



# Direct Payments Information Pack

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**Direct Payments Social Work Team - 01629 532023**

This is a working document and will be subject to updates from time to time. If you have any queries regarding the content of this document please contact DCC direct payment team on 01629 532023 or email us on [directpayments@derbyshire.gov.uk](mailto:directpayments@derbyshire.gov.uk)

Version 2 May 2017

# 1. Introduction to Direct Payments

## What is a Direct Payment?

This is money Derbyshire County Council (DCC) can give you instead of a **service - if you are eligible for DCC services**. You spend the money towards **meeting** your agreed **outcomes**.

**Outcomes** are what you achieve with the support. They can be about living healthily, safely and independently, they can also be goals and aspirations you have in your life which have been agreed with your Adult Care worker.



Direct payments are a different way of meeting the outcomes of your support plan, which are directly linked to your assessed eligible need. If you need **services** that Derbyshire County Council can help you with, then you could **request** a direct payment instead.

## For example:

If you are unable to get yourself dressed, an eligible outcome for you could be:

‘to get dressed every day’

## This could be achieved in a number of ways:

- In house services or an agency, arranged by us supporting you with getting dressed or
- Employing a personal assistant with your direct payment to support you with getting dressed or
- Using a direct payment to contract with a service provider to support you with getting dressed.

## You may be able to use a direct payment to buy:

- Support that helps you achieve your **outcomes**
- Support with **daily life, activities** and to get **out and about**
- Support with activities of daily living
- Support to keep **healthy** and **well, i.e. personal care**.

## Who can have a Direct Payment?

- Disabled adults 18+
- Nominee
- Authorised person acting in the best interests of the client
- Parents of disabled children on behalf of the disabled child
- 16/17 year old disabled young people
- Carers.

## Getting a Direct Payment

If you do not have a direct payment and you are interested in having one, you will need to contact your DCC worker to request a direct payment if you already receive services from Derbyshire County Council.

If you do not receive a service from Derbyshire County Council, you will need to contact 'Call Derbyshire' on 01629 533190 and ask for an 'assessment of need'. A DCC worker will carry out an assessment to determine whether or not you are eligible for services from DCC. If you are eligible, the worker will discuss how your needs can best be met. You could then request a direct payment and the worker would include a discussion around direct payments. DCC will then consider your request to ensure a direct payment is a safe and appropriate way to meet your needs. This will include making sure you are able to manage the direct payment and identify any support you may need in managing it.

If you have a direct payment, money is paid into a separate bank account. A direct payment does not affect your benefits.

- You can get **help** with managing the money from the direct payment, more information can be found in **section 4, Getting Started**.
- If you choose to employ a personal assistant you can **get help** with finding, employing and paying personal assistants. More information can be found in section 6, Recruiting Personal Assistants.

## DCC Brokerage service

The **brokerage service** provided by Derbyshire County Council helps Derbyshire residents find services that they may need, this can include helping people with their direct payment find the right services for them. Brokerage can help find services even if you are funding the services yourself.

The DCC brokerage service will **give you information** about care agencies and support with daily living. They can also help with finding a range of services, including universal services, which could help you achieve your outcomes.

DCC brokerage can also help you find agencies to support you with managing the direct payment, such as managed account providers.

DCC Brokerage Team: 01629 537763 or 01629 537758. Or visit [www.derbyshire.gov.uk/brokerage](http://www.derbyshire.gov.uk/brokerage)

**Basic information about direct payments can be found:**

[www.derbyshire.gov.uk/directpayments](http://www.derbyshire.gov.uk/directpayments)

[www.gov.uk/apply-direct-payments](http://www.gov.uk/apply-direct-payments)

## 2. Staying Safe

Direct payments give you extra control over your care arrangements. We know that having control over our lives gives us more resilience against fear of abuse and neglect. All direct payment recipients need to know that all professionals and Call Derbyshire are ready to support you with any worries and concerns you have regarding staying safe.

**Have you got a copy of the safeguarding public information leaflet?** If not contact your worker for a copy.

### Safeguarding

Unfortunately, we know that some people and agencies in the care and health profession (including personal assistants) perpetrate poor practice (for instance poor moving and handling) or intentional abuse. We can help you manage this situation as a recipient of services and also signpost help for you as an employer. Our policy and procedures for safeguarding address the particular needs of direct payments clients.

### Adults Get Hurt Too

If you are worried about yourself or an adult who is being abused or neglected then contact Call Derbyshire on **01629 533190** between 8am and 8pm where trained staff can deal with your concerns.

Information is also available on the Derbyshire County Council website:

[www.derbyshire.gov.uk/adultcare](http://www.derbyshire.gov.uk/adultcare)

or

[www.derbyshire.gov.uk/safeguardingadults](http://www.derbyshire.gov.uk/safeguardingadults)

**If you want to talk to someone outside these hours then you can ring:**

Derbyshire County Council's Out of Hours service on 01629 532600



**Do not keep your worries and concerns to yourself. Whatever you do, make sure you talk to someone. Tell your DCC worker, a health professional, such as your GP, Health Visitor or Community Nurse. You could also talk to a college tutor or welfare staff at college. You could tell a trusted family member, friend, neighbour, community leader or someone from your church, synagogue, mosque or other local religious centre.**

**In an emergency you can dial 999 and ask for the police**

### **Protecting yourself when Employing staff**

You should always protect yourself when employing staff. You can do this by ensuring you make checks on any potential employee, including a Disclosure and Barring Service (DBS) check. We recommend that all employees have a disclosure and barring service check, however, if there are children in your home a DBS check is mandatory and the direct payment will not be paid to you until the check is completed.

Your personal assistants have a duty of care. They may need to talk to someone if they have concerns for your safety. They should normally do this with your consent, but sometimes confidentiality has to take second place if you or another person is at serious risk of abuse. A good understanding between you as the employer and your personal assistants is vital before anything happens. Personal assistants can attend training in safeguarding.

More Information regarding recruiting staff and Disclosure and Barring checks can be found in section 7, recruiting personal assistants. Information regarding training for personal assistants can be found in **section 8, Managing personal assistants**.

**In an emergency you can dial 999 and ask for the police**

## 3. Support Planning and Using the Money

**Your assessment and support plan** should detail **outcomes** which you will use your budget to achieve. Your outcomes are what you hope to achieve as a result of the support. They may be 'to get a full body wash every day' or they may be attending a specific activity. They will be individual to you and your needs. What your outcomes are will depend on your circumstance and the **eligibility criteria**. It may be that not everything you want to achieve in your life can be purchased with a direct payment; they may not be eligible needs.



Once you and your worker have agreed your outcomes, you can start thinking about how you will achieve this with your direct payment. How you will use your direct payment to achieve your outcomes should be **written and agreed in your support plan**. This doesn't mean that you cannot use the money flexibly, but your support plan should outline the general way that you will use the money to achieve each outcome. This will form your personal budget and help ensure your direct payment is sufficient to meet your needs. The direct payment you receive will be based on this, though you can manage this budget flexibly.

### What you cannot spend your direct payment on:

- Anything illegal
- Meeting your health needs
- Employing a close family member living in the same house except in exceptional circumstances approved by the DCC Adult Care Group Manager
- Ordinary Living Costs, Food, bills, clothing, etc.
- Telecare and pendant alarm standing charges
- Equipment and adaptations which are provided by health or a disabled facilities grant
- Anything which does not meet your agreed outcomes in your support plan.

### Using the Money

You can use the money for anything that is **safe, healthy and legal** which achieves the outcomes agreed with your worker. Anything you spend the direct payment on must be traceable. This means you cannot make cash payments from the direct payment. Everything you spend the direct payment on must be directly related to an agreed outcome and agreed in your support plan. If you are not sure if something is agreed, talk to your worker.

