

10am, Tuesday, 11 November 2014

Direct Payment Policy for Social Care Staff

Item number	7.3
Report number	
Executive/routine	
Wards	

Executive summary

To seek members approval of a policy statement in respect of Direct Payments. The proposed policy is attached at Appendix 1.

The purpose of the proposed policy is **to offer individuals increased flexibility, choice and control over how their support needs are met.** Personalisation is a core social work value and self-directed support (SDS) is central to the personalisation of health and social care services. Direct payments are one of the key mechanisms of delivering SDS. **Direct payments aid social inclusion and independent living and help deliver a more person-centred and individualised approach to service provision.**

This document details the procedures to be followed by staff to comply with their duty to offer and process direct payments for service users to self direct their own support.

The Department makes the payment instead of arranging the services it has assessed as being required. The individual then uses the payment to secure the relevant support.

Links

Coalition pledges	P38
Council outcomes	CO11, CO12 and CO13
Single Outcome Agreement	SO2

Direct Payments Policy for Social Care Staff

Recommendations

- 1.1 To seek members approval of a policy statement in respect of Direct Payments. The proposed policy is attached at Appendix 1.

Background

- 2.1 Since June 2003 the Council has had a duty to offer direct payments (DP) to children in need and adults who are assessed as needing community care and housing support services due to illness or mental disorder or any form of disability or due to infirmity or age (if aged over 65). Support for continuing health needs may also be received as a direct payment.

The Social Care (Self Directed Support) (Scotland) Act which was passed by the Scottish Parliament on 28 November 2012 and was implemented on 1st April 2014, places a duty on local authorities to offer anyone assessed as eligible for social care support four options of self-directed support.

Main report

- 3.1 The Social Care (Self Directed Support) (Scotland) Act which was passed by the Scottish Parliament on 28 November 2012 and was implemented on 1st April 2014, places a duty on local authorities to offer anyone assessed as eligible for social care support **four** options of self-directed support:

1. A direct payment.
2. The ability to 'direct' their own support package and ask the local authority or a third party organisation to procure and manage that package on their behalf.
3. Ask the local authority to choose, purchase and manage their support package on their behalf.
4. A combination of the three options above.

The Act also places a duty on local authorities to explain each of the four options and their implication for the individual when offering them to a person assessed as eligible for social care support.

The principles and definitions within this policy apply to all direct payments activity carried out by, or on behalf of the City of Edinburgh Council.

This policy should be read in conjunction with the “Risk Assessment and Management for Social Work and Social Care Staff policy”.

Those primarily involved are social workers and occupational therapists within Health and Social Care and Children and Family Services and their management teams. This includes sector practice teams, hospital, reablement and mental health teams, service managers for disabled and older client group services (e.g. short breaks, housing support) and the Income Maximisation Team and Service Matching Unit.

Measures of success

- 4.1 This policy seeks to empower service users to have a greater freedom of choice in purchasing the support they have been assessed as requiring.

Financial impact

- 5.1 This policy should be cost neutral, apart from potential start-up costs pertaining to the employment of Personal Assistants.

Risk, policy, compliance and governance impact

- 6.1 The Policy on Direct Payments meets the Council’s requirement for having up-to-date Policies describing agreed courses of action or sets of standards for this service area.
- 6.2 If Direct Payments are not offered as an option for purchasing support, the Department is in danger of breaching the requirements of the Social Care (Self Directed Support) (Scotland) Act 2013.

Equalities impact

- 7.1 The Record of Equality and Rights Impact Assessment is attached as Appendix 2.

Sustainability impact

- 8.1 N/A

Consultation and engagement

- 9.1 Consultation with Senior Management from HSC, SfC, Equality Officer, C&F, Business Services and Social Work Complaints and Advice.
- 9.2 KAIZEN event involving all stakeholders including service user feedback.

