

# Direct Payments User Guide

## Adult Social Care

November 2018

### Introduction

This guide explains how to get direct payments and how they work in practice.

If the council agreed that you require care services you can choose to get the money to buy these services yourself, this is called a direct payment. Direct payments should give you more choice and control over your needs, but they also involve more responsibility for you. We hope this guide provides you with the advice and information you need to feel confident in accessing and using direct payments.

The [Direct Payments Policy](#) should be read alongside this guidance.

This guidance contains links to internet sites, if you are unable to access the internet you can also access support by visiting one of our customer service centres or contacting Gateway to Care on 01484 414933.



## Contents

Introduction .....	1
What are direct payments? .....	3
How can I get a direct payment? .....	3
How can I use a direct payment? .....	3
How much money should I get in direct payments?.....	5
Should I use a service provider or a PA? .....	5
Using your direct payments to buy care from a service provider .....	5
Using your direct payment to employ a PA.....	7
Ensuring your privacy.....	9
Interviewing candidates .....	9
Arrangements to employ your PA.....	10
Using direct payments to buy equipment .....	12
Using direct payments to buy short term breaks .....	13
What to do if you start receiving direct payments .....	13
Useful contacts.....	16

## What are direct payments?

A direct payment is money paid to an adult or child who needs social care or a carer, to be spent on their care and support needs to meet the outcomes agreed in their support plan. This is instead of the council arranging all or some of their services for them. Direct payments allow people flexibility to choose how and when they receive support or services for their social care needs and outcomes as set out in their support plan.

Direct payments can be paid to a person, someone they choose (called a nominated person) or if they cannot make decisions about this the council can agree to someone else managing this on their behalf (called an authorised person). There is more information about these options in this Direct Payments User Guide.

## How can I get a direct payment?

You have the right to choose a direct payment if you already have services from us and you have the right to ask for them in a direct payment instead. If you do not currently have a service from us you can ask for an assessment. If we agree that you have eligible needs we will set these out in a support plan and at this point you can request a direct payment.

You can choose to have your support provided in a variety of different ways, these are:

- receiving money via a direct payment
- the council arranging and providing support
- the council arranging for another person or agency to provide a service
- a combination of the above.

Further details are within this guide and the [Direct Payments Policy](#).

## How can I use a direct payment?

Some of the ways a direct payment can be used include but are not limited to:

- Access to the community and day opportunities
- Personal care
- Access to leisure facilities
- Respite
- One off pieces of equipment

See the Direct Payments Policy for further information

There are restrictions on what direct payments can be spent on and these include:

- anything that is against the law
- long-term residential care, although they can be used for short term stays in residential care
- Employing relatives who live in the same household to provide care services (except in exceptional circumstances\* if this has been agreed at a senior level by a Head of Service or above within the council).

\*Please see the [Direct Payments Policy](#) for more information about Exceptional Circumstances.

### **Paying a personal assistant**

Although there is no national hourly rate for paying a personal assistant, you must pay at least the national minimum wage. Kirklees council will provide enough money to meet your needs. Please see the [Direct Payments Policy](#) and the [Resource Allocation document](#).

If you want to employ a personal assistant the direct payment must include enough money to cover additional necessary costs without which the service cannot be legally provided. For more information on this please visit:

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

An example of the information you will need to consider includes but is not limited to:

- Sick pay and holiday pay
- Pension costs
- Payroll and book keeping advice
- Maternity cover
- Keeping necessary and accurate records
- Redundancy pay

### **PA expenses**

When we calculate the direct payment budget you will receive, you should discuss with us how PA expenses will be covered. This will be discussed in the assessment and support planning process and will be set out in your support plan.

## How much money should I get in direct payments?

The amount of your direct payment should be enough to cover the amount of a service of the same quality and quantity as we would otherwise have provided for you through a commissioned care package.

As part of the assessment and support planning process, a financial assessment will be completed and most people will have something to pay towards their direct payment. For more information visit the Adult Social Care page on the Kirklees website.

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

You may choose to have alternative options that cost more than the amount of your direct payment, if so, you will need to add your own funds to increase the budget and this is in addition to your financial assessment change. Kirklees will not pay more for a direct payment than they would for a commissioned care package. Please refer to the [Direct Payments Policy](#) for more detailed information on top ups.