### Depending on circumstances, some people spend their direct payment on:

- Employing a personal assistant and related expenditure, i.e. holiday pay, relief cover, etc
- Contracting with an agency or service provider
- Paying for activities to help you stay well such as gym membership
- Paying for equipment which reduces your need for support
- Short breaks, towards holiday support or respite
- Local authority services in exceptional circumstances
- Neighbouring local authority services
- Paying other Direct Payment costs such as payroll charges.
- Expenses for unpaid helpers or volunteers

If you don't feel your support plan clearly helps you understand how you can use the direct payment, please speak with your worker.

## Employing personal assistants

If you choose to employ personal assistants, you need to employ and pay them properly, i.e. using a payroll service to work out tax, national insurance contributions, etc. There are also additional costs involved in employing staff which you need to budget for. More information about employing personal assistants and costs can be found in section **11. Paying personal assistants**

## Contracting with an agency

If you engage the services of an agency, ensure you know all their costs. Some agencies charge travel for visits and some include this cost in their hourly rate. Checking these before you commit yourself will help you budget. If you **choose** an agency which is a costs more than local agencies, you may be required to top up the payments. If a particular agency is required to meet you needs or there are no others available, your personal budget would be based on

## Equipment which reduces the need for support

You cannot use your direct payment to purchase equipment **without prior agreement** as a separate direct payment agreement is required for any equipment. General aids or normal household equipment for daily living cannot be bought with your direct payment. Agreement may be given for equipment which will enable you to meet an outcome of your support plan and reduce the need for care and support. If you do feel that a certain item would achieve your outcome, speak to your worker. Any expenditure on equipment must be agreed and written into your support plan. Direct payments cannot be used to purchase or maintain any equipment provided by health. Direct payments cannot be used to pay for maintenance of fixed equipment or ongoing personal contributions to equipment service such as pendant alarms.

## Respite and Short Breaks

Direct payments can be used to fund respite or can help getting support whilst on a holiday. The direct payment can be used to fund care and support whilst on holiday, such as paying your personal assistant or paying a local care agency for the duration of the holiday. If accessing a holiday is an eligible outcome, your direct payment may also be used for other costs such as equipment hire. Any agreed expenditure should be recorded on your support plan. A direct payment wouldn't normally pay for the cost of your holiday.

Your direct payment can be used to fund short term residential respite, however there are some limits so stays should always be at least 4 weeks apart to ensure these limits are not reached. Residential respite is subject to different financial assessment, and depending on your capital, you may not be able to use your direct payment to fund residential respite. If you have over the residential capital, you would have to self –fund residential care. If you have less than the capital amount, you will still be required to contribute to the cost of residential respite.

## Transport and Travel

Derbyshire County council's transport policy applies to the provision of transport , even if you receive a direct payment. Transport or funding for transport will only be made available:

- Where you have no other method of transport available, and no other way of having eligible outcome met
- And access to the activity is essential to meet an assessed eligible need and the related outcomes as recorded in the person's support plan.

This means you can only use your direct payment for travel, including volunteer and PA expenses where you have no other means of getting about.



## Legal rewards

Sometimes there may be a moral obligation to recompense someone who helps you for free, excluding family members. Your direct payment can be used for this though you need to be careful with how much and how this is accounted for. This could be:

- Paying a person's membership fee of a club like photography so they can support you to go there
- Paying for a meal to say thank you for the support they provide for free
- Paying for the fuel if someone transports you in their own car
- Giving a small gift to repay any unpaid helper supporting you, this cannot be cash or vouchers.

You will need to provide receipts for this expenditure to send to the Direct Payment Finance Team. HMRC has limits on how much you can give to someone in this way. HMRC provided guidance that a small gift would be considered to the value of £10-£20. **You can only make gifts up to the value of £250 in any one tax year.**

Any agreed legal rewards must be agreed and written into your support plan

## Volunteer Expenses

You may choose to arrange support via volunteers. A volunteer is someone who supports you on a more formal and regular basis but does not receive any wage. Volunteers can be reimbursed their expenses so they are not out of pocket through volunteering.

### What can be reimbursed?

- travel to and from the place of volunteering (and any travel whilst volunteering ) this can be standard public transport or 45p per mile
- meals whilst volunteering (generally if the volunteer works more than 4 hours in one day)
- Other costs such as activities if required to meet your outcomes

For audit purposes, volunteers should complete an expenses claim form, which they sign. They can only claim actual expenses incurred.

### Personal Assistant expenses are covered in 11. Paying personal assistants

Once the direct payment is agreed and your support plan is complete, it is up to you to manage the direct payment and the budget on an annual basis. You make the decisions about how your needs are met day to day, week to week.

Having agreement about the different ways you will do this, upfront and documented helps both you and us be confident about the direct payment. It also helps prevent misunderstandings later.

We will review within 6 months of the direct payment starting to make sure everything is ok, and then annually after. However if your circumstances change or you want to change your support plan you can contact your worker or the area team at anytime.

## 4. Getting Started

Once you have a clear support plan of how you will use the direct payment you can get started. You will need to sign an agreement in which you will agree to use the money as set out in your support plan and to keep records about how you use the money. The agreement also sets out what you can expect from Derbyshire County Council.



### Basics to know about a direct payment

- Money is paid into the bank account or managed account **every 4 weeks in advance**, unless agreed otherwise
- You need to keep a record of how you have used the money
- You will need to provide some paperwork to show how you have spent the money
- If you choose to employ personal assistants you will be an employer and will have to follow employment law.

There is support and advice available with all aspects of managing a direct payment. Further information about the support available can be found throughout this information pack.

Before we make the payment, you need to decide how you will manage the direct payment and what account we will make the payment into.

### Clients managing their own direct payment

As a client receiving your support as a direct payment, you are responsible for managing the payment, including providing DCC with paperwork to show how you have used the money.

#### **‘With choice and control comes responsibility’**

The responsibilities involved in receiving a direct payment are outlined in the direct payment agreement, which both you and your worker sign. It is important that you understand what you are agreeing to by signing the agreement. If you will be employing staff you also need to understand your obligations as an employer. The direct payment agreement can be provided in different formats, if this is required, such as other languages or large print. If you need the agreement in another format, please discuss this with your worker. Your worker can also help you to understand the direct payment agreement.

If you are to manage the direct payment yourself, you need to open a separate bank account. You will need a bank account which is just for direct payments and has no other money going in or paid out. Ideally you need a **current account**, which allows direct debits and transfers i.e. internet banking. If you can't get a bank account, talk to your worker. They can support you with a letter which may help you to get one. If you still can't get a bank account, don't worry, you could have a managed bank account.

If you are going to employ personal assistants you don't have to work out tax and national insurance yourself, you can use a payroll agency to do the calculations for you or Her Majesty's Customs and Revenues free service.

Your adult care worker will have some forms they have to complete to get the direct payments set up and will need to send these, along with the signed direct payment agreement and bank details, to the direct payment finance team.

## **How long until I receive the payment?**

Payments cannot be made into the account until we receive all the required paperwork. Your social worker will give you a start date from when your direct payments will be paid. Once we receive all the required completed forms we will begin to set up payments. The finance team will write to you soon after to confirm your direct payments.

We can only **backdate a direct payment up to 28 days** from when we received the completed paperwork, so getting your paperwork completed as soon as possible is important. If there is a delay which is not your fault and you have completed your paperwork and given it to your adult care worker on time, then it may be possible for the direct payment to be backdated beyond the 28 days. But this will need the authorisation of the Adult Care Group Manager.

If your adult care worker has agreed you can start using the direct payment and you have already contracted with an agency, or a personal assistant has already started working for you, you must keep records to be able to pay them from the direct payment account. Without these records your direct payments will not be backdated.

## **A nominee managing the direct payment for you**

The Care Act says that a nominee can now take full responsibility for your direct payment even if you have capacity to do so yourself, if you wish and if the nominee has agreed to do so.

It is important that you are clear from the outset whether someone is supporting you informally or becomes the nominee and fully responsible for the management of your direct payment.

### **Nominee**

A nominee is someone who agrees to take full responsibility for the direct payment on your behalf. A nominee would be responsible for employing staff or contracting with agencies. The nominee would sign the direct payment agreement. The bank account (even if a managed bank account is the preferred option) would be in the name of your nominee.

