



Direct Payments

A brief guide for parents and carers

What is a direct payment?



Direct payments are cash payments made to children with disabilities instead of community care services provided by Derby City Council



They are available to children with disabilities who meet the threshold for social care intervention



Direct payments are governed by the Children Act 1989 and Carers & Disabled Children Act 2000



Direct payments must be used only to meet an assessed need identified in an EHCP or Single Assessment



Why choose a direct payment



- Gives families flexibility and control
- A direct payment allows children with disabilities and their families to choose what services they use and when they use them.

Example: A family might choose to employ a personal assistant to take their child into the community once or twice a week to go swimming or bowling. The child enjoys social activities, and the family are given some respite to spend time with siblings - at a time and day which suits the whole family.



Who is eligible for direct payments?

1. **People with Parental Responsibility for a child with disabilities.**
2. **Some children with disabilities aged 16-17 years, following a Mental Capacity Assessment, who meet the threshold for a service**

Provided the following essential criteria are met:

- ✓ the recipient consents to the making of a direct payment
- ✓ it appears to Derby City Council that the recipient can (with assistance) manage the direct payment
- ✓ Derby City Council is satisfied that the disabled child's welfare will be safeguarded and promoted by means of a direct payment
- ✓ the individual is not excluded from receiving direct payments.



What can direct payments be spent on?

Direct payments are most often used to employ personal assistants to provide care and support to access activities in the community or to assist with personal care, but parent/carers sometimes choose to employ an agency.

Each case must be decided individually, on its own merits - but the service, support or activity proposed should be:

- legal
- clearly linked to the outcomes identified in the Single Assessment/EHCP and consistent with keeping the child healthy, safe and well
- affordable and proportionate to the assessed eligible needs of the disabled child



What direct payments cannot be spent on?

- anything that is illegal or that would endanger the child with disabilities or any other person
- gambling; debt repayment; alcohol; tobacco
- to pay a family member living with the child with disabilities (except as agreed in exceptional circumstances)
- health care services
- purchasing services directly from Derby City Council
- permanent residential care
- equipment
- as a substitute for Disabled Facilities Grants
- living expenses (food, rent, utility bills, clothing)
- any charges due to the Council



Consent and capacity to consent

Before paying a direct payment, Derby City Council must obtain written consent from the parent/carer. Derby City Council may need to assess whether a person has capacity to consent

It is vitally important that the parent/carer understands that by consenting to receiving a direct payment they will be taking on legal responsibilities, for example



in the role of an employer



or contracting with an agency



The parent/carer will be responsible for things like:

- issuing a contract of employment and carrying out DBS checks
- buying Employer's Liability insurance
- registering with HMRC and ensuring NI/tax contributions are paid
- offering a workplace pension
- keeping financial records/opening a separate bank account

Managing a direct payment

Some parents/carers may not want to manage a direct payment, or they may feel they cannot manage a direct payment without assistance. In these cases, the parent/carer may ask a suitable person to help manage it for them. This person will be known as their 'representative'.



representative

- The representative takes responsibility for ensuring support services are in place and becomes the employer, but the parent/carer will retain overall control and responsibility.
- The parent/carer and their representative will be asked to sign a legally binding Direct Payment Agreement
- It would not be appropriate for the representative to also be the PA in receipt of direct payment funds.



Financial monitoring



- Derby City Council needs to fulfil its responsibility to ensure that public funds are spent to produce the intended outcomes.
- Derby City Council will review the use of the direct payment on a regular basis.
- Parents/carers, or their representative, will be required to keep paperwork for 7 years. This includes evidence of all financial transactions (HMRC payments, PA timesheets, invoices, receipts).
- Parent/carers will need to complete and sign a 'Spending form' and submit a bank statement to Derby City Council every 3 months.



Managed accounts and payroll services



- To make things easier for them, some parents/carers (or their representative) prefer to use managed accounts and payroll services.
- Payroll services and managed accounts vary but they usually include buying Employer's Liability Insurance; recruitment and employment including issuing employment contracts; pension enrolment; processing payroll and making payments to HMRC and issuing payslips and payments to the PA on your behalf.
- Parents/carers may hire any company they choose, but many of our families choose to employ the services of Disability Syndicate in Derby. This is because Derby City Council has an agreement with Disability Syndicate which allows us to access all the financial monitoring information we require, so you do not have to do any paperwork. Derby City Council can make a referral to them on your behalf.
- Direct payment funds will be paid directly to the managed account instead of directly to the parent, carer or their representative.
- Derby City Council will pay for the costs of these services up to the amount shown in the Rate Structure, which is reviewed each year.



