

Have your say

Draft rules for direct payments

Easy-read Summary



The Scottish Government wants to know what people think about the draft regulations (rules) for direct payments.

The Scottish Government is also asking people what they think about draft Guidance on care and support. (This is a separate paper.)

Please take a look at the draft Rules and the draft Guidance together. The Scottish Government would like your views on both papers.

Part 1: Introduction

Rule 1: When the rules start

These rules start on 1 April 2014.

Rule 2: What words mean in this paper

Act This means the Self-directed Support Act 2013

Direct
payment
user This means someone who has chosen
Option 1 or Option 4

Option This means one of the 4 Options under the
Self-directed Support Act

Part 2: Getting a direct payment

A direct payment is used by a person to buy the support they need.

Rule 3: Checking what people can pay towards support

The local council can check if a person can pay some money towards the cost of their support. It must carry out this check before the person gets a direct payment or as soon as possible afterwards.

Once it has done the check, the council may ask the person to contribute (pay something) towards the direct payment.

If the person already has their direct payment, and then needs to pay something towards their support, the council can ask the person to repay part of the direct payment.

There are also rules for Carers Support and charges. This means that some people may not have to pay towards their support.



Rule 4: How much people will get

If a person has to pay something towards the cost of their support, the council will take this money off the person's direct payment.

This means the council will keep part of the direct payment and give the person a smaller direct payment. The person will have to add some money to it for their support.

The person can choose to have the whole of the direct payment paid to them. Then the person will have to pay their contribution for their support to the council.

Rule 5: Getting a direct payment in parts

The local council can pay a direct payment to a person a bit at a time.

Rule 6: Paying the direct payment to someone else

The local council can pay the direct payment to someone else if:

- The person asks the council to pay it to another person
- The council is happy that the person is still in control of the money and how it is used.



Rule 7: Stopping a direct payment

The local council can stop the direct payment if:

- The person stops being eligible for a direct payment
- The money has not been used for support but for something else
- The money has been used to buy support from a family member and this is not allowed.

Before it stops the direct payment, the council must tell the person that it is going to do this and why.

It must also tell the person the date when the direct payment will stop. When it decides the date, the council must think about:

- any legal arrangements the person has for support
- how much time the person will need to arrange other support.

The council must tell the person in writing and in any other format that the person needs.

Question 1: What do you think?

Tell us what you think about the rules in Part 2 for

- Checking how much someone can pay towards their support
- Paying the direct payment
- Stopping the direct payment

Part 3: Support from someone in the family

This Part is about the support that a person can get and when they can employ a family member. It applies to disabled people, or any child or adult who uses a direct payment for their care and support.

Rule 8: Part 3 is not about direct payments for adult carers or young carers.

Rule 9: When a family member can give support

There are extra rules if a direct payment is used to get support from a family member.

A family member can only provide support if:

- The person and the family member agree that the family member should give the support
- The family member is able to provide support that will meet the person's needs



One of the following things must also be true:

- There are hardly any local care organisations that can meet the person's needs
- The person does not like strangers
- The person finds it hard to communicate with other people
- The family member can give support at times when it would be difficult for others to do this
- The person needs support to care for parts of their body and it is better if this care is given by someone in their family
- The person would prefer someone with the same religion or beliefs to provide the care
- The person has an illness that means they will die and they need care for the last months of their life
- The person needs care for just a short time
- There are other reasons why the council thinks it would be better if a family member provides the care and support.



Who counts as a family member

The family member can be:

- a) The husband, wife or civil partner of the person
- b) Someone who lives with the person as if they were husband, wife or partner.
- c) It can also be the person's
 - Parent
 - Child
 - Brother or sister
 - Aunt or uncle
 - Nephew or niece
 - Cousin
 - Grandparent
 - Grandchild
 - Or a husband, wife or partner of anyone above
 - Or a person who lives with anyone above as if they were husband, wife or partner.



Rule 10: When a family member cannot provide support

Sometimes a family member cannot provide support – even if they fit the rules above.

The council may decide that the person or the family member is not making a free choice about the support but feels they have to agree to it.

Sometimes a family member will be the person's guardian or will have a power of attorney (a legal paper) that means they can make decisions about the person's support. Then, the family member cannot provide the support.

Question 2: What do you think?

Tell us what you think about the rules in Part 3 about when you can and cannot use a direct payment to employ a family member to give support.

Part 4: Sometimes people cannot get a direct payment

Rule 11: Some people are not allowed to get a direct payment

This includes:

- People who get treatment and testing for drugs as part of the law
- People who have left prison and who need to agree to treatment for a mental health problem or to stop taking drugs or alcohol
- A person who has been found guilty of a crime and who needs to get treatment as part of a Community Order.

It also includes someone whose direct payment has stopped because the local council does not think the person has used the money properly.

Question 3: What do you think?

Tell us what you think about not giving direct payments to people who need care and treatment as part of an order by the courts.

Rule 12: You cannot use a direct payment for some services

The local council does not have to give someone a direct payment if the person needs support because they:

- are homeless
- need to get away from being abused at home by a family member
- need help to stop taking drugs or alcohol

Question 4: What do you think?

Tell us what you think about not giving direct payments to people who:

- Are homeless
- Are getting away from abuse at home
- Need help to stop taking drugs and alcohol.

The local council does not have to give someone a direct payment if the person needs support with:

- Staying in a care home or nursing home for more than 4 weeks.

Question 5: What do you think?

Tell us what you think about not giving direct payments to people who need to stay in a care home or nursing home.

Direct payments can be given to children and families for care and support services for a child. But the council can say “No” if it thinks a direct payment will not help to keep the child safe and healthy.

Question 6: What do you think?

The rules do not say exactly when and why the council can say No to children and families if they want to use direct payments for care and support. Do you think the rules should be more specific?

Do you have any other comments?

Question 7: What else do you think?

Is there anything else you want to tell us about the rules for direct payments? Is anything missing? Does anything need to be changed?

Thank you.

Please send your views and answers by **10 July 2013** to:

Self-directed support Team
Room 2ER
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Email: selfdirectedsupport@scotland.gsi.gov.uk

Telephone: **0131 244 5455**

You must also fill in and send the form on the next page.



Have Your Say

Respondent Information Form

You **must** fill in this form and send it back with your answers or views.

Your name:

Your address:

The Scottish Government wants to let other people know what you think. It can do this by putting your comments on its website or in its library. Is that okay? Please tick one box.

- It is okay to show what I said and my name and address.
- It is okay to show what I said and my name, but **not** my address.
- It is okay to show what I said but **not** my name and address.
- It is **not** okay to share what I said or my name and address.

If you are replying for a group or organisation please write the name here:

If you are replying for a group or organisation, the Scottish Government will put your group's name and address on its website or in its library. Can it print your comments too?

- Yes** **No**, please keep my comments private

We will show your comments to people who work for the Scottish Government. They might want to contact you. Is that okay?

- Yes** **No**



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ISBN: 978-1-78256-596-3 (web only)

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Government by APS Group Scotland
DPPAS14307 (06/13)

Published by the Scottish Government, June 2013

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