### **Informal Support**

You may prefer to retain control of your direct payment but have someone support you on an informal basis. You would sign the direct payment agreement and the bank account would be in your name. Your informal supporter could help you with paperwork, making contact with agencies, help you recruit staff etc. You would be the employer or the person contracting with an agency. You would retain responsibility for the direct payment and how it is used. If you wish for DCC to correspond with your informal supporter instead of yourself, we would require written agreement to do so.

## Where a client lacks capacity

Where someone is unable to understand direct payments, even with assistance, they are unable to request one. However someone else can request a direct payment on their behalf. This person is usually someone close to the person requiring support, who maybe already has responsibility for helping them with their finances and managing their support. If DCC agree this is a safe and appropriate way to meet the persons needs, a direct payment can be paid to an 'authorised person' to manage the direct payments and arrange care and support in their best interests.

Where the authorised person is not a family member, they must undertake a Disclosure and Barring Service check before they can receive the direct payment.

The authorised person becomes the direct payment recipient, with the responsibility to manage the direct payment to purchase support for the client and act in their best interests. As an authorised person you would have to sign the direct payment agreement.

The bank account should be in the authorised persons name, i.e. John Smith but on behalf of the person who is requiring the care, for example 'John Smith on behalf of Edward Smith'. The bank account must be a current account.

The authorised person is also the employer for any personal assistants and is responsible for being a good employer, i.e. paying tax and national insurance. The authorised person would also be responsible for contracting with a service provider, including any contractual obligations. The authorised person is also responsible for meeting all the monitoring requirements associated with the management of a direct payment.

The money belongs to Derbyshire County Council, not the authorised person, and is only to be used to provide support to the client as per the support plan.

## Carers

A carer can request to receive a direct payment to meet their own needs set out in their support plan and receive their own personal budget. This would be used to support them as a carer and not to provide support to the person they care for. Respite and breaks from caring should be met through the person in need of care and support's assessment.

## Managed Bank Account

A managed bank account may be a good option if you feel the monitoring responsibilities would be something you would find difficult to manage. A managed account is not giving up control of the direct payment; a managed account provider works on your behalf and makes the payments you tell them to. The managed account provider will take on the administration responsibilities of a direct payment, leaving you with time to manage your support. However, you still retain all employer and contractual responsibilities. A managed account provider will pay any service provider invoices or wages to personal assistants, along with submitting your monitoring forms to us. You will still need to send timesheets or invoices to the managed account provider for them to make the payments.

With a managed account we would make the payments to the managed account and they would make all payments on your behalf. We know of a number of managed account providers who can help you manage your direct payment. To explore your options you can **call our brokerage team on 01629 537763**.

The paperwork and direct payment agreements remain the same whether you are managing the direct payment yourself or you choose to contract with a managed account provider, other than the bank details. A managed account does not manage the care and can not be responsible for contracting or employment. **Whoever signs the direct payment agreement also retains responsibility for managing the budget.**

**DO NOT OPEN A BANK ACCOUNT IF YOU ARE CHOOSING TO USE A MANAGED BANK ACCOUNT.**

Which managed account provider you choose is up to you, as long as they can meet our monitoring requirements. Here are some providers but you can choose another as long as they are able to provide the relevant information to DCC and are affordable.

**The Rowan 02476 322860**

<http://www.therowan.org/>

**Care in Finance 0845 241 0999**

[www.careinfinance.co.uk](http://www.careinfinance.co.uk)

**Ability Finance 01773 740246**

<http://dcil.org.uk>

**Paypacket 0800 848 8998**

<http://paypacket.co.uk/>

**Penderels Trust 02476 511375**

[www.penderelstrust.org.uk](http://www.penderelstrust.org.uk)

### **Costs:**

Each managed bank account provider will have a different rate of charges for the services they offer. When deciding which provider to use please take into account their charges. The money you pay for their services needs to be found out of your direct payment. There is no additional funds to cover their costs unless agreed as part of your personal budget.

## 5. Transition

The term transition is used to describe the period when a young person moves from childhood to becoming a young adult, particularly as they move from Children's Services to Adult Services.

This transition to adulthood is a time when young people and their families are thinking about their aspirations for the future. If people are likely to have care and support needs when they are 18, they need information and advice so that they can make the necessary plans. (Care Act 2014)



The legislation covering the transition period is laid down in The Children and Families Act 2014 (Part 3), and the Care Act 2014. (Part 1). This means there is a group of young people aged 18-25 who may be entitled to support through both pieces of legislation.

Both the Children and Families Act and the Care Act promote better choice and control over care and support for young people and families. The Children and Families Act provides young people and families the right to request a personal budget as part of an EHC plan (Education, Health and Care). The personal budget could be made up of SEN (Statement of Educational Needs), social care and/or health funding depending on eligibility.

A young person receiving care and support through Children's Services carries on until an Adult Care assessment determines whether the young person is eligible for support from Adult Care or is no longer eligible. The criteria for support from adult care is laid out in the Care and Support (Eligibility Criteria) Regulations 2014 (the 'Eligibility Regulations')

It is important therefore that there is close co-operation between children's services and adult care. A young person could have a direct payment from more than one funding source.

The Care Act requires local authorities to include a personal budget in the Care and Support Plan (Care element of an EHC plan) for individuals over the age of 18. The young person or their family could request to take the personal budget as a direct payment.

Where a young person has been receiving support from Derbyshire County Council via a direct payment to a parent, we need to look at the direct payment for when they become an adult.

Once a young person reaches the age of 18, the direct payment can no longer be paid to a parent on their behalf, unless they are appointed as an authorised person.



## Capacity

Whether a young person, once they reach adulthood, has capacity or not to request to take their personal budget as a direct payment is an important decision and subject to the legal framework of the Mental Capacity Act 2005.

The Mental Capacity Act's main purpose is to provide a legal framework for acting and making decisions on behalf of adults who lack the capacity to make particular decisions for themselves.

A person must be assumed to have capacity unless it is established they don't.

In many circumstances it is clear whether a young person has sufficient understanding of the responsibilities in managing a direct payment to be able to request a direct payment. For example, a young person with severe learning difficulty is unlikely to have capacity to request and manage their own direct payment. Nevertheless a young person with Asperger's Syndrome may well have capacity, but needs support to complete the relevant forms, etc.

If the young person has no impairment of mind or brain, then capacity must be assumed and the direct payment would be transferred to them at 18 if they choose to continue to receive a direct payment. They can nominate someone to help them manage the direct payment, such as a parent. If the Nominee is solely to support the young person, the young person would complete and sign the adult direct payment agreement in their own name. The young person would normally open a bank account in their name for the direct payment or they can choose to have a managed account. The young person is fully responsible for their direct payment. If the young person has asked the Nominee to take responsibility for the direct payment and the Nominee agrees then ALL the responsibility including completing the relevant documentation passes to the Nominee.

If the young person has an impairment of mind or brain, such as a learning disability, then their capacity to request to receive their care as a direct payment must be considered. An adult care worker would carry out a 'capacity assessment'. This would involve communicating with the young person in an appropriate format to explore what their understanding of the responsibilities involved with a direct payment is. If the capacity assessment finds that they do not have capacity to request a direct payment, they would need an 'authorised person' to manage the direct payment on their behalf. Anyone involved in the young person's care can be appointed by the young person's social worker as their 'Authorised Person'. It is usually the person who has the most involvement. There are guidelines as to whom we should look to appoint as an 'authorised person'. The 'authorised person' signs the direct payment agreement as the authorised person. The direct payment would be made into the authorised person's direct payment bank account. The Authorised Person is fully responsible for the young person's direct payment.

The rules around use of the direct payment and employment law remain the same for adults and children's services. However what needs are considered eligible may change.

# 6. Pooling Direct Payments

## What do we mean by Pooling Direct Payments?

This is where 2 or more Clients combine some, or all of their Direct Payments, into a joint venture.

