s own home for more than two hours).
* Requesting a Criminal Records Bureau check for their prospective employees (strong advice).
* Record that they are satisfied that the Direct Payment recipient is able to request the resources they require to adequately induct and train their staff to undertake the tasks identified within the job specification.
* Potential health and safety issues.
* The need to train employees and where such training is available
* Awareness that they should regularly and properly monitor the care provided by the carer.
* How the recipient should respond should the care for the child fall below a defined standard.
* Proper insurance cover (includes Business Insurance if using a vehicle for work purposes).

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| **10.**  | **Clarify contingency arrangements**  |

* Ensure the recipient is clear what arrangements have been made to cover emergencies.
* Facilitate the purchase of any essential equipment that is required for the service to be provide at the required standard.

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| **12.**  | **Monitor that the outcomes from the child’s plan are being achieved.**  |

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| **13.**  | **Alongside guidance in 9. above. Confirm the Direct Payment recipient have received additional guidance as to:**  |

* For Early Intervention and Social Care this review should occur at a minimum of every six months. For Social Care this forms part of the CIN Review process.

 **If the recipient intends to use the Direct Payment to employ their**  **own carer for overnight care in the carer’s own home:**

* The need to complete the full Health and Safety checklist.
* The importance of developing an employer / employee relationship with the carer (which includes observation and monitoring of the care provided) **prior** to the carer providing care in their own home. *Using the Direct Payment Advisory Service Checklist*
* The availability of a PA recruitment organisation to find and train personal assistants for overnight care of the child in the carer’s home.
* To have a full knowledge of other people in the carer’s household that may come into contact with their child and how they should request a Criminal Records Bureau check for these household members (strong advice).
* The benefit of clear arrangements to visit the child in the carer’s home on a regular basis to monitor the care provided by the carer.
* Considering any additional training needs for the carer because of the changed environment.
* The benefit of providing the carer with full and accurate details about the needs of the child (including any first aid or use of medication that may be required) and contact details and emergency contact details.
* The benefits of facilitating the provision of equipment that may be required in the carer’s home, including meeting the recommendations from the health and safety checklist.

### Appendix Four – Health and Safety Checklists for Carers providing care to a child in the carer’s home.

*Notes to assist completion:*

Before completing the Health and Safety Checklist a view should be sought on the general household condition, particularly that the space within the accommodation should provide sufficient room for study/quiet time and the child’s sleeping arrangements should be clear. If these arrangements/areas are unsuitable the Direct Payment recipient should not employ the carer to provide overnight services in that environment and the Health and Safety Checklist will be unnecessary.

*Health and Safety legislation is not enforceable in domestic premises; the basic guidelines are useful when looking at creating a* safe *home environment for children.*

The Health and Safety Checklist is required so that the Direct Payment recipient can provide evidence that the welfare of the child has been fully considered. In identifying hazards due regard should be given to the child’s age and the child’s needs. For example, the issue of stair safety will be relevant for carers who wish to provide care to children aged five and under and may also be relevant for some older children who are disabled. *Hazards are those things which are identified as having the potential to cause harm.*

The checklist indicates hazards and potential hazards. Any hazards must be removed before the child can be cared for in that environment. Potential hazards are those which are not immediately considered to be a risk but may be in the future if action is not taken. *Potential hazards* will be those which may require discussion and the provision of advice and information.