Background reading/external references

- [The Social Work \(Scotland\) Act 1968 \(guidance on the sections relating to direct payments\)](#)
- [The Children \(Scotland\) Act 1995](#)
- [The Community Care \(Direct Payments\) Act 1996](#)
- [Regulation of Care \(Scotland\) Act 2001](#)
- [Community Care and Health \(Scotland\) Act 2002](#)
- [Community Care \(Direct Payments\) \(Scotland\) Regulations 2003](#)
- [National Health Service Reform \(Scotland\) Act 2004 \(asp 7\)](#)
- [The Community Care \(Direct Payments\) \(Scotland\) Amendment Regulations 2005 \(SSI 2005 No. 114\)](#)
- [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Subordinate Legislation\) Order 2005 \(SSI 2005 No. 445\)](#)
- [The Disability Equality Duty \(DED\) as enacted 2006](#)
- [Adult Support and Protection \(Scotland\) Act 2007](#)
- [The Community Care \(Direct Payments\) \(Scotland\) Amendments Regulations 2007 \(SSI 2007 No. 458\)](#)

Peter Gabbitas

Director of Health and Social Care

Links

Coalition pledges	P38 - Promote direct payments in Health and Social Care.
Council outcomes	CO11 - Preventative and personalised support in place. CO12 - Edinburgh's carers are supported. CO13 - People are supported to live at home.
Single Outcome Agreement	SO2 - Edinburgh's citizens experience improved health and

wellbeing, with reduced inequalities in health.

Appendices

Appendix 1; Appendix 2.

Direct Payments Policy

Implementation date: 06 January, 2014

Control schedule

Approved by	Health and Social Care and Housing Committee
Approval date	
Senior Responsible Officer	Monica Boyle, Head of Older People and Disability Services
Author	Jenny McCallum, Sector Manager
Scheduled for review	January 2015

Version control

Version	Date	Author	Comment
0.1	29/7/2014	Jenny McCallum	

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
------	-----------	----------------	----------------

Direct Payments

Policy statement

1. This policy document ensures consistency with the City of Edinburgh Council's Direct Payments policy with [Scottish Government National DP Guidance](#) issued June 2007. In particular it ensures that the Health and Social Care and Children and Families Departments are in compliance with The Community Care (Direct Payments) (Scotland) Regulations 2003, The Community Care (Direct Payments) (Scotland) Amendments Regulations 2007 and the Social Care (Self Directed Support) (Scotland) 2013 Act.

Scope

2. Since June 2003 the Council has had a duty to offer direct payments (DP) to children in need and adults who are assessed as needing community care and housing support services due to illness or mental disorder or any form of disability or due to infirmity or age (if aged over 65). Support for continuing health needs may also be received as a direct payment.

The Social Care (Self Directed Support) (Scotland) Act which was passed by the Scottish Parliament on 28 November 2012 and was implemented on 1st April 2014, places a duty on local authorities to offer anyone assessed as eligible for social care support **four** options of self-directed support:

1. A direct payment.
2. The ability to 'direct' their own support package and ask the local authority or a third party organisation to procure and manage that package on their behalf.
3. Ask the local authority to choose, purchase and manage their support package on their behalf.
4. A combination of the three options above.

The Act also places a duty on local authorities to explain each of the four options and their implication for the individual when offering them to a person assessed as eligible for social care support.

The principles and definitions within this policy apply to all direct payments activity carried out by or on behalf of the City of Edinburgh Council.

This policy should be read in conjunction with the "Risk Assessment and Management for Social Work and Social Care Staff policy".

Those primarily involved are social workers and occupational therapists within Health and Social Care and Children and Family Services and their management teams. This includes sector practice teams, hospital, reablement and mental health teams, service managers for disabled and older client group services (e.g. short breaks, housing support) and the Income Maximisation Team and Service Matching Unit.

Definitions

3. **Direct Payment (DP)**

A direct payment is a form of self-directed support that **offers individuals increased flexibility, choice and control over how their support needs are met**. The department makes the payment to them instead of arranging the services it has assessed as being required. The individual then uses the payment to secure the agreed care and support.

Direct payments are an alternative to local authority arranged community care and children's services and therefore need only be offered at the point where the local authority would normally have agreed to provide the services. Service provision must be equitable and not put people who choose to receive either direct payments or a direct service arranged by the local authority at a disadvantage.

A direct payment (DP) is a cash payment made by the Health and Social Care Department to an individual (or in certain circumstance his or her representative) who has been assessed as needing community care (including housing support) or children's services and who chooses to take up the direct payment route. It can also be described by the term Self-Directed Support (SDS) in line with [Scottish Government Guidance issued July 2007](#).