Your direct payments money is still paid into your dedicated direct payment bank account. It is your responsibility to pay the agreed amount into the pooled budget. (This applies whether you are the client or the authorised person).

## Who can pool their direct payments?

Direct Payment Recipients with a common interest and common outcomes.

## How can you spend the money?

There are 3 main options:

1. Group living arrangements (social care support only - not daily living, household or tenancy related expenditure)
2. Social activities or opportunities
3. Combination of the above.

As with all direct payments, how you spend the pooled portion of your direct payments has to meet the outcomes of your support plan.

## What are the benefits?

Here are some of the benefits of pooling your direct payments:

- Sharing support costs in a group living arrangement
- Sharing the costs of an activity or holiday
- More control over how you spend your direct payments
- Developing skills, knowledge and experience
- Making friends
- Having fun.

## How can you find other people interested in pooling their direct payments or personal budgets?

How can this be done will depend on your individual circumstances. Below are some ideas:

- Do you know anybody who might be interested?
- You can try friends at school, college, your day centre and people you live with
- Does your Derbyshire County Council social worker know anybody who is interested in living independently and/or likes to do some of things you enjoy?



## **How do I set up a pooled direct payment?**

Help to set up a pooled direct payment is available from your DCC worker and the direct payments team. If you do want to explore pooling your direct payments with someone else, you should:

1. Discuss options and ideas with your worker, including asking for help with finding people with a similar interest.
2. Arrange a meeting with all parties to include:
  - The other people who are interested and their chosen person
  - DCC workers for each person
  - You and your chosen family member, friend who you trust or your advocate
  - Someone from the direct payment social work team.

## **What should the meeting cover?**

- What you will do with the budget
- How much it will cost everyone
- How will payments be made
- Whether or not to open a separate bank account, and whose name it will be in
- Making an written agreement about the arrangements (help is available for this)
- If you are going to employ a personal assistant, you need to decide who will be the employer
- Write down the decisions to act as a reminder for future meetings.

The shared support or activity will still need to achieve the outcomes in your support plan. You can discuss this with your worker. You will still need to send evidence of these payments with your 4 weekly paperwork.

# 7. Employing Family Members

## Employing Family

While family can be employed via a direct payment, there are exclusions and considerations. You cannot have a direct payment specifically to employ a family member, but if you have eligible outcomes identified in your support plan, you could choose to employ a family member to support you to meet them. However you cannot employ a family member who lives in the same house as you.

The Care and Support (Direct Payments) Regulations 2014 prohibit anyone receiving a direct payment from employing family members living in the same household. This also includes an authorised person, the nominee or carer employing a family member living in their own house or the clients, **unless there are exceptional circumstances.**



## Exceptional Circumstances

While the regulations are clear that close family members cannot be employed via a direct payment, they do allow us to make exceptions where required. An exceptional circumstance is one where **we cannot meet your care needs in any other way.** Only an Adult Care Group Manager can make the decision regarding whether or not your situation warrants an exception. Usually exceptions are only made in circumstances such as a location being difficult for other personal assistants to get to, communication issues, cultural or religious needs, mental health or terminal illness. We will also need to consider how your needs will be met when your family member is unwell or is taking a holiday. An exceptional circumstance is not just a preference for a particular person to provide the support, it needs to be a genuine necessity. If you feel you have an exceptional circumstance speak to your adult care worker.

## Authorised Person

If you are an authorised person for someone who lacks capacity, you are the direct payment recipient so you cannot employ or contract with a family member living in your house in any way, whether as a personal assistant, self-employed personal assistant or as an agency carer in an agency in which you have a vested interest. Furthermore you cannot pay volunteer expenses to a family member living in your own house or the client who the direct payment is for.

As the authorised person, you cannot also be the personal assistant or an agency carer. However you may be able to receive a nominal payment from the client's direct payment for any role, such as administration, payroll or accounting. (The Care Act 2014 guidance suggests that this be comparable with the cost of a commercially available 3rd party managing the account).

**Any payments for administration must be agreed and documented in the support plan.**

## **Nominee**

Whether a nominee has legal responsibility or not for the direct payment, because they are in a position of accountability the same exclusions apply to a Nominee as to an Authorised Person.

## **Employing family not living in the same house**

Family members not living in the same house, can be employed via a direct payment. However, you still need to be a good employer and your family will have the same employment rights as any other employee. We recommend that you have a job description and by law you must give written terms and conditions of employment - which is best given as a contract of employment. Having these will help you establish boundaries about what a family member does as an employee and what they do as a family member. Family members employed must also pay tax and national insurance as any other employee.

For further information regarding employing family members, please see the **Care Act 2014** which can be found online at:

[www.gov.uk](http://www.gov.uk)

A link to this document can also be found on the DCC web pages:

[www.derbyshire.gov.uk/directpayments](http://www.derbyshire.gov.uk/directpayments)

## **Considerations when employing family members**

Your family member is an employee, just like any other personal assistant, and is still entitled to paid annual leave and bank holiday time. They are also entitled to time off or they may fall sick, become pregnant or have an emergency of their own.

You need to consider who is going to do their job while they are off work for whatever reason. If you are going to employ someone else then you need to ensure there is enough money in your contingency to pay both staff and associated costs.

If a family member is going to informally cover your employee's absence you cannot pay them for their time, nor reward them for their help out of the direct payment account. They need to be properly employed.

## **Payment to a family member for administration costs**

The Care Act brings in a power for the local authority to agree direct payment recipients can pay close family members, including those living in the same home as them, for administrative support with the direct payment where it is felt necessary. This may be where there is a complex and/or large care and support package or if you have specific needs to be able to manage the direct payment.

The Care Act 2014 guidance suggests that this be comparable with the cost of a commercially available 3rd party managing the account.

Any costs are at the discretion of the local authority and must be agreed with your Adult Care worker and be included in the outcomes of your support plan prior to any expenditure.

This is not income replacement and may be subject to tax and national insurance contributions. Or it may affect any benefits the individual receives. It is important to check with HMRC and/or the DWP first.

## 8. Skills for Care

### **Information Hub**

If you wish to employ personal assistants there are responsibilities. Skills for Care have worked with individual employers and developed an information hub and a toolkit. These include a number of resources and guidance on employing staff.

The information hub includes information on:

Being an Employer  
Working as a PA  
In your area  
Training and Funding  
Money Matters  
Supporting employers and PA's

Skills for Care can support by providing funding for training for your personal assistants.

The information hub can be found:

#### **Information Hub**

<http://www.skillsforcare.org.uk/Employing-your-own-care-and-support/Information-hub.aspx>

### **Toolkit**

Skills for Care have developed a toolkit for individual employers. It includes a number of templates and samples, such as contracts of employment and letters.

The toolkit is split into key sections:

**Benefits of employing a personal assistants**

**Recruiting a personal assistant**

**Before your personal assistant starts**

**Managing your personal assistant**

**Training and qualifications**

**Sorting out problems**

You can access the online interactive version:

#### **Skills for Care Toolkit**

<http://www.skillsforcare.org.uk/Employing-your-own-care-and-support/Support-for-individual-employers/Employing-personal-assistants-toolkit.aspx>

If you prefer a hard copy of the toolkit you can either:

Email : [marketing@skillsforcare.org.uk](mailto:marketing@skillsforcare.org.uk)

Or telephone **0113 245 1716**

# 9. Recruiting a Personal Assistant

Finding the right personal assistant (PA) is important and it can be difficult to know where to begin to find that person. If you wish to employ your own personal assistant, and do not have someone already in mind, you will need to recruit somebody to be employed by you. There are a number of ways of finding a personal assistant.

- You can ask people you know who you think may be interested, i.e. friends, neighbours, etc
- You can advertise i.e. in a local shop window, job centre, local papers
- You can contact Disability Derbyshire for help with recruiting a personal assistant.
- You can use one of the many resources out there such as PA Pool - though there may be charges.



## Where should you start?

You need to think about what you want your personal assistant to do.