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| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| **Slips, Trips and Falls**  |   |   |   |   |
| Stair gates  | Stair gates should be fitted in such a way to prevent children having access to stairs; in practice this may mean at the top of stairs or bedroom doorways – depending on the time of day. Stair gates can also be used to prevent access to other areas, which could be hazardous, e.g. kitchens. Some older children may require stair gates to keep them safe, depending on their needs. Stair gates should be obtained where children under 5 live or visit regularly.  | Age under 5  | Yes  |   |
| High chairs/buggies  | It is essential for high chairs and buggies to have appropriate restraints. This also applies to any other equipment from which a child could fall.  | Age under 3  | Yes  |   |
| Windows  | All windows that can be accessed by children must have restricting locks that prevent the windows being opened to a point where a child can open the window and climb up or fall out. Fit locks where these are missing or ensure children cannot access window openings. Window keys should be kept securely at hand in case of an emergency.  | Age under 7  | Yes  |   |
| Bunk beds  | Ensure bunk beds are not used for this age group, as even if children sleep on the bottom bunk they may be tempted to climb the bed stairs or climb to the top bunk and be at risk of falling.  | Age under 6  | Yes  |   |
| Balconies/Play pens  | All balconies must have railings/walls that cannot be climbed/accessed by a child. Play pens must be of a height sufficient to prevent a child climbing over and children must be supervised at all times whilst playing in play pens. Any railings/bars must have a minimum width of 100mm to reduce the risk of choking.  | Any age  |   |   |
| Trailing wires  | Care should be taken to ensure that flexes and cables have not been positioned where they could cause trips or falls.  |   | Yes  |   |
| Floor coverings  | These should be in good condition. Look out for frayed carpets/torn lino particularly in doorways or on stairs. Rugs should be secured if used on highly polished floors or floors which can become slippery (e.g. kitchens). Wet floors are slippery.  |   | Yes  |   |
| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| Handrails  | All stairs should have a handrail which is securely fastened  |   | Yes  |   |
| **Choking hazards**  |   |   |   |   |
| Bedding/pillows/bumpers.  | Pillows must not be used. Sheets and lightweight blankets must be used rather than duvets. Bumpers must not be used. All of these are based on current medical advice relating to safe sleeping for babies. (2003). Ensure the appropriate bedding is available  | Age under 1  | Yes  |   |
| Cot sides/bed sides/play pens/railings/banisters  | Where there are cot or bed sides, play pens, railings or banisters, there should be a minimum gap at any point of 100mm to prevent a child putting his or her head through the gap.  | Age under 3  | Yes  |   |
| Cords/washing lines/curtain cords  | Ensure hanging cords are tied/looped up, away from a child’s reach and that rotary driers are not accessible. Any cords/lines should be of a height that children cannot reach, to reduce the risk of choking or strangulation  | Age under 6  | Yes  |   |
| Small items  | Store these out of the reach of children, particularly those aged three and under.  | Age under 3  | Yes  |   |
| Chest Freezers  | These should be kept locked.  | Any age  |   |   |
| **Glass safety**  |   |   |   |   |
| Low level glass  | All low level glass that a child could fall against/run into must be fitted with either safety glass or safety film. This type of accident can cause serious injury. NB not television sets/goldfish bowls. This advice also extends to glass outside the property, including greenhouses and cold frames.  | Age under 8  | Yes  |   |
| Large, low level fish tanks  | These can present a risk if low level as a child could climb in, drop small electrical appliances in or be at risk from the type of fish kept there. They should not be accessible to a child.  | Any age  |   |   |
| General household items  | These will include ornaments and drinking glasses. These should all be treated with care and not given to children under five. For example drinking glasses can easily break and cause injury and ornaments can splinter and crack. Glass items should be kept out of the reach of younger children.  | Age under 5  | Yes  |   |

