



DERBYSHIRE LOCAL OFFER

A Brief Guide to Responsibilities and Information for Direct Payments

June 2024



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Direct Payments for Social care Information for Young people and their parents

1) What is a direct Payment?

A direct payment is a cash payment made by a local authority to a parent or young person to contract, purchase or manage services themselves. This is a result of an assessment completed by a social worker and discussed with parents / carers.

2) What can the Direct Payment be used for?

An assessment will determine the social care needs of your child and then make recommendations regarding how the money can be used to meet those needs. If the payments are used for anything else, they will be stopped.

3) Benefits of a direct payment

Flexibility and choice. You can use a service that best suits your child's needs in line with the assessment recommendations.

4) Key things you need to know!

The money will be paid into a Derbyshire Pre-Paid bank account that you have full access to and will be audited on a regular basis.

You will need to upload to the banking app all receipts for expenditure and keep these for a period of 7 years for auditing purposes.

Payments for Personal Assistants (PA's) are by an online banking system only (BACS). Cash payments are not permitted.

Any expenses such as travel, fuel, food, entrance tickets etc should be paid for from your child's DLA.

Payments/reimbursements to your own personal bank account are not permitted without prior agreement.

If the money has not been used in a 6-month period, this will be reclaimed, and the account closed.

5) What are my responsibilities?

For a Personal Assistant (PA):

- You will need to identify a PA.
- You will become an employer if you choose to use a PA.
- You will need to ensure the PA has a current police check (DBS check). Support can be given.
- You will need to set up a contract with your PA. Support can be given.
- You will have to arrange and purchase Employers Liability insurance. Support can be given.
- You will be responsible for paying your PA the agreed rate of pay, in line with employment legislation.
- You will be responsible for tax, National Insurance, sick/holiday pay and pension for your employee. (Payroll services can help with this).
- You will need to read, understand, and sign an agreement as the direct payment will not be released without this.
- You will be responsible for dealing with any issues concerning your PA. Citizens Advice or your child's social worker (if involved), may be able to advise you.
- You will need to take out Employers Liability Insurance, and advice will be given on this.

For an Agency:

- If you use an agency, you are responsible for paying the agency on time.
- Agencies are responsible for the police checks and paying their staff.
- Agency costs are generally higher, and you may have to pay additional monies yourself e.g. from DLA payments, to access services from some agencies.

6) What is the process and how long may it take?

- Once the Direct payment has been agreed, then the process will begin but may take time due to checks, setting up accounts etc.
- You will need to identify a PA and a DBS check needs to be completed before a PA can start working with a child.
- Once a PA is found and checks have been completed, the Payment is processed and paid into the pre-paid bank account.
- If you have chosen a Payroll or managed bank account, you will need to complete the application pack from your chosen provider.
- The Direct payment will be reviewed every 12 weeks by your child's social care worker (if involved). At this meeting you will need to provide evidence of invoices, receipts, and bank statements.
- The accounts are monitored regularly for spending, and you will be asked to repay monies not spent in line with the social care assessment.

You don't have to do this alone:

Speak to your child's social care worker. They will be able to advise and guide you. You can also contact the Direct Payment Processing team on [01629 537600](tel:01629537600) and ask to speak to someone or email CS.DirectPayments@derbyshire.gov.uk

Useful Contacts:

<https://blueskybrokers.org>

They will help you with finding a Personal assistant and employing them.

www.citizensadvice.org.uk

They can help with employment law, finances, and legal advice.

<https://www.localoffer.derbyshire.gov.uk/home.aspx>

Advice on the Derbyshire's Local Offer to its children and young people. There is also a list of agencies that will provide help for you and your child.

Call Derbyshire on tel: [01629 533190](tel:01629533190)

Employing Self-Employed PA's

Derbyshire County Council does not recommend contracting with self-employed individuals for personal assistant tasks, for further and more detailed information please see the Direct Payment Information Pack www.derbyshire.gov.uk/directpayments

1) Budgeting

Ensure you can afford the care and support you are arranging with your direct payment. A self-employed personal assistant is responsible for their own tax, national insurance contributions, pension arrangements, holiday, and sick pay. However, we still require proof of self-employment status including the Unique Tax Reference (UTR) number for the potential PA. They are required to sign the form re tax etc that is sent with the direct payment information. (Included at the end of this leaflet) Although this is not a legal requirement by signing this form, you will be safeguarding yourself from any potential future tax bills and it will be proof that your PA's are responsible for their own tax return and declaring to HMRC the extra income they receive from you as a PA.