- Use the **outcomes** of your support plan as a guide
- Any tasks your PA does need to enable you to meet these outcomes
- Write down the tasks and use these in the **Job Description**.

You also need to set an hourly rate you will pay your personal assistant. How much you pay your personal assistant is up to you, but you must pay minimum wage or more.

You need to make sure you have enough money left over to pay other costs, i.e. insurance, payroll costs, holiday pay, relief hours, etc.

The current rates of minimum wage can be found at <https://www.gov.uk/national-minimum-wage-rates>

There is help for you to work out an hourly rate for your personal assistant and take into account the other costs to enable you to meet all the outcomes of your support plan. You can contact Disability Derbyshire on 01773 740246 or 01773 742165 or the Direct Payment Social Work Team on 01629 532023.

## Advertising for a Personal Assistant

- To advertise for a personal assistant you need to think how best to let people know you are looking for someone to work for you
- This can depend on where you live but you may consider placing an advertisement in the local shop or notice boards
- If you have internet access you could use the job centre website
- Reasonable costs for advertising can be funded from the direct payment but think carefully before placing very expensive advertisements in newspapers. It may be that they don't reach local people and you can generate very little interest from these advertisements
- Please do not include personal details on the advertisement such as your name and address.

## **Support with Recruiting a Personal Assistant**

If you are not sure what to do, or what you are looking for, you can contact Disability Derbyshire Coalition for Inclusive Living (DDCIL) on 01773 742165. Their support workers can help you with drafting job descriptions, advertising for staff, holding interviews and personalising contracts of employment.

E-mail: [direct.payments@dcil.org.uk](mailto:direct.payments@dcil.org.uk) Website: [www.dcil.org.uk](http://www.dcil.org.uk)

## **References and Disclosure and Barring Service**

To safeguard you, we recommend you obtain satisfactory written references for the personal assistant and a Disclosure and Barring Service (DBS) check. If there are children living in your home, Derbyshire County Council insists you have an enhanced DBS disclosure carried out on any personal assistant you wish to employ, even if this is a family member. We recommend a DBS is completed for all personal assistants and we pay the cost of the disclosure.

You will need to check with any personal assistant you employ, or propose to employ, whether they have anything recorded on their DBS certificate. This is now your responsibility to do so, as Derbyshire County Council no longer have this information to help make a judgement about the suitability of the PA and potential risks involved in employing the PA concerned.

If you want a DBS check carried out on a potential Personal Assistant please contact your Derbyshire County Council (DCC) worker who will make the necessary arrangements. (Agencies are responsible for carrying out DBS checks on their own carers).

### **Please note:**

Derbyshire County Council (DCC) staff cannot become involved in employment matters nor support you as the employer should you experience any employment difficulties. This is because the contract between an employer and their staff, including those who consider themselves to be self-employed, is a private matter. You are strongly advised to take out employer and public liability insurance and include the insurers legal employment helpline.

# 10. Managing Personal Assistants

Being a good employer is very important. To do this there are some tasks you must complete. These are: provide a contract of employment, follow health and safety regulations, purchase employers liability insurance, pay the minimum hourly wage or more, ensure you have enrolled your staff in a workplace pension scheme where they qualify and only dismiss your personal assistant after taking advice and following disciplinary procedures.



## Contract of Employment

It is a legal requirement that all workers are provided written terms and conditions of employment. These are best provided in a contract of employment. A sample contract can be found on the web pages: [www.derbyshire.gov.uk/directpayments](http://www.derbyshire.gov.uk/directpayments)

It is also useful to have a job description. If you need support to personalise this you can contact Disability Derbyshire on 01773 740246 or 01773 742165.

## Insurance

All employers must have employer's liability insurance in case of an accident or injury to a personal assistant. This safeguard is important because you may not be able to meet any claims against you without this cover. It is also a legal requirement. Derbyshire County Council recommends you take out employer's liability insurance with additional benefits to include tribunal expenses and 24 hour help lines for health and safety and employment matters. It is up to you which insurance provider you purchase this insurance from, but three organisations which provide this level of cover are:

**Fish Insurance** can be contacted on 0800 088 3050 or at <https://www.fishinsurance.co.uk/independent-living-insurance.php>

**Direct Care Insurance** can be contacted on: 0800 458 3301 or at [www.directcareinsurance.co.uk](http://www.directcareinsurance.co.uk)

**Premier Care** can be contacted on: 01476 514478

<https://markbatesltd.com/products/independent-living/personal-care-assistant-insurance>

This insurance does not cover your property from damage and you would need to check your buildings and contents insurance to see if you are covered. Your personal assistant will also need to have business use on their car insurance if they are using their own car to transport you. This is paid by the personal assistant privately.

## Health and Safety

As an employer you are responsible for the health and safety of the people you employ while they are working for you. Please share any Moving and Handling Assessments, Specialist Intervention reports or risk assessments you have, with your Personal Assistant.

Your personal assistants are also responsible for taking care of themselves and following any instructions from you for their own safety.

**Home care safety is a shared responsibility.** You and the person who is assisting you are both responsible for making sure that you work safely to keep everyone free from harm. Take advice from your insurance provider about carrying out risk assessments. If a member of staff becomes pregnant, you will need to do a pregnant worker risk assessment and make adjustments to their

For support with Health and Safety contact your insurance provider. The HSE website [www.hse.gov.uk](http://www.hse.gov.uk) may also contain information useful to you.

### **Training for Personal Assistants**

Personal assistants can access Derbyshire County Council training free of charge. We can provide funding for cover required where the training is essential to the job, for example moving and transferring training where your personal assistant assists you to move. To arrange training please contact Derbyshire County Council training on 01629 531496.

Personal assistants can also access New Level 2 and 3 Diplomas in Health and Social Care. You can contact the Vocational Qualification Team Unit on 01629 531915.

The direct payment team can provide you with a guide and application form for personal assistants training, which will help you decide if the training is essential. Contact us on 01629 532023. You should keep a record of what training what your personal assistants have completed or your insurance could be invalid.

### **Workplace Pensions**

The law on workplace pensions has changed. All employers are now legally required to provide and make payments into a pension for certain staff. This is called automatic enrolment.

If you directly employ one or more people to provide you with care or personal assistance, you're an employer and automatic enrolment duties will apply to you. This guide has been produced to help you prepare for your legal duties.

Therefore if you employ your personal assistant directly, you will only need to automatically enrol them if they meet certain criteria, which are based on their age and how much you pay them.

(This does NOT apply if you use Agency staff—the Agency is responsible for the pensions of their staff)

The law is the same whether you use a direct payment from your local authority, the NHS, or if you fund your own care and support.

The government body overseeing auto- enrolment is the pensions regulator:

[www.pensionsregulator.gov.uk](http://www.pensionsregulator.gov.uk)

#### **Phone:**

Please ensure that you have the employer's PAYE reference or letter code PAYE reference or letter code The employer's PAYE reference can be found on a P6/P9 coding notice or on a white payslip booklet P30BC and is in the following format: 123/ABCD.

The letter code is a 10-digit number starting with 1. It appears on all letters we send about automatic enrolment. to hand before you call us.

Call us on **0845 600 1011** and select from the following options.

**Email:** [customersupport@autoenrol.tpr.gov.uk](mailto:customersupport@autoenrol.tpr.gov.uk)

#### **Correspondence:**

The Pensions Regulator  
PO Box 16314  
Birmingham B23 3JP

They have a guide to help prepare you for your legal duties:

### **The essential guide to automatic enrolment into a workplace pension scheme**

Information for people who employ workers for their own care and support  
Helping you comply with the law on workplace pensions

Link <http://www.thepensionsregulator.gov.uk/employers/the-essential-guide-to-automatic-enrolment.aspx>



## Workplace Pension Providers

As an employer it is your responsibility to source a suitable pension provider. However there is a scheme called NEST (National Employment Savings Trust) Corporation which is an executive non-departmental public body, sponsored by the Department for Work and Pensions.