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| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| **Safe Storage**  |   |   |   |   |
| Medicines  | Young children can mistake medication for sweets/drinks. Older children could be tempted to “experiment” or they may accidentally overdose. Ensure all medication is kept in a locked cupboard, which children and young people cannot access.  | Any age  |   |   |
| Flammable materials  | Do not store unless absolutely necessary. Where it is necessary to store them they must be stored in a safe place. Flammable materials should never be stored under the stairs. Ensure all flammable materials are kept out of the reach of children under the age of 10. Store them away from heat sources. Any spare gas cylinders should be stored out of doors.  | Age under 10  | Yes  |   |
| Cleaning materials, chemicals, poisons  | Cleaning materials, chemicals and poisons can look like drinks/food to younger children. Even a small amount can cause a fatality to a young child. Always use original containers and never use soft drink bottles/containers. Ensure all cleaning materials, chemicals, and poisons are locked away and out of the reach of children under 7.  | Age under 8  | Yes  |   |
| Sharp knives/scissors  | These can easily cause injury if children play with or transport them. Such items should be kept out of the reach of children and ideally locked away. Children need to be supervised when using scissors and younger children (under 7) should use play scissors.  |   | Yes  |   |
| Cigarettes/Lighters Alcohol/Matches  | Children like to “copy” adults. Younger children may not know what these items are but might like to investigate. Alcohol and cigarettes can be poisonous to a young child. Older children may wish to “experiment” so it may be wise to keep them away from older children too. Matches of course can be a fire hazard. Try and keep all such items out of the sight and reach of children under the age of 10.  |   | Yes  |   |
| Shampoos/Cosmetics/razors  | Younger children may mistake shampoos/conditioners for drink. They may try to “copy” shaving and see what make up tastes like, or they may accidentally put it in their eyes. It is advisable to lock away such items out of the reach of children under 8 and those children and young people who may not understand what such items are and/or may self-harm.  |   | Yes  |   |

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| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| Cupboard locks  | Children like to “explore” and investigate. If there are hazardous items there they could cause illness or injury. Consider keeping all cupboards containing hazardous items and which can be accessed/reached by children locked.  |   | Yes  |   |
| **Food hygiene**  |   |   |   |   |
| Cleanliness  | This is essential within food storage and preparation areas, to reduce the risk of food poisoning. This will mean that the kitchen and storage areas should be kept tidy and cleaned frequently. This will include ensuring that dish/drying cloths are frequently laundered. Ensure these areas are reasonably tidy and are clean.  | Any age  |   |   |
| ‘Fridge thermometer (the Food Standards Agency leaflet – “keeping food cool and safe” provides more information  | Aim to keep the coldest part of the fridge between 0C and 5C (32F and 41F).  |   | Yes  |   |
| Raw and cooked food/general storage  | It is wise to have separate areas/chopping boards/utensils for raw and cooked food. Many food poisoning outbreaks have been traced to contamination of cooked food by raw meat/poultry. All food should be stored in clean and hygienic conditions  |   | Yes  |   |
| Date order  | It is advisable to use food by the “use by” dates, as the use by system has been devised to reduce the risk of decaying/mouldy food being eaten. Decaying/mouldy food is a health hazard.  |   | Yes  |   |
| Pet food utensils  | To avoid any contamination by household pet food it is wise to use separate utensils for the serving of pets’ food than those used for household members. Additionally, pets should not be allowed to lick from plates/utensils used by household members for general hygiene purposes.  |   | Yes  |   |
| **Fire/fumes safety**  |   |   |   |   |
| Smoke alarms  | Research has shown that survival from household fires increases when there are smoke alarms. They can ensure people are alerted to a fire at an early stage. There should be a smoke alarm on each floor and these should be fitted according to the fixing instructions supplied. Smoke alarms should be tested on a weekly basis and changed annually.  |   | Yes  |   |

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| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| Fire blanket/extinguisher  | Many fires start in the kitchen and can quickly spread. A fire extinguisher or fire blanket can help to reduce the effects of a fire at an early stage. There should be a fire blanket (this can be supplied by Social Services if not currently available) or extinguisher in each kitchen.  |   | Yes  |   |
| Exit routes  | It is essential that all children and young people could exit safely from the property in the event of a fire, particularly, but not exclusively, at night. Children and young people should not sleep in loft/attic areas unless this issue has been addressed  |   | Yes  |   |
| Appliances  | Physical changes to gas appliances can indicate that an appliance is not working properly and there can be a higher risk of carbon monoxide poisoning. It is important to site appliances carefully (away from any inflammable/combustible materials) to reduce the risk of fire. It is illegal for a gas appliance to be fitted or maintained in domestic premises by anyone other than a CORGI registered fitter. All appliances should be monitored for signs of discolouration/flame colour change (particularly where there is orange/yellow pointed flame or flame lifts from the burner). Appliances should be maintained regularly by qualified CORGI registered engineers. Gas safety certificates should be kept for scrutiny if required. If possible, carbon monoxide alarms should be fitted. All heating appliances should be fixed to the wall.  |   | Yes  |   |