## Should I use a service provider or a Personal Assistant (PA)?

Deciding whether to use a service provider or PA is not always easy and there are a number of issues you will have to weigh up.

### Employing a PA

- More choice and control over who provides care and how this is provided
- You may be able to employ somebody who knows you already
- You will have all the responsibilities of an employer
- You will need to think about who will cover if they are on holiday or sick

### Using a service provider

- You might have less choice and control around who supports you
- It may be more expensive than employing a PA
- You will have no responsibilities around employment issues and staffing
- There will be holiday cover

## Using your direct payment to buy care from a service provider

There are many organisations providing care services, some of them are large national charities, some of them are smaller voluntary organisations and some are private companies such as care agencies.

## **Finding services in your area**

There are a number of ways to find out about local services in your area, a good place to start would be:

- Care Navigation
- Kirklees Website
- Community Directories
- Connect to support

You should also be able to find lists of registered and approved providers through the Care Quality Commission (CQC) website.

## **Services that should be registered**

Care providers are registered and inspected by the Care Quality Commission in England and/or Ofsted. Many types of care providers need to be registered, whether this is a requirement depends on the type of care provided and where this takes place.

## **Service provider is the employer**

If you use a service provider they will be responsible for employing, managing and paying the care workers they send to support you. You will become the customer paying them for care.

## **Types of service you are looking for**

Before talking to service providers it is important to have a clear idea of what types of services you are looking for. Your care plan should make clear the support you need, but think about how you would like these tasks carried out.

Useful questions to ask service providers:

- Can they provide the type of care you need and want?
- What are the costs of the service?
- Does the price cover everything or are there extra costs? (for example travel expenses and increased charges at weekends/bank holidays )
- Do you have to buy a minimum amount of care?
- Do you have a choice over the workers?
- Will the same care staff be sent out consistently?
- What is the policy on lifting and carrying and use of hoists?
- Can the service provider be contacted at all times?
- Is there an out of hour's service?

- What happens if you want to cancel the contract?
- Is the provider registered with the CQC?
- Does it meet national care standards?
- Does it have full professional and employer liability insurance?
- Does the agency work to any recognised code of practice?
- How does the agency recruit staff, what training is given and what security/safeguarding checks are undertaken?
- What is the complaints procedure if you are unhappy with the service?

### **Agreeing a contract with a service provider**

Once you have decided on a suitable care provider you will need to agree a written contract setting out:

- The service to be provided, for example number of hours required, when and where this is to be provided
- The terms and conditions for receiving the service, including the costs and how and when these are to be paid
- Are there any charges applied if they cannot provide care e.g. if you cancel care at short notice
- Arrangements for changing the contract
- Arrangements for terminating the contract

### **Using your direct payment to employ a PA**

If you decide to employ a PA yourself you will be responsible for recruiting and managing them once they start working for you. This means you will have all the employer responsibilities for that person.

### **What and who are you looking for?**

The first step in employing a PA is to decide what kind of person(s) you are looking for. You will need to think about the type of tasks you want your PA to do, check they are capable, and have the right skills/experience to meet your needs.

Whoever you employ they should have a positive attitude towards disability and want to support you to fulfil your potential.

### **Avoid unfair discrimination against candidates**

You must ensure recruitment is fair and avoids discriminating against anyone on the grounds of protected characteristics e.g. age, race, gender or sexual orientation. You must follow the Equalities Act 2010.

ACAS provide free information and advice to help avoid any problems or issues which can be accessed at: [www.acas.org.uk](http://www.acas.org.uk) or by calling [0300 123 1100](tel:03001231100) for free and confidential advice.

### **Drawing up a job description and application form**

Before setting out to recruit someone it is a good idea to draw up a job description. This allows you and the PA to be clear about what is expected of them, this is useful even if you want to employ someone you know. The job description should include the purpose of the job, a breakdown of the main duties as well as details of working hours and rates of pay. You can find more advice and templates at [www.employingpersonalassistants.co.uk](http://www.employingpersonalassistants.co.uk)

We also recommend drawing up an application form. This could cover:

- Biographical details e.g. name and address
- Employment history
- Personal experience or voluntary work
- Training and qualifications
- Why the person wants to be a PA
- Ownership of car or driving licence (if required)
- References including last place of work
- Whether the applicant has any criminal convictions
- Their agreement to undertake a Disclosure and Barring Service (DBS) check and to share the results with you

If you need support with this, the council can provide Care Navigators who can help you.