NEST has been set up by the government especially for auto enrolment.

It is a web-based organisation and you can access information about auto-enrolment and your responsibilities as an employer through the following link:

[www.nestpensions.org.uk](http://www.nestpensions.org.uk)

Nevertheless NEST does have a helpline telephone number: 0300 020 0090.

*8am – 8pm Mon to Sun and 10am – 4pm on bank holidays. Closed on Christmas Day, Boxing Day, New Year's Day, Easter Sunday and Easter Monday.*

It is important to remember there may be other pension providers and you are advised to explore other options that may be available.

### Note:

Your payroll provider will set up a pension for your personal assistant with the provider of your choice. HOWEVER there will be charge for this service. It is important to check what your payroll provider charges for this service. You may want to shop around and see what other payroll providers charge. The costs come out of your direct payment award, but you will need to budget accordingly as there is no extra money available to offset this cost.

DDCIL are able to support employers with fulfilling their responsibilities with regards to pensions. This is regardless of who provides the payroll service. DDCIL can be contacted on 01773 742165.

If your client is doing their own payroll they will need to get in touch with the Pensions Regulator in the first instance, though DDCIL can support them with this if needed.

## Managing staff

We recommend you talk to your personal assistant on a regular basis, to discuss the role and hopefully resolve any issues before they arise. This should include giving them positive feedback about how they are doing. Sometimes it may be necessary to discipline your staff. If you have any concerns about the conduct of your staff, **you MUST take advice before taking any action**. No matter what your member of staff has done, do not dismiss them without advice, even if you feel what they have done amounts to gross misconduct. If you don't feel able to continue working with them, it is acceptable to inform them you don't need them further that day, on their usual pay, and immediately take advice if possible. The insurance helplines are available 24 hours a day, seven days a week.

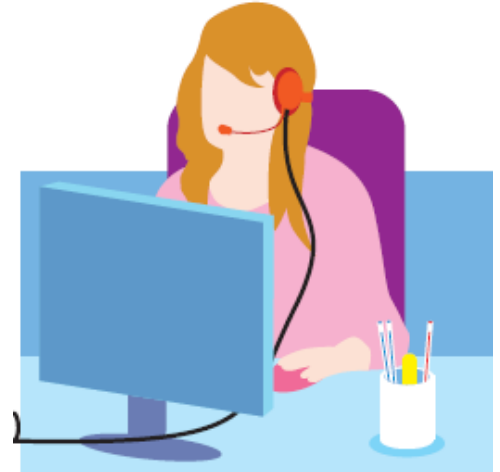
Disability Derbyshire can also provide emotional support with disciplining your personal assistant and practical support such as note taking, contact them on 01773 740246 or 01773 742165.

**Where you have insurance provided by FISH, Direct Care Insurance or Premier Care, ensure you contact them for advice, and follow any advice given, or your insurance could be invalid. Keep a record of what you are advised and by who. They all operate a 24 hours legal employment helpline.**

# 11. Paying Personal Assistants

## Setting the Hourly Rate

When setting your hourly rate, it is very important to think about the costs of being an employer and make sure you have enough to cover both the employees wage and the associated employer costs. What you pay your personal assistant is up to you, as long as it is above the minimum wage (from April 2017 it is £7.50 per hour for adults 21 years and over). £8.50 per hour is the current recommended rate. Think carefully about paying higher hourly rates as it may mean you don't have sufficient to meet all your needs.



Tel: Employers helpline **0300 200 3211** or **0300 200 3200** for advice and to register. Or visit [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

HM Revenue and Customs now requires monthly returns as part of Real Time Information (RTi) and if you choose to manage your own payroll, you will need to make online returns every time you make a payment to a personal assistant.

Alternatively you can use a payroll agency, who will register you as an employer and calculate tax and national insurance for you.

### **Payroll agencies who can calculate your tax and national insurance:**

**Ability Finance payroll** - 01773 740246 - [www.dcil.org.uk](http://www.dcil.org.uk)

**Paypacket payroll** - 0800 848 8998 - [www.paypacket.org.uk](http://www.paypacket.org.uk)

**Rowan Organisation** – 02476 322680 - [www.therowan.org.uk](http://www.therowan.org.uk)

**Penderels Trust** 02476 511375 - [www.penderelstrust.org.uk](http://www.penderelstrust.org.uk)

**Enable Payroll** 02031 374406 - [www.enable-payroll.co.uk](http://www.enable-payroll.co.uk)

**Care in Finance** 0845 241 0999 - [www.careinfinance.co.uk](http://www.careinfinance.co.uk)

When planning your budget you need to make sure you have enough money in your contingency to pay for:

- Employers Liability Insurance (approximately £99 per year)
- Cover for personal assistant holidays (5.6 x your weekly PA hours)

You may also need to pay for:

- Payroll costs
- Employers National Insurance (For staff earning over £155 per week)
- Workplace Pension contributions
- Pension set up costs

We recommend paying personal assistants around £8.50 gross and your personal budget will be sufficient to afford this rate.

## **Timesheets**

You and your personal assistants need to have a record of what hours they have worked, so your PA should complete a timesheet. A timesheet can be any form that shows what hours someone has worked. The timesheet should be signed by you both. Derbyshire County Council will provide you with sample timesheets to use if you prefer.

If you are using a payroll provider or have a managed bank account, the timesheet must be sent to the organisation providing payroll. The payroll will use the timesheet to calculate what wages to pay your personal assistant and what tax, national insurance and, where applicable, pension deductions is required to be deducted. Your payroll provider will also inform you how much your Employer's National Insurance contributions are.

## **Personal assistant expenses**

If your outcomes include accessing social events and activities, you need to discuss with your DCC worker personal assistant expenses. Whilst out, you are expected to pay for your own refreshments, travel costs and entrance fees. If you are being transported in a PA's vehicle you would normally be expected to fund this from your personal money or from mobility allowance. If you feel there is an exceptional reason why your transport costs should be included in your support plan, talk to your DCC worker.

Your personal assistant would normally be expected to fund their own meals and refreshments. If your PA is supporting you in the community for more than 5 hours, they could claim subsistence up to agreed HMRC rates. You may agree with your DCC worker in your support plan for a proportion your personal budget to be used to pay for personal assistant expenses. However these expenses need to be reasonable and within HMRC guidelines, otherwise they could be taxable income. This also ensures that there is responsible use of public monies. HMRC rates are:

**Daytime social activity more than 5 hours travel**, Refreshment limit - £5.00

**Evening social activity more than 5 hours travel, which lasts until after 8pm** Refreshment limit - £15.00

**Full day and evening activity more than 10 hour**, Refreshment limit - £10.00 ( 2 meals)

**Mileage rates** up to 45p per mile. We usually recommend 40p per mile. This mileage can be paid up to a maximum of 10,000 miles per year.

The direct payment finance team will query any costs above this and you may be required to pay the additional costs back.

## **Public Transport**

You can reimburse 'no more than the necessary costs of business travel' and only for journey's forming 'part of an employee's employment duties'. A reasonable limit, i.e. coach fare or 2<sup>nd</sup> rail class fare. If the client wishes to go 1<sup>st</sup> class with their PA then they must pay the difference privately. Please note 1<sup>st</sup> class travel is seen as a taxable benefit and should be declared to the tax office.

## 12. Contracting with a Self Employed Personal Assistant

Derbyshire County Council does not recommend contracting with self employed individual's for personal assistant tasks. In law there are certain conditions that must be met for someone to be classed as working in a self employed capacity. A personal assistant may not meet these conditions. HM Revenue and Customs are the only people who can decide a workers status. If they decide after your personal assistant has been working for you and they are not self employed, you would be liable for the full tax and national insurance bill. You may also be fined. Direct Payment monies cannot be used to pay either the costs or the fines. Direct Payments are to pay for your care and support.



If you do decide you want to go ahead and contract a self-employed personal assistant, then we would advise you to take the following steps.

