

A guide to starting to use Direct Payments



Direct Payments Support Service: Nov 2009

What are Direct Payments?



A Direct Payment is an amount of money paid to you so that you can buy the care and support that the Leicestershire Adult Social Care Service agrees that you need.

You can use this money to buy the support and care that the Adult Social Care Services would normally arrange for you.

Having Direct Payments is not an all or nothing choice; you can have some services arranged for you by Adult Social Care Services and have Direct Payments for the rest.

Leicestershire Adult Social Care Service wants Direct Payments to be a good experience for people who decide to have them but if you find that you really cannot manage them, even with help, you can choose to go back to having your services arranged for you.

About this Guide



This workbook is to assist you with starting to use your Direct Payments.

If you get it right, using Direct Payments can be very satisfying and rewarding.

This guide is designed to provide you with some 'need to know' information about using Direct Payments and the responsibilities you will have.

It is, however, only a guide and other advice should be sought if you require it. The Direct Payments Support Service (DPSS) is available on 0116 305 3050 or by email on dpss@leics.gov.uk.

The DPSS provides a service to assist and support participants in managing their direct payments scheme.



It is important to remember you are responsible for following any legal requirements that go with using Direct Payments.

DPSS workers are not trained solicitors or employment law experts. Whilst every effort has been made to ensure that this guide is accurate, it is impossible to predict all the circumstances in which it may be used. The Leicestershire County Council Direct Payments Support Service, therefore, shall not be liable to any person or entity with respect to any loss or damage caused or alleged to be caused by the information contained in this guide.

What you need to do before using Direct Payments

Before you start using Direct Payments a number of things should have been explained to you by the social care worker.

Your support plan



A social care worker will have carried out an assessment of your care needs and provided you with a written support plan explaining why you are able or eligible to receive Direct Payments.

Your assessment will consider the difficulties you may have and your support plan will say what help is needed.



You can spend the Direct Payments to buy the services or support that has been agreed in your plan. This may be for:

- Personal care.
- Support to access community activities.
- To buy respite care.
- To try out Independent Living.
- Support to gain skills in a voluntary setting.
- To buy support from a care agency.
- To buy in a “sitting service” to give you a break.
- Support to access college or evening classes.
- Support to maintain contact with family members.
- Support to learn new skills.

You cannot use your Direct Payment to:

- Buy equipment or services that are provided by Health.
- Buy services from the Local Authority.
- Pay for rent or maintenance of property.
- Pay for Holiday flights and Travel expenses.
- Buy clothes, music, food, pets, etc.

If you have an idea for using the Direct Payment, but you are not sure if it is appropriate, please speak to your social care worker.

It is important to remember that the Direct Payment has been given to you by Adult Social Care Services to meet the outcomes that are in your support plan. However, how you arrange your support is your choice and under your control.

If you do not have a copy of your written support plan or do not agree with the plan, you should talk to your social care worker.

What you have to pay



You may be expected to make a contribution to the cost of the care you need.

It is important to remember that your contribution will be based on your ability to pay.

Your social care worker will arrange for someone to visit you to work out how much you have to contribute. If you are unsure about this please contact your social care worker.

The Adult Social Care Service will deduct the amount you have to contribute from the Direct Payment you are eligible to receive.

You are expected to use your contribution towards paying for the care or support you need.

You will need to make arrangements to do this by paying your contribution into your Direct Payments bank account. For example, by standing order.

Opening a bank account for your Direct Payment



If your direct payment is £80 or less you can use your own bank account. The account will need to have regular statements.

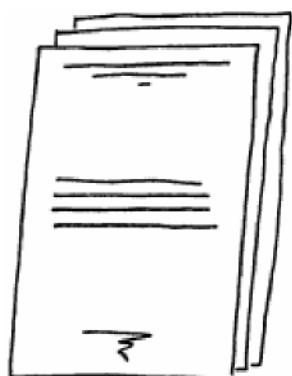
If your direct payment is more than £80 will need to have a separate bank or building society account for the Adult Social Care Service to pay your Direct Payment.

