



St. Helens
Council

Direct Payments

A Parent's Guide to using your
payments and employing your own
Personal Assistant



Introduction

The Community Care (Direct Payment) Act 1996 gave local authorities in England, Wales and Northern Ireland the power to make Direct Payments. The Carers and Disabled Children Act 2000 extended this to include carers, parents of disabled children and disabled young people (aged 16 or 17 years).

What Direct Payments are:

- Direct Payments are payments that are paid by the Council to the parent or carer of a disabled child, or to a disabled young person up to 18 years of age. In the first instance Social Services will assess your son or daughter's needs, so that Direct Payments can be provided to put in place the help that is required.
- Direct Payments provide money which must be used solely for meeting the needs that have been identified by Social Services.
- Direct Payments allow you to employ your own staff to provide care and support for your child or young person, instead of receiving assistance arranged by the Council.
- You can continue to have some services arranged by Social Services whilst you arrange only part of your support package for your son or daughter. In this way, you only have to arrange the aspects of the care that you feel able to manage.

Advantages of Direct Payments:

- Direct Payments give more flexibility in how services are provided to people who are assessed as eligible for Social Services support.
- Direct Payments provide people with greater choice and control over their lives, which enables them to make their own decisions about how their care should be delivered.
- You can choose who supports your son or daughter, and how they provide the support.
- You can decide what sort of help you need, how you want the help to be provided and the times when you want to have the help.
- People who use Direct Payments enjoy the flexibility and choice that Direct Payments can bring, and frequently comment on how they have gained greater self-esteem, confidence, and control over how they live their lives.

What Direct Payments can be used for:

- Employing a Personal Assistant to provide care and support and, for example, to accompany the child or young person to social or leisure activities.
- Buying services from support agencies - to support personal care or as a sitting service.
- Paying for short breaks with registered childcare providers.
- Facilitating access to social groups.

Support is at hand

There is help available with employing staff or using the Direct Payments or for other purposes. Social Services employs specialist staff to provide information, advice and support for all aspects of managing Direct Payments. This guide includes contact details of the Directs Payments Team and Support Service.

Keeping Records

Direct Payments are public money and should be spent on meeting your child's assessed eligible needs. This means that the Council does need to know how the money is spent. You will need to

keep evidence of how you spend the money, such as bank statements, timesheets, invoices and receipts. You will be expected to show these to your Social Worker and send copies to the Direct Payments Team when you are asked for them.

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Section 1: Using the Direct Payments

Eligibility Criteria

The Carers and Disabled Children Act 2000 provided councils with the duty to offer Direct Payments to parents of disabled children and disabled young people aged 16 and 17, who have been assessed as being in need of services. Parents/young people will be offered Direct Payments where it is identified within the assessment that they are assessed as needing community care services. The Social Worker will offer Direct Payments, however there is no obligation on parents to take this offer up, and parents are entitled to have services arranged on their behalf.

Where the disabled young person is aged over 16, they may pursue Direct Payments in their own right, and parent/carers will be encouraged to support such arrangements.

In relation to the legal guidance, the Council has a number of duties:

- to assess and review the needs of the child and carers in the normal way
- to ensure arrangements are safe and promote the welfare of your child
- to ensure only appropriate people are employed to work with children and young people
- to support parents, in consideration with the child, in relation to their wishes regarding intimate care, and potential at 16 and 17 to manage their own support (albeit with parental support too!).

Where the arrangements are not cost-effective, the Council reserves the right to decline Direct Payments for all or part of the package.

Parental Responsibilities

Where parents/young people are offered Direct Payments, the following requirements should be met:

- The parent/carer must agree to accept responsibility for organising their child's own care and the legal responsibilities of employing their own staff.
- The parent/carer must be able to evidence clear consideration in their arrangements for safeguarding and promoting the welfare of the child.
- Parents will be expected to adhere to risk assessments set out within the Child in Need Plan, and give regard to the safety of people they employ.
- The parent/carer will be required to ensure CRB checks are undertaken for staff employed.
- The parent/carer will not employ staff under the age of 18.
- Where the child is to receive intimate care, there must be evidence that the views of the child have been sought regarding the proposed arrangements.

Planning your support with you

During the assessment, we will explore how Direct Payments could provide support in meeting your child's and family's assessed needs. Once the assessment has been done, we will then draw up a plan with you which identifies how their needs will be met and the outcomes to be achieved.

In particular, we will need to confirm with you:

- how you are going to introduce your Personal Assistant to your child
- the activities your Personal Assistant will undertake
- where personal care is to be provided, how this will be done to provide for your child's needs and preserve their dignity

- that your home is a safe place and that any specialist equipment your Personal Assistant needs to use is safe and tasks to be undertaken are reasonable
- any training your Personal Assistant will need - for example, if they need specialist training with complex health issues
- any other guidance that needs to be in place if your child has specific support needs or presents complex support needs
- how your child will tell you if they are unhappy about the support offered and steps to take in reporting any disclosure of abuse.

Your Social Worker will supply you with a personal profile, and discuss with you how you can ensure you have clear information to give to your Personal Assistant. This will include information on what is important for your child, their likes and dislikes, how they communicate with others, and any issues of risk.