AWI - Adults with Incapacity

Council - City of Edinburgh Council

DP - Direct Payment

Employer - An individual using Direct Payments to employ a Personal Assistant

FIT - Funding Independence Team

LCIL - The Lothian Centre for Inclusive Living, an independent user-led disability support organisation

PA - Personal Assistant - a support worker employed by a Direct Payment recipient. All personal assistants should be members of the PVG scheme (see below)

PVG Scheme - Protecting Vulnerable Group Scheme

SDS - Self-Directed Support

Policy content

4. The aim of direct payments is to offer individuals increased flexibility, choice and control over how their support needs are met. Personalisation is a core social work value and self-directed support (SDS) is central to the personalisation of health and social care services. Direct payments are one of the key mechanisms of delivering SDS. Direct payments aid social inclusion and independent living and help deliver a more person-centred and individualised approach to service provision.

Direct payments can be used for housing support, day care, home care, respite, equipment and temporary adaptations and children's services. The support services they purchase do not have to be the same as those that the department would have arranged. Direct payments can also be used to meet continuing health needs; in these cases the department administers the funding on behalf of NHS Lothian for joint packages of support.

Direct payments may in some instances be paid to a third party, e.g. attorneys and guardians with the relevant powers, and parents who gives consent on behalf of the client. This will arise when the person is unable to manage their own direct payment because of incapacity or where s/he is a child under 16 years. If an individual aged between 16 and 18 lacks capacity to fully manage their own direct payments then the parent may support them to do this or continue to do this on their behalf.

The cost of providing the client with a direct payment will not normally be greater than the cost to the department of providing or purchasing the support.

Under the City of Edinburgh Council's charging policy, there is no financial advantage or disadvantage to having a direct payment in lieu of an arranged service. All clients are assessed for a financial contribution in the usual way.

4.1 Who can receive a Direct Payment

4.1.1 Adult Services

- 4.1.1.1 Disabled persons 18 or over at the commencement of the direct payment.

This includes people with any kind of disability including those with physical, sensory and learning disabilities and people who are disabled by illness (e.g. those with mental illness, arthritis, cancer or by HIV / AIDS) and who are able to manage direct payments with or without assistance.

- 4.1.1.2 Persons aged 65 and over who are assessed as needing community care services due to infirmity or old age.

4.1.1.3 Attorneys, guardians or agents.

Attorneys and guardians with the relevant welfare and financial powers, provided they consent to receive direct payments on behalf of clients who are unable to give consent to arrange their own services. This should be seen as a 'last resort' after every attempt has been made to support the client to make their own decisions.

Another third party, acting as a client's agent, may receive and handle the money. However, the legislation does not allow direct payments to be paid to a third party unless the recipient remains in control of how the funds are spent. This is the case even when the services provided are specifically intended to assist the recipient's carer.

Not everyone who is eligible for community care services will be eligible for direct payments. The 2003 Regulations, (made under [Section 12B \(1\) \(b\)](#) of the 1968 Act) specify those to whom direct payments may not be offered (see section 7).

4.1.2 Children's Services

Since 2003, parents and/or those with parental responsibility can use direct payments to purchase services for children who have been assessed as being "in need". This definition is very broad and includes children who are disabled themselves, those who are affected adversely by the disability of any other person in the family, or those whose health or development may be impaired or below a reasonable standard without the intervention of care services. Any service should be aimed at safeguarding or promoting the welfare of the child / children in need.

4.1.3 Disabled People aged 16 or 17

The disability may be of any kind, including those with physical, sensory and learning disabilities and people who are disabled by illness (e.g. those with mental illness, arthritis, cancer or by HIV / AIDS) and able to manage direct payments with or without assistance. In this instance, direct payments may only be used to purchase services the individual person has been assessed as needing and not services to support other members of a disabled person's family. If a disabled individual aged 16 or 17 lacks capacity to manage their direct payments then the parent may continue to manage them on their behalf.

4.1.4 Disabled Parents

Disabled parents can receive direct payments for services to assist them in their parenting role. Direct payments can be used to meet all

the social care needs of them and their families that arise from their disability.

4.1.5 Parents of a Disabled Child

Direct payments for disabled children should be designed to maximise the child's abilities and give disabled children the opportunity to lead lives that are as normal as possible. Direct payments should only be made if the department is satisfied that the parent will make arrangements that are designed to safeguard and promote the welfare of the child.