Reviewing Direct Payments



A social worker will regularly review the direct payment to make sure the support is being delivered in accordance with outcomes set out in the Single Assessment.

The review will take place at CIN meetings and through Single Assessment updates

Parent/carers must take part in the review process.



Direct Payment rate structure for 2025/26

Standard Rate	£16.00 per hour gross	You can pay your Personal Assistant £12.21 per hour This leaves a surplus to cover on-costs such as employer's national insurance (15%); pension contributions (3%) and 4 weeks holiday cover (where necessary) and to accrue enough money to cover recurring annual insurance renewal premium.
Night Rate 1	£19.75 per hour gross	You can pay your Personal Assistant £15.08 per hour This leaves a surplus to cover on-costs such as employer's national insurance (15%); pension contributions (3%) and 4 weeks holiday cover (where necessary) and to accrue enough money to cover recurring annual insurance renewal premium.
Night Rate 2	£21.79 per hour gross	You can pay your Personal Assistant £16.63 per hour This leaves a surplus to cover on-costs such as employer's national insurance (15%); pension contributions (3%) and 4 weeks holiday cover (where necessary) and to accrue enough money to cover recurring annual insurance renewal premium.

Additional costs

Employer's liability insurance	Up to £100.00 per annum	Derby City Council will pay up to £100 for one year's insurance, when your direct payment is first set up. Thereafter, you must ensure you accrue enough money from the direct payment surplus to pay for future annual insurance premiums.
Enhanced Disclosure & Barring Service check	£49.50	If you are employing a Personal Assistant, they must have an Enhanced DBS check BEFORE they start work. Derby City Council will pay for the initial check.
Recruitment and employment support	Up to £90 per month	Derby City Council will pay £50 per month for a maximum of 3 months for recruitment and employment support and up to £40 to advise on employment law, set up an employment contract, job description etc. If no PA has been found after 3 months, reassessment of the direct payment award will be required.
Managed account services	Up to £108 per annum	Organisations offering managed accounts will do the following for you: <ul style="list-style-type: none"> • Make salary payments to your Personal Assistant or pay invoices to any agency you employ. • Make payments for tax and National Insurance Contributions to HMRC and Employers Public Liability Insurance • Provide statements of account so you can keep track of your income and expenditure. • Organise pension auto enrollment and manage pension contributions
Payroll services	Up to £197 per annum	Payroll services can offer the following types of services: Register you as employer with HMRC Register as agents working on your behalf with HMRC Provide payslips for your PA via e-mail or post Ensure deductions have been made in accordance with statutory regulations (e.g. student loans, CSA, fines, government deductions) Calculate and record annual leave for your PA. Provide all necessary documentation including P60s/P45s. Make statutory payments when required (e.g. Statutory Sick Pay, Maternity Pay, Paternity Pay etc)

Information and guidance



We have selected some independent websites (below) which you may find useful in helping you to decide if you could manage a direct payment. Please note these are just a small selection and there are many more resources widely available online. Please let your allocated caseworker know if you do not have access to the internet.

Employing people

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

Recruiting and employing a personal assistant

Skills for Care - <http://www.employingpersonalassistants.co.uk/>

Tax help - Being an employer: a guide

Disability Tax Guide - <https://disabilitytaxguide.org.uk/>

Setting up and managing a workplace pension

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



Summary



If a parent or carer receives a direct payment, they will become an employer.

If the parent or carer hires someone to manage their account, they will remain responsible for the management of the direct payment.

If the parent or carer asks someone to represent them to receive their direct payment, the parent or carer will remain accountable for the way in which the direct payment is used.

The parent, carer or their representative must regularly complete and submit spending forms and bank account statements in time for each review (unless they have an account with Disability Syndicate, Derby)

The parent, carer or their representative must co-operate fully each time the direct payment is reviewed.

The parent, carer or their representative must manage the funds so that contingency reserves are built up for costs such as employer's liability insurance, NI and pension contributions etc.

The parent, carer and their representative must only use the direct payment for the purpose outlined in the Single Assessment/EHCP.

This is not a complete list of responsibilities. Derby City Council strongly recommends parents, carers and representatives seek independent advice on employment law before consenting to receive a Direct Payment and signing a Direct Payment Agreement.





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