### **Advertising for a PA**

Unless you intend to employ someone you already know you will need to draw up an advert outlining some basic details such as:

- A short description about you
- What type of work you require the PA to do
- The hours and pay
- How to get in touch with you

There are other ways to advertise, but these may incur a charge. You could ask to place your advert locally e.g. local shops, supermarkets, schools and local facilities.



## Ensuring your privacy

We recommend not using your address in the advert although you will need to say the general area where you live. Consider using a PO Box, email address or telephone number instead.

## Interviewing candidates

You will need to compare the list of applicants against the skills and attributes you are looking for. At the end of this process you should have a shortlist of people you wish to interview.

You will also need to decide where to carry out the interviews. If you are worried about safety or privacy you may wish to use a local community setting e.g. community centre, church hall or voluntary group. You may also need to have a second more formal interview in the place of work i.e. your home.

It is a good idea to ask someone else you know to help with your interviews, this will give you a second opinion on applicants. You should take notes about the interviews to help remember later what was said.

## Questions to ask

There are some questions you will want to ask all the people you are interviewing. This will allow you to compare one candidate against another. These could cover:

- Why they are applying for the post
- Their experiences and training
- Their ideas and views about the PA role

It may be worth making up a few scenario questions that may arise when supporting you. There may also be specific questions you want to ask from the information on their application form.

## Now you have made the decision

Once you have made the decision about who you want to work for you as a PA, you should contact them to offer them the job and advise that they will be subject to employment checks. This should include:

- Enhanced DBS check and this is mandatory for children
- Proof of identity including current and previous address
- Right to work
- Declaration of any criminal history

- Taking up their references
- Discuss how you will be storing and sharing/processing their information and get their consent for this (GDPR)

## Disclosure and Barring Service (DBS) check

A DBS check finds out whether the person you want to employ has a criminal conviction. You cannot apply for this yourself and you will need to use an “umbrella body” that is authorised to access checks like the council. This check is mandatory if a prospective PA will be either; supporting children or in contact with children i.e. if you have a child.

- A DBS check should only be undertaken for a successful job applicant
- Your local authority, direct payment adviser or local support organisation may be able to help with arranging a DBS check
- There will be costs for this. Current costs are £26.00 for a standard DBS check or £44.00 for an enhanced check (as at October 2018) there may also be a small administration fee
- Most applications for a DBS check take between two and four weeks to process.

For more information:

[www.gov.uk/dbs](http://www.gov.uk/dbs) - call [0300 0200 190](tel:03000200190) or email [customerservices@dbb.gsi.gov.uk](mailto:customerservices@dbb.gsi.gov.uk)  
[www.gov.uk/find-out-dbs-check](http://www.gov.uk/find-out-dbs-check)  
[www.skillsforcare.org.uk/iepahub](http://www.skillsforcare.org.uk/iepahub)

## Arrangements to employ your PA

### Payroll and bookkeeping agencies

You can find out more about payroll and bookkeeping companies, insurance and PA agencies at [www.connecttosupport.org](http://www.connecttosupport.org) or by contacting the Care Navigation Team on 01484 414774 or [care.navigation@kirklees.gov.uk](mailto:care.navigation@kirklees.gov.uk)

### Contracts of employment

Once the checks have been successfully completed you should send out a contract of employment to sign. While this may seem very formal, a written contract will ensure you and the PA have the same understanding about the job. It will also help if there are any disagreements later. A contract should include the following:

- your name and that of the employee
- job title
- start date and if it is a temporary post the date employment will cease
- pay – rate when and how it will be received
- you will also need to explicitly state if tax and national insurance will be deducted
- hours of work
- duties (in as much detail as you feel appropriate)
- arrangements for taking holidays, maternity or paternity leave, sick leave and other special leave
- pension arrangements
- capability, disciplinary and grievance procedures
- termination of the contract including notice period and any redundancy arrangements
- probationary period
- any special arrangements e.g. live-in positions or sleep-in rates

You should use a contract even if you are employing someone you know. A contract should be sent out within two months of the employee starting work.

