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 2. Coronavirus (COVID-19) (<https://www.gov.uk/coronavirus-taxon>)
 3. Healthcare workers, carers and care settings during coronavirus (<https://www.gov.uk/coronavirus-taxon/healthcare-workers-carers-and-care-settings>)
 4. Coronavirus (COVID-19): guidance for people receiving direct payments (<https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-people-receiving-direct-payments>)
- Department of Health & Social Care (<https://www.gov.uk/government/organisations/department-of-health-and-social-care>)

Guidance

Guidance for local authorities and clinical commissioning groups in the delivery of direct payments and personal health budgets

Updated 27 April 2021

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This publication is available at <https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-people-receiving-direct-payments/coronavirus-covid-19-guidance-for-people-receiving-direct-payments>

This guidance will be updated where necessary to reflect significant changes during the COVID-19 pandemic. If you have printed or saved this document please make sure you are reading the most up-to-date version.

This guidance intends to complement existing guidance and statutory duties. Any inconsistency between this guidance and the legislation is to be interpreted in favour of the legislation. It is the responsibility of each local authority (LA) and clinical commissioning group (CCG) to ensure they act within the scope of relevant legislation and comply with their statutory duties.

Who this guidance is for

This guidance is for LAs, CCGs and providers who support and deliver care through direct payments.

It sets out key expectations of LAs and CCGs in their delivery of direct payments and personal health budgets to support people's continuing care and support needs, and to manage and mitigate the impacts of COVID-19.

Related guidance

The Department of Health and Social Care, in partnership with a range of stakeholders, has published specific advice for people receiving direct payment and personal health budgets (<https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-people-receiving-direct-payments/coronavirus-covid-19-qa-for-people-receiving-a-personal-budget-or-personal-health-budget>) and their families. LAs and CCGs should be aware of this guidance and promote it.

Introduction

This updated guidance on direct payments and personal health budgets is to clarify with LA and CCG commissioners (and others in these organisations) the expected level of flexibility that the direct payment regulations allow during the period covered by the Coronavirus Act 2020.

Continuity of care and support

Continuity of care and support is essential, whether arranged through direct payments or through services commissioned or provided directly by LAs or CCGs. Most care and support cannot be deferred to another day without jeopardising people's wellbeing, and deferring this care and support could place people at risk of harm.

During this period it is essential that LA and CCG commissioners continue to take a flexible approach to the arrangements people receiving all forms of direct payments, their families and carers will need to make in order to continue to meet their care and support needs during the COVID-19 pandemic. The expectation of flexibility should apply to all services provided by LAs and/or CCGs that help maintain people's wellbeing.

The fundamental approach to payments should reflect the trust needed between providers and receivers of payments that the money will be used as intended to meet agreed outcomes for care, support and improved wellbeing. Payments should continue to be used flexibly and innovatively with no unreasonable restrictions placed on the use of the payment, so long as it is being used to meet eligible care and support needs.

Allowing flexibility

In support of this during the COVID-19 pandemic, LAs and CCGs should review local operating procedures and adapt or suspend those which prohibit or limit flexibilities that enable family members, including those who live under the same roof, to be employed as personal assistants and be paid through a direct payment or personal health budget for the period covered by the Coronavirus Act 2020.

Audit processes should be adapted to reduce burdens and allow flexibility including, for example, to enable people receiving payments to carry forward funds to the next financial year. Consideration should also be given to allowing direct payment and personal budget holders to pool funds with others receiving these payments as part of a contingency plan in case care and support is interrupted, for example, because a personal assistant is unable to work.

LAs and CCGs together with care providers should work together to agree the circumstances in which, and by how much, current care packages and payments can be varied without the need for a review whilst continuing to fulfil their statutory duties. This should offer providers and people who manage their own care flexibility within their existing care packages and payment arrangements to respond to changing circumstances. This should be achieved in consultation with social workers where appropriate.

Key steps for LAs and CCGs to take

LAs and CCGs, working with their local resilience forums and drawing on their COVID-19 plans and the latest COVID-19 guidance on GOV.UK should, where appropriate:

- Ensure that their records of individuals in receipt of direct payments are up-to-date and include records of the levels of unpaid support available and given to people.
- Understand people's care and support needs including complexity and risks, so that if paid or unpaid care is impacted because of COVID-19, contingency arrangements can be better managed. Where possible this should also include care to people that is self-funded. This will need to recognise data protection and privacy issues as personal assistants are employed directly by a direct payment recipient.
- Recognise that if a payment-holder is employing a personal assistant directly, they have certain responsibilities as an employer under employment law. Changes to care arrangements or payments may need to be done in consultation with the employer and if appropriate, the employer may need to consult with their employees and follow set procedures.
- Review and ensure that contingency arrangements are in place for people in receipt of a direct payment in case their personal assistant is unable to work, for example due to sickness. They should also consider whether current arrangements are robust enough should cover be needed for a significant period. Help should be offered to people to develop contingency plans or arrange alternate care and support. This may also include supporting the pooling of personal assistants where appropriate. All such activity should be discussed and agreed with the person receiving care and their family.
- Where the individual is unable to source additional or alternate care and support with their payment, work with the person and their family to ensure care and support is in place through alternative arrangements such as mutual aid or directly commissioned care.