We also advise that you purchase employers liability insurance, which will need to be paid for with the direct payment.

2) Contract

It is advisable to ask your self-employed personal assistant for a written statement of their terms and conditions before entering into a contract with them. A self-employed personal assistant cannot send another personal assistant in their absence. This is because they would need to register as a Care Agency with CQC. www.cqc.org.uk/

3) Employers Liability Insurance

Employer and Public liability Insurance is still advisable should you contract with a self-employed personal assistant. This paid out of the direct payment award. Some companies who provide this are:

Fish Insurance can be contacted on [0800 088 3050](tel:08000883050) or at: <https://www.fishinsurance.co.uk/carers-employer>

Surewise
<https://www.surewise.com/carers-insurance>

Mark Bates can be contacted on [01476 514478](tel:01476514478) or at: <https://markbatesltd.com>

4) Invoices

A Self-employed Personal Assistant should provide you with an invoice detailing their charges and hours. They also need to include their Unique Tax Reference number on their Invoice.

5) Pensions

A self-employed personal assistant is responsible for their own pension arrangements.

6) Planning for contingencies

With a direct payment, you are responsible for arranging your own care and support. You should have a plan in place to deal situations where the current care and support breaks down. This should include planning:

- Who will cover when your self-employed personal assistant is absent from work sick or on leave (a self-employed personal assistant would not be paid in these circumstances).
- What you will do if your self-employed personal assistant doesn't arrive
- Who will manage the direct payment if you are unable to do so for any reason, for example a hospital admission or illness.

Employing a Personal Assistant

1) Budgeting

Ensure that you can afford the care you are arranging with your direct payment. There are additional costs to be paid from the direct payment over and above the personal assistants' wages.

These will include employer's liability insurance, holiday pay [may or may not include relief staff to cover holidays], payroll costs, employer's national insurance, workplace pensions, and managed account fees.

The direct payment team can help you with budgeting, speak to your allocated worker for a referral.

2) Employers Liability Insurance

All employers are legally required to have employer's liability insurance. Derbyshire County Council recommends you purchase a specialist personal assistant insurance, which also provides a number of additional services to support with employing a personal assistant.

Some companies who provide this are:

Fish Insurance – Tel: [0800 088 3050](tel:08000883050) or at:

<https://www.fishinsurance.co.uk/carers-employer>

Mark Bates – Tel: [01476 514478](tel:01476514478) or at:

<https://www.markbatesltd.com/schemes/personal-care-assistant-insurance>

Surewise – Tel: [01268 200020](tel:01268200020) or at:

<https://www.surewise.com/carers-insurance>

Derbyshire County Council will pay for the first year's insurance. You will then need to budget for subsequent years within your direct payment.

3) Contract of Employment

All employers are required to provide employees with 'Written terms and conditions of employment'. Your insurance provider can supply you with a contract of employment.

If you need help to arrange contracts of employment for your personal assistants, please contact your allocated worker and we will support you to identify appropriate assistance with this.

4) Payroll

You are responsible as an employer to register with HM Revenue and Customs [HMRC] and make any deductions for tax and National Insurance which are due. If you wish to do this yourself, advice is available from HMRC's website:

<http://www.hmrc.gov.uk>. There is also an Employers Helpline on [0300 200 3211](tel:03002003211) or [0300 200 3200](tel:03002003200).

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

Derbyshire County Council has a list of approved Payroll Providers, that we can supply on request.

Other payroll providers are available, and you will be given an amount to purchase this.

You can use your own payroll provider as long as their charges are reasonable.

Again, this is paid for out of the direct payment and needs to be budgeted for accordingly, and you will be responsible for paying any additional costs that employing your own payroll services may incur.

5) 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 and should be signed by you both.

Derbyshire County Council will provide you with sample timesheets to use if you prefer.

6) Pensions

The law on workplace pensions has changed and 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.

If you have a payroll provider, contact them regarding pensions as they will be able to act on your behalf.

There is a scheme called NEST (National Employment Savings Trust) who can provide 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

There is also an organisation called the 'Money Advice Service' set up by the government, this is a free and impartial service providing advice on workplace pensions for both employers and employees – www.moneyhelper.org.uk This website also provides general employment and money management advice.