4.1.6 Adults requiring Housing Support

Direct payments would be available for people moving from an emergency situation into a more long term service (e.g. after a period of six months). They would not however be for those in an emergency situation (i.e. homeless or at risk of homelessness) when support would be provided on a short term basis to resolve the crisis.

Direct Payment would also not be available where people move into accommodation based services where there are shared costs. People will be considered to "opt in" when they enter services such as sheltered housing, supported housing and temporary accommodation and as such these services would be excluded.

4.1.6 Attorneys and Guardians [\(See section 4.1.1 Adult Services\)](#)

4.1.7 A Third Party Acting as a Recipient's Agent [\(See section 4.1.1 Adult Services\)](#)

4.2 Provision of a Direct Payment

4.2.1 Duty to Offer

If the person is assessed as eligible for services, the assessing worker has a duty to offer a direct payment as an alternative to arranged services, and to support the individual through the process of applying for the DP. Once the payment has been authorised the worker must provide help, where required, either individually or by referral to the support service at LCIL, to assist the recipient to understand how they can undertake the purchase of care and support.

4.2.2 Consent

All potential Direct Payment recipients must give their consent to receive such payments and should receive as much support as they need to reach a decision. If the person who requires the service is clearly unable to give consent then an attorney or guardian, with the relevant powers, can give consent on their behalf.

4.2.3 Mechanism for Payment

A direct payment can be made to the individual either via the Edinburgh Card or into a designated bank account. The Edinburgh Card is similar to a credit card but is pre-loaded with the direct payment. Where the designated bank account is used, the recipient must also submit quarterly returns detailing the expenditure that has been made. This is not required for the Edinburgh Card as the information can be accessed electronically.

4.2.4 Ability to Manage

Direct Payments should only be offered to people who are able to manage, both to direct their own care and manage the financial aspects, either alone or with assistance. The judgement as to whether someone is able to manage following initial support from the worker, must be made on an individual basis. If it is judged that someone could only manage direct payments with ongoing support, it is essential to confirm that this help is available over a sustained period of time before offering a direct payment.

The ability to manage a Direct Payment includes:

- willingness and ability to purchase and direct your own support to meet the assessed care needs
- willingness and ability to manage either the Edinburgh Card or the designated bank account to pay for support
- willingness and ability to maintain financial records:
 - for those employing personal assistants this includes keeping individual workers time sheets, signed by them contemporaneously, confirming the actual hours they have worked for each period of the day
 - evidence of Tax and National Insurance contributions
 - valid Employers Liability Insurance
- ability to comply with employment law if you choose to recruit and employ your own staff.

4.3 Recipients of Direct Payments can use their payment to purchase:

4.3.1 Personal assistants (PA's)

Eligible service users can use direct payments to employ their own staff (i.e. Personal Assistants) to provide the care and support which the Council has assessed is needed. They can also be employed to support an individual to access alternatives to traditional services.

The Council strongly recommends that all prospective personal assistants employed by direct payment recipients should have

registered for PVG scheme membership as part of safe recruitment practice.

4.3.2 Homecare or Care at Home Services

Clients can arrange contracts with any care agency that is registered with the Care Inspectorate. The department cannot insist that the client only contracts with the service providers that the Council is currently using.

4.3.3 Day Care Services

Day Care services can be purchased from the department or from another local authority. If the service is provided within Edinburgh then travel costs to and from the service may be considered for inclusion in the package only if the client is not entitled to a mobility allowance or is unable to take public transport. If the service is provided in another authority, the client may have to pay the travel costs to and from the service.

4.3.4 Housing Support Services

These include services, other than care or housing management, and excluding such services as noted at 4.1.6 above, which enable a person to establish or maintain occupancy of a dwelling. Services purchased might include services to help set up a new tenancy, budgeting and building lifeskills to live more independently.

4.3.5 Equipment and Temporary Adaptations

This includes equipment and temporary adaptations. Such a purchase will usually be a one-off payment. Before making such a payment, the department should satisfy itself and agree the safe installation, the future ownership and where responsibility lies for service, maintenance and repair – especially for complex and expensive pieces of equipment. Direct payments cannot be used as a substitute for Home Improvement Grants, for adaptations required by the landlord or for equipment normally provided by the NHS.