- Where an individual uses a payment to purchase care from an agency such as a home care provider, be aware who provides that care and support and include these agencies in their local support for the sustainability of their care market. LAs and CCGs should sympathetically consider requests to pay a close family member to provide care if necessary and should support this unless there is good reason not to.
- Consider how to utilise local community services and primary care providers to support people who use direct payments and draw up a plan for how and when this support will be triggered.
- Consider how voluntary and community groups can support those who use direct payments and enable links between the person and voluntary sector.
- Consider the use of assistive technology at home (for example, technology to monitor seizures and breathing problems) to provide additional support, whilst helping to reduce pressure on staff delivering care.

LAs and CCGs should also ensure they closely follow relevant legislation whilst ensuring people receiving direct payments are aware of the impact of any relevant easements allowed under the Coronavirus Act 2020. Such changes should be clearly communicated to people in receipt of direct payments whose care and support may be impacted, as well as relevant care providers and carers.

LAs should note that S27(2) and 27(3) of the Care Act (2014) relating to revising care plans have not been eased by the Coronavirus Act 2020, and so they must continue to involve people in any decision to significantly alter their care and support, including any reductions. They must involve the person, any carer, and others if requested or, for someone who lacks capacity, a person who has an interest in their welfare, in any decision to alter care provision.

Changes to direct payments and associated care and support caused by easements should not continue beyond the period of the Coronavirus Act 2020. Guidance on the Care Act easements (<https://www.gov.uk/government/publications/coronavirus-covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities>) is available for LAs who choose to operate under easements of the Care Act.

Supporting the person and direct payment capability

LA and CCGs' have a responsibility to help people understand this guidance and associated guidance (such as guidance on easements).

LAs and CCGs must contact all individuals using direct payments or personal health budgets to provide information and advice for maintaining the care and support they receive. This will include advising individuals on how to make contact with the LA and/or CCG should they think that there may be a difficulty in continuing to receive care and/or in ensuring infection control including accessing any necessary PPE. Communications should be appropriate for individual people's needs so they can be readily understood.

LAs and CCGs should also consider how to provide support to personal assistants who are employed through direct payments and how alternative arrangements through commissioned care providers may be arranged if necessary, during the outbreak of COVID-19.

The Local Government Association, the Association of Directors of Adult Social Services and the Care Provider Alliance have published best practice advice to commissioners on supporting the resilience of care provider organisations (<https://www.local.gov.uk/coronavirus-information-councils/social-care-provider->

Supporting personal assistants with Statutory Sick Pay (SSP)

As part of the Government's emergency legislation measures, Statutory Sick Pay (SSP) will be paid from day one of sickness to support those affected by COVID-19. In order to ensure that personal assistants who are ill or need to self-isolate feel able to take time off from caring to prevent transmission, these arrangements will also apply to personal assistants directly employed by individuals with direct payments.

LAs and CCGs must support people employing personal assistants (<https://www.gov.uk/coronavirus/worker-support>) to understand these measures.

Contingency arrangements for people who employ personal assistants

People who use direct payments to employ personal assistants should be encouraged to have contingency arrangements in place in case their personal assistant is unable to work and provide care and support. Commissioners should consider assisting recipients of payments with this.

Commissioners should also have plans in place to support the administrative functions that may be needed to support people's contingency arrangements, for example ensuring that ongoing and emergency/one-off payments to recipient's bank accounts can be made. Commissioners should also consider the possibility of providing longer-term payments (that is for 2 months, rather than one) to reduce the administrative burden, and ensure sufficient funds are available to the direct payment holder.

Commissioners should also consider other key staffing issues in relation to personal health budget and direct payment holders, such as the process for emergency support, ensuring holders are aware of local area helpline numbers or having a single point of contact to support any care package or personal protective equipment (PPE) issues.

Support for people using direct payments and receiving community health provision

Community health service providers should take steps to:

- Ensure that their information about people in receipt of care at home support is up to date, establish levels of unpaid support available to individuals, and continue to share lists with local authorities and home care providers to ensure a joined-up approach.
- Consider locally which functions and teams need to adapt or extend operational hours, or link to other services (such as out-of-hours general practice) in order to ensure the best possible care and maintain support for patients in the community.
- Explore, and where plausible, embed options for alternative care models, including tele-care and 'hub and spoke' models to provide advice and guidance to patients and potentially their families.
- Take stock of how to maintain viable home care provision during COVID-19. This includes developing joint plans with local authorities, home care and care home providers, and primary care colleagues to agree how and when escalation processes can be triggered. Further information can

be found in the Community Health Services Standard Operating Procedure

(<https://www.england.nhs.uk/coronavirus/publication/novel-coronavirus-covid-19-standard-operating-procedure-community-health-services/>).

- Support local authorities in resilience planning, including plans to share resources locally during the COVID-19 outbreak, including workforce, the deployment of volunteers where it is safe to do so and where indemnity arrangements are in place.
- Consider how voluntary groups that currently support services could also support teams and specific individuals. Make the links between those voluntary groups that currently support services, home care providers and local authorities.

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