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| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| Firearms/guns/ammunition and other items including crossbows and air rifles  | In view of the danger posed by such items it would not normally be acceptable for them to be kept within the home. However, it is recognised that there may be some situations that may provide an exception. There are very stringent licensing and certification requirements for most of these items. Any households which contain any of the listed items or any other weapons will necessitate a specific risk assessment. All firearms must be covered by appropriate licenses/certificates. They must be stored in the specified locked cupboard as stipulated for the license/certification. Even if some items do not require licenses or certification they must be stored in a locked cupboard which cannot be accessed by children or young people. Things they have been told not to touch often fascinate children and there are obvious dangers associated with firearms.  |   | Yes  |  |
| Fireguards  | Younger children can be fascinated by fire. They can also be prone to falling. Fires should therefore be guarded to reduce the risk of burns. The guards should fully cover the fire and be securely fixed  | Age under 5  | Yes  |   |
| Cookers  | Care must be taken with pans on cookers as children may try to reach up for the handles. The cooker needs to be stable so that it cannot wobble and cause items to fall off. Where guards are not fitted it is important that pan handles are always facing inwards and not over a heat source.  |   | Yes  |   |
| Ceiling tiles  | Some ceiling tiles are highly flammable (polystyrene). In the case of fire these can quickly ignite and spread a fire.  |   | Yes  |   |
| Furniture  | Furniture such as settees and armchairs which were manufactured after 1988 should be filled with fire retardant foam/material. Older furniture may contain filling which is highly flammable. If furniture is old, consider replacing with newer flame retardant filled items. If this is not possible/feasible ensure all other aspects of fire safety are continually and carefully monitored.  |   | Yes  |   |
| Matches and lighters  | These need to be stored safely.  |   | Yes  |   |
| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| **Garden/outdoor safety**  |   |   |   |   |
| Ponds/water tanks/pools/all features, ornaments and furniture  | All water features can be dangerous. Don’t under estimate the danger as someone can drown in two inches of water. Children can quickly run away and are fascinated by water, so they need to be closely supervised at all times where water is around. Water features can contain pools. Paddling pools and buckets should be emptied immediately after filling/use. All ponds/water tanks/pools should be securely covered when not in use and maintained to ensure water does not “pool” on the cover. Alternatively, pools should be appropriately fenced, gated and locked.  | Age under 8  | Yes  |   |
| Sand pits (There is a ROSPA information sheet “Sand Play in Children’s Play Areas” which can be referred to if required  | Sand pits should always be covered when not in use, especially if there are pets which could use the sand pit; a small child could choke if he or she were to fall face down in the sand. Cover sand pits when not being used. The sand should not be too deep as this could increase a risk of suffocation.  | Age under 5  | Yes  |   |
|  Power tools, e.g. hedge trimmers, electric saws, steamers  | Power tools can cause serious injury. They may be difficult/impossible for children to control. They should be kept securely and children under 14 should not normally be allowed to use them. If older children do use them they must be closely supervised at all times. The decision on whether or not a child can use such tools should be based on his or her abilities and any known risk factors.  |   | Yes  |   |
| Locks on gates  | Gates leading to the street/road should be kept locked or barred with devices that are out of a child’s reach.  | Age under 5  | Yes  |   |
| Fencing  | Children can squeeze through fairly small gaps and enter street/road areas where they may be at risk. They may also trap their heads in the fencing. Fencing should be well maintained and secure, without protruding nails or sharp pieces of wood. Any gaps in fences should be less than 100mm wide. Children should not be able to exit the house or the garden without the knowledge of the carers.  | Age under 5  | Yes  |   |
| Poisonous plants Refer to leaflet “How safe is your garden” for further information  | Certain fairly common garden plants are poisonous and potentially fatal. Children may think they are eating a foodstuff or wish to experiment. Berries particularly can be attractive to children. Some plants can be sharp and hurt children. However, many plants can be potentially poisonous, particularly if there are medical conditions. Poisonous plants should not be in the garden. If they already are, they should be removed.  | Age under 10  | Yes  |   |
| Slides/swings/play equipment  | Play equipment should be sited over a soft covered area/soft grassy area and not be placed over flagged or concrete areas, to reduce the risk of injury. All equipment should be securely fastened down. Supervision should be given as age appropriate. Equipment should carry a BS number whenever possible.  |   | Yes  |   |
| Animal waste/safe area  | Animal waste can be hazardous to children. For example dog waste can cause toxocariasis (which can potentially blind). Ensure there is a separate area in the garden/outdoors if dogs excrete there, that is not accessible to children. All animal waste should be cleaned up immediately  | Age under 8  | Yes  |   |