7) DBS checks for PA's

Derbyshire require that all Personal Assistants have an enhanced DBS less than 1 year when starting as a PA.

We can support this and will arrange for a form to be signed by the PA giving both their data preference and also the information needed to obtain a DBS for them.

(Data consent and DBS info included at the end of this leaflet.)

This does not come at a cost for yourself or the PA.

However, the PA is not able to start receiving wages for caring for a child under 18yrs of age without a DBS in place.

Anyone working with a child under 18yrs requires a DBS whether related or not.

Please ask your child's social worker for support in this.

8) Planning for contingencies

With a direct payment, you are responsible for arranging your own care and support. You should have a plan in place to deal with situations where the current care and support breaks down. This should include planning for:

- Who will cover when your personal assistant is absent from work, sick or on leave.
- What you will do if your personal assistant doesn't arrive.
- Who will manage the direct payment if you are unable to do so for any reason, for example a hospital admission or illness.

9) Resolving difficulties

We recommend that you talk to your personal assistant on a regular basis, to discuss their 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, BUT, If you have any concerns about the conduct of your staff, you **MUST** take advice from your Insurer before taking any action.

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, by whom, and when.

They all operate a 24-hour legal employment helpline.

If you need support with any aspect of employing personal assistants, please contact your allocated worker.

Your allocated worker can make a referral to the direct payment team who can help you to source appropriate support.

Employing family Members

This is to clarify the Council's position in terms of relatives who are paid as personal assistants from direct payment funds to support outcomes identified in the Single Assessment/EHCP. Section 17A of the 1989 Act, gave councils a duty to offer direct payments where there was an assessed need for a disabled child or young person.

In making direct payments under section 17A of the 1989 Act, Councils are subject to the duty to safeguard and promote the welfare of children and young people, and to promote their upbringing by their families when making these payments, in the same way as when providing direct services.

The Council wants to be satisfied that the disabled child or young person's assessed needs can and will be met, and Direct payments are not intended to replace existing support networks within families and communities.

As stated above, a direct payment cannot usually be used to employ someone that lives in the same household as the disabled child or young person receiving a direct payment. However, there may be exceptional circumstances to meet the disabled child or young person's unique needs, where this may be agreed.

There is discretion for the Council to agree that relatives can support a disabled child or young person, to assist with tasks specific in the Single Assessment/EHCP, which are over and above or specific to the needs of a disabled child or young person, as it relates to their disability.

Such tasks or activities would not include what relatives would usually do for their family members as part of ordinary, supportive family relationships, For example, it would be usual and ordinary for a grandparent to spend time with their grandchild, taking them to the park, beach, shopping, etc. It would not be ordinary for a grandparent to provide personal care, i.e., supporting with personal hygiene, toileting and getting dressed.

As children mature, consideration will be given to the continuing suitability of a personal assistant, to meet the disabled child or young person's changing needs, and how intimate care needs are to be met.

Any agreement for a relative to be employed as a personal assistant and paid from direct payment funds will be dependent upon the individual needs of the disabled child or young person, and the specific requirements of the carer with skills to meet those needs and activities set out in the Single Assessment/EHCP/Direct payment Agreement.

Consideration will also be given to matching the disabled child or young person's needs with outcomes, for example, if the assessed need is to develop social skills within the disabled child or young person's peer group, we would want to encourage the disabled child or young person to attend activities with their peers.

Consideration should be given as to whether it would be appropriate for the personal assistant to provide support with such activities.

The distance the personal assistant lives to the disabled child or young person will also be considered. For example, it would be unusual for agreement to be given for a personal assistant living outside of Derbyshire.

Where families choose to employ a relative as a personal assistant, the social care Team Manager and/or Deputy Head of Service will decide, based on the assessment, whether it is appropriate for a relative to provide personal assistant support, and each case will be determined individually.

If a relative is in receipt of Carer's Allowance for the disabled child or young person, they cannot also be paid as a personal assistant.

These arrangements are in place to ensure that a disabled or young person's identified needs can continue to be met and the personal support is suitable, and all those involved should understand the purpose of direct payments and the role that the Council's monitoring plays in the successful operation of the scheme.

Bank Accounts

There are two types of accounts you can use;

Managed bank account with payroll (MBA) or a Prepaid account with/without payroll.

Managed Bank accounts:

These are accounts where the direct payment money is paid to and held by a company for you.

You will have to send either timesheets or invoices to the provider so as they can pay directly to the person or agency providing the care.