The separate account needs be one that provides regular statements and has a cheque book.

You should also advise the bank that the separate account is for a Direct Payment from the Adult Social Care Service and so will not be your own income.

If you are having difficulties opening a bank account, the Adult Social Care Service can provide you with a letter to give to the bank or offer advice about finding an alternative.

You need to sign the Direct Payments Agreement



You have to sign an agreement to say that you understand the rules and regulations of using Direct Payments.

It is important that you are aware what will be expected of you and what responsibilities you will take on.

The agreement also explains the responsibilities of the Leicestershire County Council for the Direct Payment Scheme.

You should read the agreement carefully and make sure you understand what is expected of you.

If you need any support or have any questions you can contact the Direct Payments Support Service or your social care worker about this.

Choosing how to use your Direct Payment



Once you have opened your bank account and signed the Direct Payments Agreement, The Adult Social Care Service can start your payment.

Direct Payments enable you to organise the social care support that you require.

You will need to look at the advantages and disadvantages of the different ways you can use the Direct Payments to get the support you need.

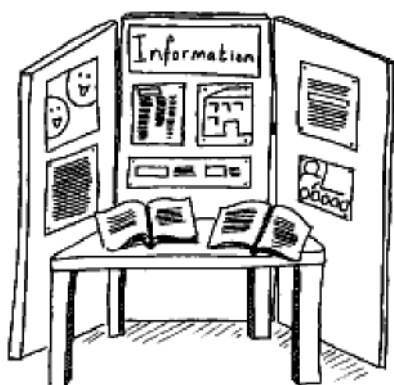
Employing your own personal carer or assistant

Advantages

- You have control over what tasks are done, when and how.
- You have flexibility in choosing who provides support.
- You gain long term familiarity with the person who is providing your support.
- You can receive support from the Direct Payments Support Service to employ your own staff.

Disadvantages

- You have a lot of responsibilities.
- You have to manage people and pay their holidays, sickness and taxes.
- You have to do the paper work.
- There are potential financial risks if things go wrong.
- Employing your own staff means there is no automatic cover in an emergency



It is important to remember that when you recruit and employ staff **you** are the employer.

You are responsible for following any legal requirements that go with employing staff.

We advise that you aim to be a good and conscientious employer and follow any guidelines that are accepted as good practice (including any relevant laws).

Employing your own staff can be very demanding but also rewarding. If you become a good employer you are less likely to have any problems.

As an employer you will be responsible for:

- Recruiting your own workers including advertising and interviewing.
- Making sure you treat staff and prospective staff fairly.
- Deducting any tax and National Insurance from your workers and paying these to the Tax Office.
- Ensuring that your workers have the right to work in the UK.
- Providing a written statement and conditions of employment for your staff.

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- Paying your workers a proper wage.
- Making sure that your workers are able to take holidays and receive sick pay if they are entitled to it.
- Looking after the health and safety of your staff.
- Having the correct employer insurances to cover you if things go wrong.
- Undertaking Criminal Records Checks on your staff.

This can be a bit daunting for some people. The good news is that there is support available. The Direct Payments Support Service is a free service that is able to support people to get started using Direct Payments when they decide to employ their own staff. They can be contacted on 0116 305 3050.

The Direct Payments Support Service can also provide you with some useful information if you have decided you do not want to wait for their support.

Another useful place to find information is the internet. Useful websites are:

www.acas.org.uk

www.tiger.gov.uk

www.hse.gov.uk

www.hmrc.gov.uk

www.businesslink.gov.uk

Self-employed carers or personal assistants

Advantages

- Gives some control.
- Gives flexibility in choosing who provides your support.
- Not dependent on you for holidays, sick pay and pays their own tax.
- May give long term familiarity.
- Should provide their own emergency cover.

Disadvantages

- You may have to pay more for the service.
- For a person to be self-employed they need to agree this status with Inland Revenue and there is a risk of them being seen as employees rather than self-employed workers.
- Reduced control over your staff.
- You need to ensure all personal risks are covered.