Employing your own staff

The main benefit to you of employing your own Personal Assistant is that you are employing the person you want and you are clear of who is coming into your child's life and your home. In other words, it is your decision, as long as the person is appropriate. This may be someone within your social network: a person recommended to you by your Social Worker or voluntary organisation; a person you have advertised for; or someone you know from school or a social club that your child attends.

In making the Direct Payments available to you, the Council is required to ensure that arrangements are safe and promote the welfare of your child. The Council also is required to ensure that this is a cost-effective way of arranging your support. Therefore we would not offer Direct Payments to parents where we are clear that you will be using a childminder or an agency on a consistent basis, as it is simpler for us to make the payment to them directly and avoid the added costs of administration.

Using Agencies

You may also wish to use the Direct Payments so that you can use staff paid from a care agency, or to pay for childcare. Where this is the case, it is important that the service provider is registered with Ofsted, so that you can be clear that the staff you use are appropriate and have a current CRB check in place. Our preference within St.Helens is that the agency has been formally registered with the Council, as we undertake additional checks on providers.

When we know that you are going to use an agency, we make an enhanced payment. This may not, however, meet the full costs of all agencies. On occasion, you might ask an agency to provide staff if you are having difficulties. However, where you do so you will find you may receive less care, given their charges will exceed the rates paid to you.

We do expect care agencies to work with parents, to provide good quality care, consistent staffing and offer flexibility. Where people have difficulties with agencies, the Council may have more influence in challenging issues of poor practice. So if your experience is less than positive, please do let your Social Worker know, and they can also help to pursue the matter on your behalf.

The structure of your support package

In confirming an assessment and Care Plan, we sometimes will provide for additional payments for holiday periods. We do recognise that in the use of your Direct Payment, you may choose to use more hours during school holiday periods, this is at your discretion.

In some eventualities where you have specific difficulties during holiday periods, we will permit you to use your payments to provide for other domestic support – given that we can be clear this is enabling you to meet your assessed needs, albeit in a different way.

Payments are made into the Direct Payments bank account on a monthly basis, and it is the Council's expectation that you use the money allocated to your child's Care Plan regularly and do not build up significant surpluses. Your accounts will be audited at least once a year. If you have accumulated in excess of 3 months payments, we will want to discuss the reason why with you, and may ask for you to refund some of the monies.

Where the Care Plan identifies the need for support overnight, it is important that this is formally agreed as part of the assessment and Care Plan. The Council has different payment rates which are payable for waking and sleep-in responsibilities.

Employing family members

Current Government guidance has been relaxed in recent years to permit the employment of family members who live outside of the family household. The aim of the Council in offering support is to meet assessed needs of the child and family and not substitute in any way the self-care arrangements which should naturally occur within the extended family network. The expectation is that the support should be over the support which family members might reasonably be expected to provide.

In offering a Direct Payment, the department will want to be satisfied that it is the best way to meet the young person's needs, and will consider all arrangements on an individual basis. The expectation is that Direct Payments will support the needs of the young person and/or carer as identified within the agreed Care Plan.

- A key part of many young people's Care Plan is the development of greater social independence. When relatives are providing care, the opportunities for widening relationships in the community for the young person can be diminished. Some young people with Autism do find accepting other people in their lives difficult; in such situations, we will work with you to plan how this can be progressed.
- In some instances, where children have complex health issues, using relatives can be easier to ensure training is provided and that tasks are done consistently.
- Where parents employ family members, support arrangements will be subject to additional scrutiny to confirm the support arrangements are meeting the identified needs of the child. Where the family cannot evidence that the assessed needs have been met, the Council may withdraw payment, and may require for funding to be repaid. Direct Payments are not to provide employment opportunities to extended family members, but to meet the needs of the young person.
- Employing a close relative can sometimes be problematic. For instance, if the support is from your mother or sister-in-law, can you be confident that they will provide the support when you want and in the way you want, and do so without resentment or criticism?
- It may be that the payments might, in some situations, be used to meet the expenses that your relative incurs, rather than being in the form of a payment for their time, in lieu of making payments as a Personal Assistant. Where this is the case, payments must meet the identified needs, and form part of the agreed Care Plan. Payments must also be value for money.

Support outside the family home

You must not use your payments to support your child overnight outside of the family home without an explicit written agreement in the Care Plan to do so. Both Direct Payments and Short Breaks care planning guidance identify that the Council has a duty to ensure all arrangements are safe and promote the welfare of the child.

- Where parents want overnight support outside of the family home with a Personal Assistant – the Council will need, in all circumstances, to formally agree the arrangements are safe and appropriate before these go ahead.
- The Council will seek to undertake visits to the home of the Personal Assistant to verify the care

arrangements are appropriate, and will seek to ensure that other people living in the property have CRB checks.

- Where the frequency of support outside of the family home is more regular, the Council would need to arrange for an assessment of the Personal Assistant as a Foster Carer, in line with statutory guidance on Short Breaks.
- Where residential provision is assessed for overnight support, it will need to be approved by the Council.