You can request statements from the provider to know what monies you have and budget for care.

Prepaid accounts:

These accounts are an internet-based bank account with Prepaid financial services.

You have full access to the monies online only and all transactions are to be online.

CASH WITHDRAWALS are not permitted.

You will have a payroll company attached to this account only if you employ a PA.

The payroll company will find out the tax code for the PA and then let you know what to pay the PA, what to pay HMRC and what to pay for any other entitlement ie holiday, sick, pension.

Please do not employ a PA without having a payroll company in place.

List of companies providing both Managed accounts and Payroll services:

Care in Finance -- [0345 241 0999](tel:03452410999) or at <https://www.careinfinance.co.uk>
NannyPaye -- [01737 816 320](tel:01737816320) or at <https://www.nannypaye.co.uk>
Parkside Payroll -- Debi Jones [07591 927518](tel:07591927518) or at debi@parkside-payroll.co.uk
Pay-packet -- [0800 048 8998](tel:08000488998) or at payroll@paypacket.co.uk
SmartPaye -- [01332 343601](tel:01332343601) or at <http://smartpaye.co.uk>
The Rowan Trust -- [02476 642947](tel:02476642947) or at <http://www.therowan.org/index.php>
Blue Sky Brokers -- [01332 404040](tel:01332404040) or at <https://blueskybrokers.org>

Tips, Advice and Contacts

- Keep every bit of paperwork.
- Ask for Help
- Make sure you plan your budget.
- Keep on top of your Personal Budget, it is a lot easier to do your paperwork once or twice a week rather 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.

For PAs:

- Always take up references 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.
- Ask for support with recruiting staff and any other issues with your Personal Budget.
- We recommend you don't use self-employed workers but if you do, please speak with your child's social worker.
- Always take advice before dismissing staff

For Agencies:

- If you choose to use an agency, ask for a contract and check it over to make sure it is fair before signing it.
- 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.

More Useful Contacts

Direct Payments Childrens Social Work Team - [01629 537600](tel:01629537600)
Direct Payments Finance Team - [01629 532119](tel:01629532119)

Timesheets and Expenditure Summaries - [01629 532118](tel:01629532118)

If you want more timesheets and expenditure summaries ring the Direct Payment Finance Team - Email: directpayments@derbyshire.gov.uk

Website: www.derbyshire.gov.uk/directpayments

Direct payments paperwork can be accessed via The Local Offer website:

<https://www.localoffer.derbyshire.gov.uk/home.aspx>

GOV.UK:

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>

<https://www.gov.uk/payee-for-employers/setting-up-payroll>

Self-Employed PA and Direct Payment recipient agreement for TAX / NI / Pension / Holiday / sick /Maternity / Paternity pay.

Self-employed PA's Name:

Self-employed PA's UTR :

As a self-employed Personal Assistant, I will be responsible for paying my own tax and National Insurance contributions to HMRC.

I understand that as a self-employed Personal Assistant, that I am not entitled to claim holiday, sick, maternity or paternity pay from the direct payment recipient or Derbyshire County Council.

I understand that any pension contributions need to be made by myself as a self-employed person and not by the direct payment recipient or Derbyshire County Council.

If HMRC contact the direct payment recipient for tax, NI or Pension then they will direct HMRC to me, as a self-employed Personal Assistant.

Signed by PA:

Date:

Name of DP recipient:

Signed by DP recipient:

Date:

Data Consent and DBS request for PA

Name of Proposed Personal Assistant:

Name & PIN of Child/Young Person wanting support:

Please select which one you are agreeing to:

I consent to my details being stored on social cares system/database. This is in relation to my role as a Direct Payment Personal Assistant for the above child/young person. My details will also be used to request an Enhanced DBS for the role of Personal Assistant. The outcome of my DBS will be saved on my social care records.

OR

I do not consent to my details being stored on social cares system/database. Any personal information used for this process will only be used for the purpose of obtaining an Enhanced DBS and it will be retained until the DBS has been returned. For further information on how we may use your personal data visit our website at www.derbyshire.gov.uk/privacynotices

A note on the child's file will only have my initials and that I have a completed/clear DBS and the date of renewal. A request to renew my DBS will come through the child's family.

Signed: (Proposed PA)

Dated:

Address of PA:

DOB:

Telephone contact:

Email:

Please answer:

I am currently on the DBS update service
you for permission to check the update system.

- a separate form will be given