| Machinery/vehicle access  | Empty cars and machinery can fascinate children and young people. They may try to imitate adults and drive or operate them, risking serious injury. Ensure vehicles are kept locked when not in use and that children cannot gain access to machinery  |   | Yes  |   |
| Drain covers  | Large drain covers could be seen as a challenge to children, to open and explore. As the covers are heavy, they could cause serious injury if they fell on fingers or children could become trapped inside. Small drain covers can harbour germs. Large drain covers should be securely fixed and not be able to be lifted by a child. Small drain covers should be kept clean.  |   | Yes  |   |
| Tools  | Smaller tools, such as axes, saws and chisels, can be a danger in small hands . These need to be securely locked away where children cannot access them.  |   | Yes  |   |
| Sheds/Garages/Outhouses/Workshops etc.  | Many items stored in these areas can be hazardous. Ensure such buildings are kept locked and that children cannot access them.  |   | Yes  |   |
| Steps  | Handrails should be placed wherever there are steps, to ensure children can steady themselves  |   | Yes  |   |
| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| Nests/hives  | Where there are nests or hives in the garden ensure children and young people cannot access them. Consider having the nests dealt with by the environmental health department to reduce the risk to children if there is swarming. Seek the advice of the environmental health department as required  |   | Yes  |   |
| Barbecues  | Barbecues require close supervision and children should never be left unattended near them. Barbecues can remain hot for a long period of time after use and they should be damped down once finished with. Children should not be allowed to light barbecues. Don’t leave barbecues unattended and take care after use.  |   | Yes  |   |
| **Vehicle safety**  |   |   |   |   |
| Driving licence  | All drivers transporting children must have a full driving licence.  |   | Yes  |   |
| MOT  | An MOT certificate is a recognised measure of vehicle roadworthiness. It is required in law for all vehicles that are more than 3 years old. All vehicles used to transport children and young people should have a current MOT certificate. The certificate should be viewed by the assessor  |   | Yes  |   |
| Insurance  | Third party insurance is the minimum legal requirement to ensure children are adequately insured for any accident to them. There should be this level of insurance as a minimum for all drivers, covering all vehicles that are used to transport children and young people. Carers should contact their insurance companies to ensure that they are insured to carry children and young people.  |   | Yes  |   |
| Child seats/seat belts/restraints /booster cushions  | Remember that even on short journeys you should always use the appropriate seat/belt etc. Ensure correct seating is used and that the law is complied with. Carers should not carry more children in the car than is legally safe.  |   | Yes  |   |
| Child locks  | Child locks can be helpful in ensuring children don't attempt to get out of the car/open a car door whilst it is moving. Use child locks when available.  |   | Yes  |   |
| Keys  | Don't leave keys in unattended vehicles or leave car keys where inquisitive children can reach them. Keep vehicles locked at all times.  |   | Yes  |   |
| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| Driveways  | Always park with the handbrake fully on. Prior to setting off, always ensure there are no children near the vehicle.  |   | Yes  |   |
| **Household hygiene**  |   |   |   |   |
| Hygienically clean  | The property should be hygienically clean, to prevent the build up of bacteria. This will be particularly important in the bathroom and kitchen areas. Rubbish should be disposed of to reduce the risk of fire and/or vermin. To minimise the possibility of unpleasant odours, ensure that things which can develop into problems are dealt with in a timely manner, for example wet or dirty bedding, cat litter etc.  |   | Yes  |   |
| **Pets**  |   |   | Yes  |   |
| Worming  | It is expected that normal care of pets such as six-monthly worming of domestic pets will be completed.  |   | Yes  |   |
| Allergies  | Where children have identified allergies to pets (for example in relation to asthma or eczema) care should be taken when children are placed in homes which contain these pets. Medical advice should be taken on how to minimise allergy problems.  |   | Yes  |   |
| Sleeping and feeding arrangements  | Pets should not be allowed to sleep on children’s beds. They must not be allowed to lick plates or other crockery/ eating utensils as they may have germs, which pass on. Keep pets out of children’s bedrooms wherever possible.  |   | Yes  |   |
| Temperament  | Certain breeds of dogs are not suitable within foster homes and these include all breeds classified by the Dangerous Dogs Act (1991). These are Pit Bull terriers and Japanese Tosa. Additionally, the RSPCA have identified Alsatians, Rottweilers, Dobermans (and Pit-Bull terriers) as breeds with a capacity and tendency for aggressions. Any concern about the safety of a particular pet will be addressed, if necessary, by appropriate discussion with the RSPCA or other veterinary personnel. There should be consideration of the temperament of family pets. Children should never be left unsupervised with a dog.  |   | Yes  |   |
| Area  | Advice  | Hazard  | Potential Hazard  | Score  |