4.3.6 Short Breaks / Respite (*see Respite Procedure*)

4.3.7 Jointly Commissioned Services with Health

In general, direct payments cannot be used to purchase health services. However, they can be used where jointly commissioned services include aspects of continuing health care such as ventilation, skincare, and the management of pressure sores and the administration of percussive physiotherapy. The advantages of joint packages to Edinburgh's service outcomes are highlighted within a [2007 Scottish Government report](#).

Practice Teams should work with their NHS partners to provide a joint direct payments package wherever possible, covering health

and community care needs as a whole. The Health contribution to any package should be noted on the DP application form. This is because the NHS has no lawful mechanism to pay the client directly. Clients are paid the health contribution in their direct payment and the City of Edinburgh Council claim it back from the NHS.

4.4 Direct Payments cannot be used for:

4.4.1 Long-term stays in Residential Accommodation

Other than short respite breaks, direct payments cannot be used to purchase residential care.

4.4.2 Instead of an Assessment

As with all community care services, a direct payment should be based on a full assessment or review of need.

4.4.3 Goods – food, drink, fuel, clothes, etc

A direct payment should not normally be used to pay for daily living expenses. The exception to this is when such costs are delivered during an agreed DP purchased alternative to: Short Breaks, Respite or Day Care. The care plan should indicate the agreed parameters of the direct payment spend in these circumstances. For example, payment for alcohol with meals is never permitted.

4.4.4 Transport

The exception to this may be transport to and from day care or respite services, for both client and personal assistant. Travel costs to and from the service may be considered for inclusion in the package only if the client is not entitled to a mobility allowance or is unable to take public transport.

4.5 Who cannot be employed using a Direct Payment?

The 2007 amendment regulations (Adult Support and Protection (Scotland) Act 2007) amends direct payments legislation and change the rules on employing close relatives using direct payments under the 2003 regulations.

The regulations specify that in the majority of instances, relatives of the recipient cannot be employed using direct payments. The restriction applies because the relationship between the two people is primarily personal rather than contractual.

From 12 November 2007, unless a local authority is satisfied that securing a service from such a person is necessary to meet the beneficiary's need for a service, or that securing the service from such a person is necessary to safeguard or promote the welfare of the child in need, a local authority may not allow certain close relatives to be employed to provide support services (the precise services to which this applies are specified in

regulation 4 of the 2003 regulations as amended by the 2007 regulations). The 2007 regulations also expand the list of close relatives of the beneficiary from which services may not normally be purchased. This is in order to reflect modern family set-ups and applies irrespective of where they live. This list is given in Appendix 1.

This general position remains important because of the very different relationships that a person would have with an employee and a family member and the conflicts of interest that can result from employing a close relative. This applies to relatives irrespective of where they live.

In no circumstances can a PA manage a DP by payment to themselves, nor should any DP paid PA be the DP recipient. The latter circumstance would arise if the employed relative is receiving the DP on behalf of the client as an authorised third party (e.g. AWI). In both of these cases there would be a clear conflict of interest that could not be considered to be in the best interest of the beneficiary.

Exceptional circumstances can only be applied if authorised as detailed in the appendix.

4.6 Independent Advice and Support

The Lothian Centre for Inclusive Living (LCIL) is funded by City of Edinburgh Council to provide independent information to direct payment recipients in the following areas:

- employing personal assistants - job descriptions, advertising and recruitment of staff including criminal record checks
- tax and national insurance
- health and safety at work
- emergency cover
- employer's liability insurance.

LCIL also offers the following services:

- payroll services (incurs a charge)
- training for employers
- training for personal assistants.

4.7 PVG Scheme membership

Eligible individuals can use direct payments to employ their own staff (i.e. Personal Assistants) to provide the support which the Council has assessed is needed. The Council strongly recommends that all prospective personal assistants employed by direct payment recipients should have registered for PVG scheme membership as part of safe recruitment practice.

Implementation

5. For details of the completed [Implementation and Monitoring form](#), please access the relevant committee report.

Roles and responsibilities

6. This policy will be maintained by FIT.
All relevant Health and Social Care and Children and Families staff are responsible for complying with this policy.