A person who works for themselves and finds many clients who will buy their services (which could be you) is an example of how a self-employed person may work.

- They will run a business as a self-employed person.
- They will do their own tax and NI deductions and send an invoice for you to pay.
- They choose the way they want to work and you purchase their services.
- They will have their own business insurance
- Should provide references for you to see.
- They should also provide major pieces of equipment needed to do their job.
- They will usually state their terms and conditions of services and provide a service contract for you to sign.
- You would not usually need to pay them sick pay or holiday pay because you are not the employer.

Using a service from a self employed person.

If you use the services of a Self Employed person then you should check that they provide insurance, CRB checks, have a service contract and complaints procedure etc and provide an invoice you can pay. You must satisfy yourself that they are registered as a business for tax purposes or you could be liable to pay Employers National Insurance if Revenue and Customs determine the person is not really self-employed.

Invoices from a self employed Personal Assistant are one of the types of evidence you need to keep to show the Council that you are keeping records and to continue to use a Direct Payment.

Remember that not paying tax and national insurance can result in you being personally responsible to the Inland Revenue for unpaid tax and national insurance even if the person working for you claimed to be self-employed.

If you would like more information about self-employed workers, you can contact the Direct Payments Support Service or your local tax office.

www.hmrc.gov.uk

Agency Workers or care providers

Advantages

- Little responsibility.
- No staff dependency.
- Little administration.
- Good emergency cover.

Disadvantages

- You may have to pay more for the service which may be above the allowable Direct Payment.
- Minimum control.
- Little familiarity guaranteed.
- Tied in to agreements.
- Risk of being seen as employees.
- Risk of a placement fee if staff become permanent.
- Risk of restricted times to have support.
- Risk of not providing support for certain activities or tasks.



Whilst employing your own staff ensures that you have complete control over your personal assistance arrangements, many people simply do not want to take on the responsibilities of being an employer and all that it involves.

By using agency staff you are only responsible for paying the agency and not wages, tax and national insurance etc.

Using agency staff may also be seen as a good 'stepping stone' towards actually employing your own personal assistants.

There are a lot of agencies providing services in Leicestershire, so it is worth taking your time to choose the one best suited to your needs.

It is useful to talk to your friends or people you know if any of them have used an agency.

The Direct Payments Support Service can provide you with details of your local agencies or you can also contact the Care Quality Commission: www.cqc.org.uk

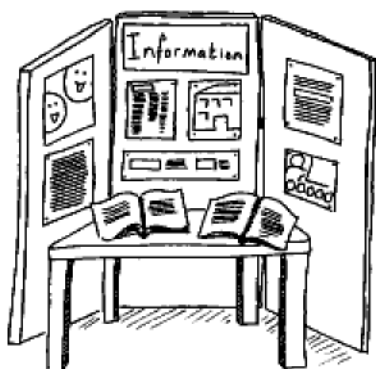
Other payments



There may be occasions when a friend or family member is supporting you and you wish to use your direct payment to compensate them.

You can pay their travel expenses when they take you out.

If they are taking you out to an event or activity, you could pay for their lunch or the ticket to an event. An example may be buying a concert ticket so they can go with you.



It is important to remember that such payments should only be made if they will help you to meet the outcome identified in your assessment and support plan.

It is also important that such payments are for expenses only as otherwise they may be seen as an income for your friend or family member and be treated as taxable. Your friend or family member would then be your employee.

If you are in any doubt, you should get advice from the Direct Payments Support Service or your local tax office.

Working out how much you can pay



Once you have decided how you wish to use your Direct Payments, you will need to work out how to use your payment and **budget** for the support you need.

If you decide to employ your own staff you will need to decide what you can pay your staff allowing for all the expenses you need to pay out of your direct payments.

It is important to remember that the money you get from Direct Payments not only has to pay your employees but also any amount you, as an employer, need to pay to the tax office.