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| Litter trays  | Where possible, these should be where children cannot access them and away from food preparation areas. Try and keep these out of kitchens and out of the reach of children  |   | Yes  |   |
| Exotic pets  | Whenever there are exotic pets ensure these are kept safely, don’t let children handle them unless you are sure that they cannot pass on any disease. Ensure children are supervised at all times when in the vicinity of them. Levels of risk will depend on the ability/attitude of the child/young person in relation to a particular circumstance, together with any known risk factors.  |   | Yes  |   |
| **General**  |   |   |   |   |
| Smoking  | Care should be taken when children are placed with smokers if they have been diagnosed with asthma. Medical advice should be sought wherever there is doubt.  |   | Yes  |   |
| First Aid container  | Each home should have a basic First Aid container. If the carer does not have this item it should be provided by the Direct Payment recipient.  |   | Yes  |   |
| Plastic bags  | Plastic bags can cause suffocation to children and babies. These should be kept out of reach of children.  | Age under 5  | Yes  |   |
| Sun protection  | The sun is known to be a potential hazard if sun creams are not used properly. Young skin is particularly vulnerable and all children should be protected from the sun by creams or lotions, head protection and by avoiding midday sun. Keep children out of the sun between 11 am and 3 pm whenever possible. Take care that sun creams and lotions are waterproof when playing in water. Ensure young children wear sun hats.  | Any age  |   |   |