Things you cannot use your payments for

Direct Payments cannot be used for:

- paying for activities which the family might ordinarily do in the course of family life – for instance, going to the pictures
- paying for play equipment, toys or other items – which parents should reasonably be expected to purchase
- paying household bills – which is why we require separate accounts
- meeting the direct costs of activities for the young person – for instance, admission fees or drinks
- buying Local Authority or Health Authority provided services, for residential care or for Short Breaks in children's homes
- buying equipment for everyday living which is funded by the equipment loan store
- anything that is against the law or a criminal activity
- to support another individual, other than the child/carer specified in the Care Plan.

Section 2: Employment Support

Employing a Personal Assistant Guide

The Direct Payments Scheme provides a published guide to **Employing a Personal Assistant** – which identifies steps in meeting your responsibility as an employee. This includes guidance on advertising and interviewing; Contracts of Employment and Induction. The guide is available on request from the Contact Centre.

Contact Centre

Wesley House
Corporation Street
St.Helens WA10 1HF

Tel: 01744 676789

Email: contactcentre@sthelens.gov.uk

The Direct Payments Advice and Support Service

The Direct Payments Advice and Support Service is available to offer you support and advice through every aspect of managing your Direct Payments. They offer advice and support around the following areas

- How to recruit staff (job descriptions, advertising, interviewing).
- How to contact care agencies.
- How to be an employer (including employment legislation, payment of wages, tax, and National Insurance liabilities or responsibilities).
- How to set up an Employer's Liability Insurance.
- How to manage staff, set up rotas, plan for holiday and sickness cover.

Direct Payments Advice and Support Service

Coalition of Disabled People
3rd floor Tontine House
Church Street
St.Helens WA10 1BD

Telephone: 01744 616316 - 01744 24930 - 01744 24789

Email: elainecoalition@yahoo.co.uk

Personal Assistant Register

The Direct Payments Advice and Support Service keeps a list of people who have indicated they are available to work as Personal Assistants. The Council does not provide any formal endorsement of people on the list, and it is for you to still interview people and formally offer them work. St.Helens Council also funds the North West PA register, available on www.nw-pa.org

Becoming a Personal Assistant Guide

If you have friends who want to become Personal Assistants, the Direct Payments Scheme also provides a published guide on **Becoming a Personal Assistant** – which provides guidance to people on what this entails. This is also available from the Contact Centre.

CRB checks and references

The Council requires CRB checks to be in place as part of its duty to ensure that arrangements promote the welfare of the child. Once you have confirmed who you wish to employ, you need to give the details to your Social Worker, who will then arrange for CRB checks to be done. We will not commence payment until this is in place. Where a suitable check has been done in the last 12 months, we will agree to start payments if you supply us with a copy of the CRB check. We will then undertake a fresh check on your behalf.

We will audit your records to ensure that all people who you employ have suitable checks in place. Where we find this not to be the case, we will prompt you to ensure this situation is corrected, and unless we can be clear of your co-operation, we may suspend your payments.

Health and Safety

The main provisions of the Health and Safety at Work Act do not apply to staff employed directly in a private household; however, to be a good employer, you must consider health and safety issues. In producing your Care Plan, the Social Worker will discuss specific risk areas and steps you need to take.

Write down accidents and incidents that happen, and call your son or daughter's Social Worker to discuss, so we can help you avoid incidents happening again.

Moving, handling and lifting

It is important that your PAs are appropriately trained so that they can provide you with the best help and support that will keep you **and** them safe.

When you appoint your PAs, you should check if they have been trained and ask them to give you a copy of their certificates.

If your PAs need training in Manual Handling and Lifting, inform your Social Worker who will provide information on Manual Handling training courses.

Tax and National Insurance

If you become an employer, you will have to register with HM Revenue & Customs and pay Income Tax and National Insurance for each employee you have. The Direct Payments Adviser is here to guide you through this. If you are still uncertain about dealing with Tax and National Insurance, the Council provides a free payroll service, which will deal with HM Revenue & Customs on your behalf.

Insurance

When we set up your Direct Payments, we will need to check out that you have taken out Employer's Liability Insurance. **You** must take out the Insurance. We will make an annual payment for you to cover this cost, and will expect to see copies of your policy when we audit your accounts.

Bank Accounts & Records

If you receive Direct Payments, the money is not counted as income for tax purposes and so you will need to open a separate bank account to demonstrate this. Having a separate account also helps us to meet our audit requirements, and will ensure that you can show that you are spending the money appropriately.

We will give you advice on keeping simple financial records that show how you have spent the Direct Payment. We will offer you support to make sure that you collect all the relevant information. The Direct Payments Team will visit you to set you off on the right foot on the records you need to keep. The Direct Payments Team are responsible for checking that the money you are spending is accounted for and is being spent on the care you have been assessed as needing.

If you have any changes in your circumstances during that time, you will need to contact the Direct Payments Team or your Social Worker.

The Direct Payments Team Tel: 01744 672204

National Guidance

Guidance on Direct Payments for community care, services for carers and children's services: England 2009

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_104840

Short Breaks: Statutory guidance on how to safeguard and promote the welfare of disabled children using Short Breaks

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00183-2010>



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2009-2010
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