### **Ensure the individual is registered as Self Employed**

Firstly, the decision whether someone is self employed rests with Her Majesty's Revenues and Customs (HMRC). HMRC could decide that they are not self employed, and that you are liable for any tax and national insurance owed to them. Make sure that the personal assistant provides you with a Unique Tax Reference number (UTR). You can also contact HMRC on 0300 200 3600 to check if they are self employed. More information about if someone is self employed can be found at:

[www.hmrc.gov.uk/employment-status/index.htm#1](http://www.hmrc.gov.uk/employment-status/index.htm#1)

### **Ask the self-employed worker for a contract**

Your self-employed worker should provide you with a contract which details terms and conditions, important issues it should cover for example are:

- They are responsible for their own tax and national insurance contributions
- They are responsible for their own pension arrangements
- Notice period to terminate
- Notice to change arrangements
- Tasks that can be included
- Hourly Rate.

You need to consider your cover arrangements, as a self employed personal assistant must NOT send someone in their place or arrange cover for you, as this requires registration with Care Quality Commission and without this they would be acting illegally.

### **Ask for a four weekly invoice**

- The invoice should contain sufficient details to enable you to check it is accurate, i.e. number of hours worked and when, amount charged, tasks carried out, etc
- The invoice should also contain the name and address of the self-employed personal assistant
- The self-employed personal assistant should give you their invoice. It is up to you to authorise payment
- Ask the personal assistant to sign the invoice to say they have received payment
- If you have a managed bank account it would be best if you sign and date the invoice before sending it for payment. This will help reduce the risk of misunderstandings in the event of a query over payment
- Never use a timesheet for a self employed worker
- Each self employed worker must produce their own invoice for the work they have done. A self employed worker cannot invoice for any work someone else has done.

### **Hourly Rate for self employed workers**

A self-employed worker should set their own rate, however you need to sure that your personal budget can afford to contract with them. Before calculating how many hours you can request at their rate, you need to deduct costs.

### **Employers liability insurance**

You need to find money to pay employers liability insurance from the budget. Although you are contracting with a self employed worker, we still recommend you take out insurance in case of a dispute. This insurance needs to be paid for from the budget.

### **Managed account costs**

If you have a managed account you need to deduct the cost of the managed account from your budget.

# 13. Contracting with a Service Provider

If you decide to spend your direct payment by contracting with a service provider, you will have different responsibilities. You will agree with the service provider what you want them to do and when. We will make a payment into your direct payment account for the amount that has been agreed for you. You pay the service provider when they invoice you.

## Advantages to choosing to use a service provider

A service provider will take care of the following:

- Recruitment of support workers
- Provision of support workers and cover for holidays/sickness
- Paying wages/tax and insurance/sick pay and holiday pay
- Workplace Pensions for their staff
- Insuring staff against accidents
- Training staff
- Supervision and discipline of staff.



## Some other factors to think about

- You may not always be able to choose which support worker you have. A service provider will try to work within your preferences but they may not **always** be able to
- A service provider may be more flexible and able to help out in emergencies
- The price of the service provider needs to be checked, to ensure your direct payment money will cover the cost. Some service providers charge higher rates than those set by DCC. **Always ask their hourly rate** and the rate for travel. If you choose to use a more expensive service provider, calculate the cost incurred and check that you can afford to pay the extra
- The service provider should provide you with a contract, detailing what they charge per hour, what happens if their worker is sick, how much notice to cancel a visit without being charged, training and experience staff have had, DBS (Disclosure and Barring Service) checks, etc. Check this contract and ask for support if you do not understand it
- The service provider must be registered with The Care Quality Commission if their workers carry out personal care tasks.

## What information do I need to give to the service provider?

You may wish to give the service provider a copy of your most recent Assessment and/or Support Plan detailing the outcomes to be met and any risk assessments. You need to discuss with the provider what information they require to be able to meet your needs. Check that the service provider can meet your needs in the way you want and at the times you want. If you would like help with your support plan to make sure it is up to date, talk to your DCC Worker.

## What if I want a Service Provider to employ and manage staff on my behalf?

Some service providers are prepared to employ and manage staff on your behalf. If you decide to follow this option it may be worth considering the following:

- Check how much the service provider charges for this service, what the on going costs are and what they cover. For example; training. *(DCC provide relevant training free of charge to personal assistants so there would be no need for the service provider to charge you for training - although the PA would still need paying for their time as usual).*
- Ensure you are involved in the recruitment process
- Make sure the staff are contracted to provide support for you and can only undertake other work for the Service Provider outside your requirements
- Check how much say you have in what the staff do.

As with other providers, make sure you include points such as the notice period for changes in their charges, notice period for staff leaving, etc in your contract with them. Don't forget to give them a copy of your support plan and any risk assessments.

### Finding a provider

Your DCC worker can provide you with a directory of providers, though these will be agencies accredited with Derbyshire County Council. As a direct payment client you can choose to use an agency not accredited with DCC. Our brokerage team can help you find agencies to meet your needs, call them on 01629 537763.

If you would like some support with contracting with a service provider, DDCIL support workers should be able to help. They can be contacted on 01773 742165.

Another option is to involve someone you trust whether it is a family member, friend or member of your local community. Unfortunately your DCC worker cannot become involved, as contractual arrangements are a private matter between the service provider and yourself.

#### **Please note:**

Derbyshire County Council (DCC) staff cannot become involved in contractual matters nor support you as the client should you experience any contractual difficulties with your service provider. This is because the contract between a client and the service provider is a private matter. You are strongly advised to seek advice before entering into a contract with a service provider.

# 14. Keeping Records

It is essential to keep good records of how you use your direct payment. Unless otherwise agreed you will be expected to submit copies of your records every four weeks. This is to show us how you have used the money we have given you.

## Good Record Keeping

Everyone is required to keep financial record of things such as wages, benefits, mortgage statement; a direct payment is no different.



It is best to keep the paperwork up to date as you go, but there may be times when you are not well enough to do this. As long as you make sure all letters, statements, invoices, receipts go in one file then it is easier to sort out when you are well enough again. The essential documents to show how you have used your direct payment is the expenditure summary and the bank statement.

## Four Weekly Monitoring

We ask that you send in copies of your direct payment records every four weeks. What you need to send to us will be dependent on whether you employ a personal assistant or if you are using an agency or other service.

### **Four Weekly monitoring to be sent to Direct Payments Finance if:**

#### **Employing a Personal Assistant**

- Expenditure summary
- Bank Statement
- Copy of timesheet for each personal assistant
- Receipts or invoices for any other service or expenditure.

#### **Contracting with a service provider or self-employed personal assistant**

- Expenditure summary
- Bank Statement
- Invoice for any expenditure
- Receipts for any other expenditure



## Direct Payments Finance Section

Adult Care  
County Hall  
Matlock  
DE4 3AG

Tel: 01629 532119

For additional timesheets and expenditure sheets please telephone

**01629 532118** or email

**[directpayments@derbyshire.gov.uk](mailto:directpayments@derbyshire.gov.uk)**

If you are not sure how to complete the timesheets please ring the Direct Payment Finance Team for advice or contact Disability Derbyshire (DDCIL) on 01773 740246.

### **Sending your direct payment paperwork via email.**

You can send your monitoring documentation via email. However it is important that any documentation sent is password protected or encrypted. This is because it contains sensitive and confidential information. For example: your direct payment bank account details, your personal assistants employee details, the agency details which may include any bank data for internet bank payments.

**Direct Payments Email address:** [directpayments@derbyshire.gov.uk](mailto:directpayments@derbyshire.gov.uk)

### **Where do I keep my records and for how long?**

It is important to keep your direct payment documents, letters and paperwork in a safe place. They contain important information about you, your personal assistants and agencies (if you use them).

**The Data Protection Act** says that employee's personal data should be kept safe, secure and up to date. Most of this information will be on the personal assistants application form, contract of employment, payslips, correspondence and DBS Certificate, for example. Therefore it is important to keep these safe.

It is a good idea to use your direct payment admin money to buy files to store your direct payment documents. It is a good idea to have a separate file for each personal assistant so the information does not get mixed up.