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| Area  | Advice  | Hazard  | Potential Hazard  | Score  |
| Hot water  | Hot water from the tap should be monitored so that it cannot cause accidental scalding. It is better to keep the temperature to a maximum of 43 degrees centigrade, setting the thermostat to this maximum. Take care with kettles and consider using coiled leads to prevent flexes hanging down. Also be careful with tablecloths and use table mats where possible.  |   | Yes  |   |
| General “housekeeping”  | Storing household items haphazardly and in quantities can present hazards of fire, trips or falls. If rooms are reasonably tidy it is easier to identify potential hazardous items.  |   | Yes  |   |
| Working from home  | Where a carer works from home (other than as a carer) there should be a risk assessment of any factors, which could affect children. For example, if the business requires regular deliveries to the address there should be an analysis of any additional risk posed by vehicles/visitors to the property.  |   | Yes  |   |
| Outside activities, leisure pursuits  | Carers have a “duty of care” to children engaging in outside activities and leisure pursuits such as horse riding, abseiling, canoeing, rock climbing and caving. It is important to ensure that any instructors have the required qualifications – certain activities will require the organisation providing them to have a licence from the Adventure Activities Licensing Authority.  |   | Yes  |   |

# Appendix Five – Direct Payment Agreement Form

## DIRECT PAYMENT AGREEMENT

**A: INTRODUCTION**

**B: OBLIGATIONS OF THE COUNCIL**

**C: YOUR OBLIGATIONS**

**D: THE CHILD’S PLAN (SUMMARY)**

**E: COMPLAINTS**

**F: TERMINATION OF DIRECT PAYMENT**

**G: RIGHTS OF THIRD PARTIES**

**H: SIGNATURE OF THE PARTIES**

### A: INTRODUCTION

1. The Agreement is written to underpin the arrangement between Dorset Council and the recipient of the Direct Payment.
2. The agreement is made between Dorset Council (The Council) and the recipient of the Direct Payment (You).

*The recipient of the Direct Payment can be a young person who is disabled aged 16+ who has an identified need for services from The Council or a person with parental responsibility and caring responsibility for a child who is disabled who has an identified need for services from the Council..*

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1. The agreement will commence with effect from

and is ongoing subject to review, being subject to early termination in

accordance with E below.

The agreement is made in accordance with the provisions of the Carers and Disabled Children Act 2000.

1. This Agreement is issued under the Dorset Council Direct Payment Scheme. As such it is acknowledged that during the period of the Agreement the systems agreed in this document and in the Direct Payments Policy document may be reviewed.
2. You are encouraged to pass any comments in relation to the scheme to the Direct Payment Support Service or the Council.

### B: OBLIGATIONS OF THE COUNCIL

1. The Council will provide the Direct Payment in accordance with its Direct Payments Policy, which will be attached to this Agreement.

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1. The Council is responsible for assessing and identifying your child’s needs and detailing these needs in your child’s plan.
2. The Council must be satisfied that your child’s care needs as detailed in the plan are met by the Direct Payment.
3. The Council is responsible for monitoring the success of the Direct Payments scheme and as such may review practice under this scheme as necessary.

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1. The Council shall pay you an amount of every year based on your assessment and in accordance with the Council’s payment rates and detailed in accordance with the Council’s payment rates as detailed in the Direct Payments Policy.
2. The payment will be made directly into the bank account that you have set up for this purpose.
3. The payment will be sufficient for you to purchase the services as detailed in the plan and will include the costs of setting up the Direct Payment, such as insurance and training for staff if necessary. The Council will identify how the amount of Direct Payment has been determined.
4. The Council is obliged to monitor the use of all monies paid under this Agreement and shall reclaim any monies not used in accordance with the scheme.
5. The Council will encourage you to seek advice from a Direct Payment Support Service and will provide this service free of charge.
6. The Council shall review your child’s ongoing care needs and produce a revised plan as necessary. The Direct Payment will be reviewed alongside the review of the child’s plan.

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### C: THE CHILD’S PLAN (SUMMARY)

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1. What needs have been identified in the child’s assessment (this includes a carer’s assessment)?