Related documents

7. The legislation that enables direct payments support is contained within:
 - [The Social Work \(Scotland\) Act 1968 \(guidance on the sections relating to direct payments\)](#)
 - [The Children \(Scotland\) Act 1995](#)
 - [The Community Care \(Direct Payments\) Act 1996](#)
 - [Regulation of Care \(Scotland\) Act 2001](#)
 - [Community Care and Health \(Scotland\) Act 2002](#)
 - [Community Care \(Direct Payments\) \(Scotland\) Regulations 2003](#)
 - [National Health Service Reform \(Scotland\) Act 2004 \(asp 7\)](#)
 - [The Community Care \(Direct Payments\) \(Scotland\) Amendment Regulations 2005 \(SSI 2005 No. 114\)](#)
 - [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Subordinate Legislation\) Order 2005 \(SSI 2005 No. 445\)](#)
 - [The Disability Equality Duty \(DED\) as enacted 2006](#)
 - [Adult Support and Protection \(Scotland\) Act 2007](#)
 - [The Community Care \(Direct Payments\) \(Scotland\) Amendments Regulations 2007 \(SSI 2007 No. 458\)](#)

Overview of Primary Legislation

The Community Care (Direct Payments) Act 1996 ('the 1996 Act') inserted sections 12B and 12C into the Social Work (Scotland) Act 1968 ('the 1968 Act'). These sections were further amended by section 70 of the Regulation of Care

(Scotland) Act 2001 ('the 2001 Act') and section 7 of the Community Care and Health (Scotland) Act 2002 ('the 2002 Act'). They now place a duty on local authorities to offer direct payments to people other than those not eligible as specified in regulations made under section 12B; enabling them to arrange and purchase the community care or children's services they have been assessed as needing.

The Social Work (Scotland) Act 1968

Sections 12B and 12C of the 1968 Act place a duty on local authorities to make direct payments available to certain adults and children who wish to receive them. This includes disabled people.

Direct payments are an alternative to local authority arranged community care and children's services and therefore need only be offered at the point where the local authority would normally have agreed to provide the services. They must not put people who choose to receive local authority services at a disadvantage.

The Community Care (Direct Payments) (Scotland) Amendment Regulations 2003, and the Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Subordinate Legislation) Order 2005. Where a person is over 18 and clearly unable to give **consent**, or is under the age of 18, the 2003 Regulations specify certain categories of people who are able to give consent on behalf of the service user, namely those with parental responsibility, and attorneys and guardians (AWI Act 2000) who have powers to manage DP on the client's behalf.

Not everyone who is **eligible** for community care or children's services will be eligible for direct payments. The 2003 Regulations (as amended by the 2005 Order) specify that DP's may not be offered to certain people who are restricted by certain mental health or criminal justice legislation. People in these groups are required to receive specific community care services. Offering them DP's in lieu of those services would not give a sufficient guarantee that the person would receive the services required. Details of these categories are given in [National DP Guidance](#).

Adult Support and Protection (Scotland) Act 2007

Section 63 of this Act amends direct payments legislation. The Act empowers local authorities to offer increased flexibility in tailoring individualised packages of support. The 2007 amendment regulations (see below) change the rules on employing close relatives using direct payments under the 2003 regulations.

The Community Care (Direct Payments) (Scotland) Amendment Regulations 2007.

From 12 November 2007, unless a local authority is satisfied that securing a service from such a person is necessary to meet the beneficiary's need for a service, or that securing the service from such a person is necessary to safeguard or promote the welfare of the child in need, a local authority may not allow certain **close relatives** to be employed to provide support services (the

precise services to which this applies are specified in regulation 4 of the 2003 regulations as amended by the 2007 regulations). The 2007 regulations also expand the list of close relatives of the beneficiary from which services may not normally be purchased. This is in order to reflect modern family set-ups and applies irrespective of where they live. This list is given in Appendix 1.

A Direct Payments procedure document will shortly be issued and published on the Orb accompanied by links to all relevant forms.

Equalities and impact assessment

- 8.1 For details of the completed [Record of Equality and Rights Impact Assessment \(ERIA\)](#) form, please access the relevant committee report.