Every employer who pays wages above a certain limit or amount has to pay Employers National Insurance Contributions to the tax office. This money is in addition to any tax and national insurance you will need to deduct from your employees wages.

One way to do this is to put aside 12.8% of your direct payment every week to cover this cost.

When you employ staff you will also need to think about additional payments you will need to make:

- Holiday cover
- Employers Liability Insurance
- Criminal Records Check
- Admin costs
- Payroll services

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The good news is that you can claim extra money from the Leicestershire Adult Social Care Services Department for these expenses.

Details of what you can claim are described in your Direct Payments Agreement.

If you are using agencies or a self-employed carer you will need to find out what they will charge you for their service. If they want to charge you more than the Direct Payment you receive, you can add your own money to the Direct Payment to make up the difference otherwise you may need to consider a different provider or employing your own staff.

In all cases, it is also a good idea to allow for some of the payment to be used in emergency situations and have a 'contingency' fund just in case. Remember, if you are let down by your employees or care provider, you may have to pay additional money to buy in another service.

What do I need to do when I have the direct payments?



You will need to keep records of what payments you receive, and what you use the money for.

Here are some suggestions as to the types of records you might want to keep.

PERSONAL ASSISTANT WAGES RECEIPT FORMS

(available on request from DPSS) completed and signed by your Personal Assistant to acknowledge receipt of their wages payments.

PERSONAL ASSISTANT EXPENSES/MILEAGE COSTS

Keep a separate record of all Personal Assistant expenses. (Available on request from DPSS). Pay these separately, and do not include in wages total.

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PERSONAL ASSISTANT EMPLOYMENT CONTRACTS and /JOB DESCRIPTIONS

Keep and file your signed copy of contracts/ and job description.

PERSONAL ASSISTANT WAGES SLIP BOOK

Use to record details of gross, net pay, PAYE, NI and all other deductions.

PERSONAL ASSISTANT HOLIDAYS RECORD

Keep a record of paid holidays due and paid holidays taken.

PAYROLL SERVICE

You need to keep and file all Personal Assistant wages information received.

PERSONAL ASSISTANT SICK LEAVE

Note periods of sick

CARE AGENCY BILLS

If you use a care agency to provide care, you need to keep and file copies of agency invoices

ADMINISTRATION EXPENSES

Note all costs, these can be paid for by DP funds and then refunded by Adult Social Care Service (keep the receipts etc).

BANK ACCOUNT

File all monthly statements.

CHEQUE BOOK

Note details of all cheques issued from fund account (date, who to, how much, what for).

REVENUE PAYMENT BOOK (Yellow)

You need to ensure that amount paid is noted and the correct paying-in slip is completed

INSURANCE

You need to file your certificates of employers liability insurance.

RECRUITMENT

Retain records of interviews/selection process for 6 months.

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CRIMINAL RECORDS BUREAU/LEGAL EMPLOYMENT

Retain safely and store all documentation.

Showing you are spending your direct payment properly – financial monitoring from the Council

After 3 months of starting to use Direct Payments, you will be asked to provide the Council with your bank statements showing how you have used your payments.

If these are OK, you will be required to provide your bank statements every 6 months after this.

If the Council feel that you are misusing the funds, they can stop your payments.

Getting support if you need it



We hope this guide has been useful in helping you to start using Direct Payments.

However, if things go wrong or after reading this guide, you feel you need more support, Leicestershire County Council do offer a free 'in house' Direct Payments Support Service.



If you just need to speak to someone on the telephone to get advice, you can ring the Direct Payments Support Service Advice Line.

They are open every weekday afternoon from 1.00pm until 5.00pm (until 4.30pm on Fridays).

You can call them on 0116 3053050 or by email on dpss@leics.gov.uk

If needed, a support worker can visit you to help. You may have to wait for a worker to become available to see you.

The Direct Payments Support Service can also provide you with a number of other useful guides to support you to use direct payments. Please do not hesitate to contact us.