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1. What identified needs are being met by the provision of the Direct Payment?
2. Are other services being proposed to meet the identified need alongside the provision of a Direct Payment? If so, what are they?
3. What outcomes are expected by the provision of a Direct Payment? How will it be clear whether these outcomes have been achieved?
4. How are the Direct Payments to be used? Are there any restrictions on what the Direct Payment can be used for?

### D: YOUR OBLIGATIONS

1. You acknowledge receipt of the Council’s Direct Payments Policy and agree to act in accordance with that policy.
2. You are obliged to use all monies paid under this Agreement to purchase your child’s care package.
3. You shall provide returns as required in the format agreed with the Council to verify how monies paid under this agreement have been used.
4. There will be a negation between you and the Council regarding returning any monies to the Council that are held in excess of any outstanding balance at the end of an agreed period; this will include any money paid under condition B:7 above.
5. You are required to open and operate a separate bank account in relation to any monies received or paid in relation to the Direct Payment. You shall allow the Council information regarding this account and supply such details on request as required.
6. Should the Agreement be terminated at any time you will be obliged to repay any monies held over and above any monies due in respect of the care package.
7. If using the Direct Payment to employ a personal assistant you will be

responsible for safe recruitment, monitoring the care given, ensuring adequate insurance cover and providing health and safety for the employee. Support to undertake these tasks will be available through the Direct Payment Support Service.

### E: COMPLAINTS

1. You are entitled to access the Council’s complaint procedure in respect of any services received from the Council. Complaints in respect of any services from the people you have contracted or employed using your Direct Payment should be addressed to that contracted provider or individual.

### F: TERMINATION OF DIRECT PAYMENT

1. This agreement shall terminate if a fundamental breach of Contract is discovered by either party. A fundamental breach of Contract shall mean non payment of monies due by the Council, or, in respect of you, a fundamental breach of Contract shall occur if you fail to use the Direct Payment you receive in respect of your child’s care service or if you are

seen to be in breach of any aspect of employment legislation.

1. In such circumstances the Agreement can be terminated immediately or at any other such period as agreed by both parties.
2. The agreement can be terminated by the Council or yourself at any period where either party no longer regards it as appropriate to continue the arrangement. The reasons for this shall be detailed in writing and the time period for notice shall be mutually agreed between both parties.
3. The Agreement will end in the event of the child’s death.
4. In the event of termination the Council shall claim any monies paid to you under this Agreement which have not been used in respect of purchasing the care meeting needs.
5. You may wish during the period of the Agreement to suspend the arrangement for a temporary period of time. In such circumstances you should inform your child’s Lead Professional and the Direct Payment shall be suspended and alternative arrangements made until you wish to recommence the agreement.

### G: RIGHTS OF THIRD PARTIES

1. Pursuant to Section 1(2) of the Contracts (Rights of Third Parties) Act 1999 it is hereby agreed that no term or terms of this Agreement shall be enforceable by any person who is not a party to this Agreement.

### H: SIGNATURE OF THE PARTIES

1. I, the authorised officer of the Dorset Council agree to undertake the responsibilities of the Council on behalf of the Council subject to terms and conditions stipulated herein.

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 Signature:

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 Name:

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 Designation:

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 Location:

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 Date:

1. I, the proposed recipient of the Direct Payment, agree to the terms and conditions stipulated in this Agreement.

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 Signature:

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 Name:

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 Address:

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 Date:

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1. An example of exceptional circumstances is when the young carer expresses a very strong wish to carry on being involved in providing care and it would be in the young person’s best interest to be allowed to continue in their caring role. Guidance to support Direct Payments for young carers is not covered within this policy. [↑](#footnote-ref-1)
2. The 2003 Direct Payments Regulations [↑](#footnote-ref-2)
3. The available UK evidence on the extent of abuse among children who are disabled suggests that children who are disabled are at increased risk of abuse. [↑](#footnote-ref-3)