Strategic environmental assessment

- 9.1 N/A

Risk assessment

- 10.1 At risk of breaching Social Care (Self Directed Support) (Scotland) 2013 Act as it is a requirement to offer four options, including Direct Payments following assessment of need.

Review

- 11.1 Annual Review: To be prompted from Central Register of Policy holders.

Record of Equality and Rights Impact Assessment (ERIA)

Part 1: Background and Information

(a) Background details - please list ERIA background details:

ERIA Title and Direct Payments Policy and Procedure
Summary Description:

Service Area: HSC; C&F; SfC

Division: HSC

Head of Service: Monica Boyle

Service Area Ref. No.: HSC26

(b) What is being impact assessed? Describe the different policies or services (i.e. decisions, projects, programmes, policies, services, reviews, plans, functions or practices that relate to the Corporate ERIA Title):

Policies and Services	Date ERIA commenced
1. Direct Payments Policy	21/01/2013
2. Direct Payments Procedure	21/01/2013
3. Direct Payments Admin Processes	21/01/2013
4.	
5.	

(c) ERIA Team - please list all ERIA Team Members:

Name	Organisation / Service Area
Nikki Conway	HSC / Assessment and Care Management
Geoff Brown	Services for Communities
Steph Craig	HSC / Assessment and Care Management
Julia Sproul	HSC / Equalities Officer
Jenny McCallum	HSC / Assessment and Care Management
Carol Chalmers	Children and Families

13. Lothian Centre for Independent Living feedback	
14. Sector Practice Manager feedback	

Add Name

(b) Rights Impact Assessment - Summary: Please describe all the identified enhancements and infringements of rights against the following ten areas of rights. Please also consider issues of poverty and health inequality within each area of rights:

Life; Health; Physical Security; Legal Security; Education and Learning; Standard of Living; Productive and Valued Activities; Individual Family and Social Life; Identity, Expression and Respect; Participation, Influence and Voice.

Please indicate alongside each identified enhancement or infringement the relevant policy or service (see Section 1b) and relevant evidence (see Section 2a).

Summary of Enhancements of Rights

Physical Security - Equipment can be purchased by DP in own home, as opposed to being available in institutional care, e.g. Day Centres.

Legal Security - n/a to Direct Payments.

Education and Learning - Supporting people to flexibly attend university and further education.

Standard of living - C&F.

Productive and Valued Activities - Flexible access to Day Services, Respite, Holidays, e.g. Breakaway.

Individual, Family and Social Life - Enables individuals to choose where they receive their support and access social activities, i.e. own home, community etc.

Identity, Expression and Respect - Enables choice of Personal Assistant, when they are required and tasks that they complete.

Participation, Influence and Voice - Gives potential to have control and decision-making over their own lives, including culture, language, respite, day services etc.

Summary of Infringements of Rights. Can these infringements be justified? Are they proportional?

Legal Security - Not everyone who is eligible for community care services will be eligible for direct payments. The 2003 regulations (made under Section 12B (1) (b) of the 1968 Act) specify those to whom direct payments may not be offered (see section 7).

There may be a small number of people who do not use direct payments appropriately but there is a system for monitoring and tracking spend.

Individual, Family and Social Life - The policy may restrict whom an individual can

access more readily via a direct payment.

Negative Impacts:

Part 3: Evidence Gaps, Recommendations, Justifications and Sign-Off

(a) Evidence Gaps - please list all relevant evidence gaps and action to address identified gaps.

Evidence Gaps	Action to address Gaps
1. Feedback from ethnic minorities and all other community groups which are affected by this policy.	Annual Reviews, complaints, surveys
2.	Feedback from Sector Managers, further consultation, regular newsletters, quarterly meetings with LCIL, briefings.
3.	
4.	
5.	

(b) Recommendations - Please record SMART recommendations to:

- (i) eliminate unlawful practice or infringements of absolute rights,
- (ii) justify identified infringements of rights, or
- (iii) mitigate identified negative equality impacts.

Recommendation	Responsibility of (name required)	Timescale
1. Pursue feedback from LCIL and service users	Steph Craig, SSW, FIT team	Ongoing
2. Forward to C&F and SfC for their contribution.	Carol Chalmers, Geoff Brown	March 2013
3. Forward to Equality Impact Officer for feedback and advice.	Shenaz Benadhur	Feb 2013
4.		
5.		