

Local authority social services act 1970

Community Care Services: Disabled People's Choice and Control (Pilot Scheme) (England) Directions 2010

The Secretary of State for Health makes the following Directions in exercise of the power conferred by section 7A of the Local Authority Social Services Act 1970(a) and section 47(4) of the National Health Service and Community Care Act 1990(b).

Citation, commencement, expiry, application and interpretation

1 (1) These Directions may be cited as the Community Care Services: Disabled People's Choice and Control (Pilot Scheme) (England) Directions 2010 and are addressed to pilot authorities.

(2) These Directions come into force in relation to the pilot authorities-

- (a) referred to in paragraphs (a), (d), (e), (g) and (k) of the Schedule, on 13th December 2010,
- (b) referred to in paragraphs (b) and (i) of the Schedule, on 1st March 2011, and
- (c) referred to in paragraphs (c), (f), (h), (j) and (l) of the Schedule, on 1st April 2011.

(3) These Directions cease to be in force on 13th December 2012.

(4) These Directions do not apply to the exercise of functions by a pilot authority under section 47(1) of the 1990 Act (assessment by local authorities of needs for community care services) in relation to community care services (c) or direct payments that immediately before the date on which these Directions come into

(a) 1970 c.42 ("the 1970 Act"). Section 7A was inserted by section 50 of the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"). For the definition of "social services functions", see section 1A of, and Schedule 1 to, the 1970 Act.

(b) 1990 c.19.

(c) See section 46(3) of the 1990 Act for the meaning of "community care services". Section 46 was amended by the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, paragraphs 128 and 129.

force in relation to that pilot authority are being provided or made by that authority to or for a person residing in that authority's area.

(5) In these Directions –

“the 1990 Act” means the National Health Service and Community Care Act 1990;

“direct payments” means direct payments under the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009(d);

“eligible needs” means those needs which, in a pilot authority's view, call for the provision of community care services;

“personal budget” in relation to an individual means the amount which a pilot authority considers needs to be spent in order to meet that individual's eligible needs;

“pilot authority” means an authority listed in the Schedule;

“principal local authority” means–

- (a) a county council,
- (b) the council of any district comprised in an area for which there is no county council,
- (c) a London borough council,
- (d) the Common Council of the City of London in its capacity as a local authority, or
- (e) the Council of the Isles of Scilly;

“right to control service” means

- (a) assistance provided under the programmes known as “Access to Work” and “Work Choice Specialist Disability Employment Programme” in pursuance of arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(a) (functions of the Secretary of State),
- (b) non-statutory assistance provided by a principal local authority for the purpose of enabling people aged 18 or over to overcome

(a) 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c.19) and amended by the Employment Act 1989 (c.38), Schedule 8 and the Trade Union Reform and Employment Rights Act 1993 (c.19), section 47(1).

barriers to participation in society associated with their disability where—

- (i) the assistance is given for the purpose of developing and sustaining people's capacity to live more independently in their accommodation,
- (ii) the assistance does not include the grant of a tenancy or the provision of accommodation,
- (iii) the assistance is not a community care service, and
- (iv) when the assistance is first provided it appears to the principal local authority that the need for the assistance is likely to last for more than two years,

(c) financial assistance provided by the Independent Living Fund (2006) established by a deed dated 10 April 2006, or

(d) grants under Chapter 1 of Part 1 of the Housing grants, Construction and Regeneration Act 1996(b) (grants, &c for renewal of private sector housing – the main grants).

(6) In these Directions references to a person lacking mental capacity are to be read in accordance with the Mental Capacity Act 2005(c).

Duty of pilot authorities: disabled people's choice and control

2—(1) In exercising their functions under section 47(1) of the 1990 Act (assessment by local authorities of needs for community care services) in relation to a disabled person aged 18 or over, who is residing in their area or, in the case of Surrey County Council in the area of Epsom and Ewell Borough Council or Reigate and Banstead Borough Council ("P"), a pilot authority must comply with paragraph (2).

(2) The pilot authority must—

(a) at the appropriate time, inform P in writing of—

- (i) the duties imposed on the authority by these Directions and the Community Care Assessment Directions 2004(d),
- (ii) the existence of right to control services and details of the authorities by which they are provided in P's area,
- (iii) where applicable, the likely value of P's personal budget and the availability of direct payments, and
- (iv) the availability of a procedure for making complaints regarding the pilot authority's exercise of their social services functions;

(b) where P is assessed as having eligible needs, so far as is reasonably practicable, work in partnership with authorities by which right to control services are provided with a view to ensuring, as far as possible, the seamless delivery of services to or for P; and

(c) where P is assessed as having eligible needs, take all reasonable steps to—

- (i) reach agreement with P, or, in a case where P lacks mental capacity, with a person acting on P's behalf who, in the pilot authority's view, is a suitable person ("S"), as to the outcomes intended to be achieved by the provision of community care services to or for P or the making of direct payments to or for P, and
- (ii) ensure that P or, in a case where P lacks mental capacity, S, has access to information which might assist P or S, as the case may be, to make choices in relation to the planning of the delivery of community care services to or for P.

Signed by authority of the Secretary of State for Health

Name
Member of the Senior Civil Service
[Date]

SCHEDULE

Direction 1(5)

The pilot authorities are—

- (a) Barnet London Borough Council;
- (b) Barnsley Metropolitan Borough Council;
- (c) Bury Metropolitan Council;
- (d) Essex County Council;
- (e) Leicester City Council;
- (f) Manchester City Council;
- (g) Newham London Borough Council;
- (h) Oldham Metropolitan Borough Council;
- (i) Sheffield City Council;
- (j) Stockport Metropolitan Borough Council;
- (k) Surrey County Council; and
- (l) Trafford Metropolitan Borough Council.