It is best if you have somewhere to lock this information. If you do not have anywhere to lock it, think about keeping the information in a safe place where only you have access.

It is advisable to keep your direct payment and employment information for 6 years, plus the current year's records. This does not mean you cannot get rid of the information when it reaches the 6 year period. But please remember you will need to get rid of it safely as it will contain confidential information about yourself and any staff you employ. It is a good idea to use a shredder preferably one which cuts the paper into very small pieces. Please **do not** put the information straight into the bin, even if you have torn it up by hand or cut it with scissors.

Don't forget your personal assistant has the right to request to see their records. It is your responsibility to keep your personal assistants records secure.

If you keep your records on your computer please remember you are still subject to the Data Protection Act. If you need to pass on confidential information to a third party, i.e. to your payroll service, managed bank account provider, Direct Payment Finance Team, etc; please use a password to protect the data. Again, when deleting the information please ensure you erase it from all sources, i.e. desk top files, hard drive, external storage facilities, memory sticks, e-mails, etc.

# 15. Useful Contacts

## Derbyshire County Council Contacts

### Direct Payments Social Worker Team

**01629 532023**

Can provide general direct payment advice

### Direct Payments Finance Team

**01629 532119**

They can help you with your direct payment monitoring Paperwork

### Timesheets and Expenditure Summaries

**01629 532118**

If you want more timesheets and expenditure summaries forms ring the Direct Payment Finance Team

Address: Direct Payment Teams, Adult Care, Derbyshire County Council,  
Matlock, Derbyshire. DE4 3AG

E-mail: [directpayments@derbyshire.gov.uk](mailto:directpayments@derbyshire.gov.uk)

Website: [www.derbyshire.gov.uk/directpayments](http://www.derbyshire.gov.uk/directpayments)



## Support Planning and Assessment

If you already receive direct payments and you have a query in respect of your support plan or your assessment you will need to contact your Derbyshire County Council (DCC) worker. Derbyshire Brokerage service can also help you to find services to achieve your outcomes.

**DCC Brokerage Service 01629 537763 or 01629 537758**

## Employment Advice

**ACAS (Advisory, Conciliation and Arbitration Service) - 08457 47 47 47**

ACAS can help with employment matters providing independent free advice to employers and employees to solve problems.

There is also a question and answer section on direct payment employment matters in the Advice A – Z topics on their website. [www.acas.org.uk](http://www.acas.org.uk)

**Citizens Advice Bureaux (CAB) - 0844 848 9800**

CAB offices can provide advice and support with employment matters. They have offices situated in various locations around Derbyshire. Many have drop in sessions or you can make an appointment. [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**Disability Derbyshire Coalition for Inclusive Living (DDCIL) - 01773 742165**

Their direct payment support workers can help with recruitment and general employment matters. They will also provide advice if you decide to contract with a Service Provider.

## Employer and Public Liability Insurance

Take advice from your Insurer's legal employment helpline.

### Gov.UK Website

This is the official UK government website. There is a lot of advice on employment matters. There is a section headed 'Employing Staff for the First Time' listing 6 things you need to know when employing staff for the first time. You may find this information particularly helpful.

<https://www.gov.uk/employing-staff>



### Workplace Pensions

Information is available on the following websites:

<https://www.gov.uk/workplace-pensions>

<http://www.thepensionsregulator.gov.uk>

<http://www.nestpensions.org.uk>

<http://www.moneyadvice.service.org.uk/en>

## Health and Safety

### Employer and Public Liability Insurance

Take advice from your Insurers legal employment helpline. Please remember to follow the advice given or your insurance may become invalid.

### Gov.UK website

There is a section on Health and Safety at Work under the Employing People link.

<https://www.gov.uk/browse/employing-people/health-safety>

### Health and Safety Executive

There is comprehensive health and safety information on this website. [www.hse.gov.uk](http://www.hse.gov.uk)

### Keeping Safe

If you are worried about yourself or an adult who is being abused or neglected then contact Call Derbyshire on **01629 533190** between 8am and 8pm where trained staff can deal with your concerns.

**If you want to talk to someone outside these hours then you can ring:**

Derbyshire County Council's Out of Hours service on: **01629 532600**

**Whatever you do talk to someone, do not keep your worries and concerns to yourself.**

**In an emergency you can dial 999 and ask for the police**

# 15. Useful Tips

Most direct payments run very well, and this direct payment information pack is full of tips to help you get the most from direct payments. Sometimes, however, people can experience some difficulties which can be avoided by following some simple rules

## **Always take advice before dismissing staff**

This has to be at the top of the list. Even if someone has done something which you feel is gross misconduct, please don't dismiss staff without taking and following advice. Your insurance provider will have a helpline which you must contact. You need to follow the advice they give or your insurance could be void.



## **Keep every bit of paperwork**

Even if you are not great at organising paperwork, have a box or file where you keep everything for your direct payment. Then no matter what happens you will have the information in that box or file. Keep a record of every shift staff do, even if you use an agency.

Don't forget to keep the paperwork in a safe place, secured in a locked drawer or cupboard, as it has confidential information about your personal assistants or service providers.

## **Ask for Help**

Whatever the issue, we at Derbyshire County Council Adult Care want to help you get the most from a direct payment with as little inconvenience to you as possible. We want you to enjoy the benefits of Direct Payments. So if you need any advice, help or information just ask us. In the first instance contact your DCC worker.

## **Make sure you plan your budget**

You need to make sure you try to plan for every cost to be met from your direct payment. This is especially important when setting your hourly rate. If you employ personal assistants you need to account for their salary, 5.6 weeks holiday pay, employers liability insurance, payroll costs, managed bank account costs and maybe employers national insurance and pension contributions. If you need help to plan your budget, talk to your DCC worker.

## **We recommend you don't use self employed workers**

HM Revenue and Customs say that personal assistants are not self employed and this can mean you could be liable for a large tax and national insurance bill and fines. Although not recommended, if you do have self employed workers, please ensure they give you a unique tax reference number to show their self employed status, ask them to invoice you for their hours and do not complete timesheets, and ensure you have a service contract with them.

## Everyone

- Keep on top of your direct payment, it is a lot easier to do your paperwork once or twice a week than once every four weeks
- Make sure you know what you will do if your personal assistant or the agency can't make it one day. Make sure you have a plan for sickness and unexpected emergencies
- Keep this information pack handy and ring us on **01629 532023** if you have any concerns or talk to your DCC worker.
- Our direct payment literature and forms are updated regularly on the direct payment webpage on DCC website.

## If you Employ Personal Assistants

- Always take up references and new DBS checks for personal assistants
- Always have a contract of employment with a probationary period
- Write up a job description so you are clear what you want staff to do
- Take out employer's liability insurance if you employ staff
- You may choose to use a payroll agency if you struggle with calculations or if you also struggle to keep records organised
- Ask for support with recruiting staff and any other issues with your direct payment.

## If you use an agency or other services

- If you choose to use an agency with your direct payment, ask for a contract and check it over to make sure it is fair before signing it
- Make sure you check any contract you are given. Check for things like the notice you need to give to cancel the visit or the service and charges if you do
- Don't be afraid to tell the agency what you want and request which worker you prefer. The agency may not be able to provide exactly what you want but you may be able to negotiate
- Ask the agency to invoice you four weekly. It can be very confusing for you if they invoice you monthly.

## Contingency Planning

Where you receive a direct payment it is essential that you plan for the future.

- Ensure you have a plan of what you will do if your employee is unable to attend work
- Check you know what to do if your service provider lets you down
- Make a plan about how your direct payments will be managed or ended if you are unable to do it anymore, such as through ill health or death.
- Talk to your DCC worker about making contingency plans.



This is a working document and will be subject to updates from time to time.  
If you have any queries regarding the content of this document please contact DCC direct payment team on 01629 532023 or email us on [directpayments@derbyshire.gov.uk](mailto:directpayments@derbyshire.gov.uk)

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