For more information visit Skills for Care Via the below link, or contact the Care Navigation Team on 01484 414774 or [care.navigation@kirklees.gov.uk](mailto:care.navigation@kirklees.gov.uk)  
[www.employingpersonalassistants.co.uk](http://www.employingpersonalassistants.co.uk)

### **Pay, tax and national insurance**

If you recruit a PA then you become their employer. The only exception to this is where a PA is self-employed. It is important to understand the employment status of your PA and the implications this may have on you and your care.

There are three main types of employment status for PAs:

- Employed
- Self-employed
- Worker

Please visit the Skills for Care website for more information on this.  
[www.skillsforcare.org.uk](http://www.skillsforcare.org.uk)

### **Employer's liability insurance and public liability insurance**

All employers have a legal duty of care towards their employees while they are working. This is the case even when employing a friend or relative. If a PA is injured as a result of an accident or injury at work and believes their employer is responsible

they could sue for compensation. For this reason, it is compulsory to take out employer's liability insurance.

You should also ensure you are covered for public liability insurance which offers protection if your PA injures someone or their property while working for you.

Consider taking out employer's indemnity insurance, this is optional and covers the employer against any costs related to the terms and conditions of employment, e.g. legal costs of defending a claim for unfair dismissal.

If the PA will be using your car you need to ensure they are insured to do this.

Some insurance companies provide policies specifically for PAs. Seek the advice of a local organisation or an insurance broker.

### **Training Costs**

The person you recruit may require additional training. You may be able to provide some of this yourself or through existing networks or relationships. Other training may have to come from a specialist provider e.g. moving and handling. Speak to the council or health trusts about how this can best be provided and paid for.

### **Health and Safety**

As an employer you are responsible for ensuring your employee is not injured while at work. This means checking things around your house to make sure there are no potential dangers e.g. frayed carpets, faulty electrical equipment. Ask the council if there are any relevant health and safety issues. Your PA should be provided with any recent risk assessments which support them in their role e.g. movement and handling risk assessments.

### **Using direct payments to buy equipment**

There are examples where Direct Payments have been used to buy one-off pieces of equipment such as a laptop computer, which has enabled a person to keep in contact with their family and friends. When considering pieces of equipment as part of an assessment and support plan, ensure you have linked it with the accessible home team and considered alternative methods of funding i.e. grant applications.

See links below for more information:

[grants-search.turn2us.org.uk](http://grants-search.turn2us.org.uk)

[www.kirklees.gov.uk/beta/housing](http://www.kirklees.gov.uk/beta/housing)

## Using direct payments to buy short term breaks

You can fund a short term break using your direct payment if it meets the identified outcomes in your Support Plan.

Carers taking a break (respite) – it can be beneficial for a carer’s well-being and resilience to have a break from their caring role. If carers need a break and the cared for person needs some support or can’t be left alone, there are different kinds of respite care available.

This includes and is not limited to:

- assistive technology i.e. carephone
- providing care in the person’s home,
- accessing day opportunities,
- short stays away from home in a setting that meets your needs and outcomes
- supported holidays for the carer and cared for person.

As this is a service provided to the cared for person it is charged to them, not to the carer.

Direct payments can be made to enable people to purchase a short stay for themselves in a care home. They cannot currently be used to pay for long-term care home placements.

As short term breaks are personal to each individual they are considered on an individual basis. You will not be given more direct payment funding for short term breaks than you would for a commissioned short term break. If you wish to purchase a more costly option you would need to use your own funds to increase your budget.

## What to do if you start receiving direct payments

### Keeping a record of how your direct payments have been spent

Before direct payments start, the council will ask you to sign an agreement stating that you will only use the money provided to meet the needs identified in your care and support plan. After this you will be asked to provide information about how you have spent your direct payments. This means you must keep receipts for anything you use your direct payments for including things like; timesheets for PA’s and invoices. The council will tell you what other records you need to keep and what information you will be expected to provide. They will advise you what the process is if you have agreed to use a payroll agency to support you with some of these functions.

### **Using a prepayment card or bank account to administer the payment**

There are a number of options which you might like to consider when agreeing to the administration of the payments. Kirklees have a prepayment card option which works like a bank account – Care Navigation or your assessor will talk you through the benefits of this option. The link below provides further information regarding the option.

[www.kirklees.gov.uk-direct-payments-prepaid-card](http://www.kirklees.gov.uk-direct-payments-prepaid-card)

You could also use a high street bank account of your choice for the direct payments to be deposited into. You will need to open a separate bank account to keep track of how your direct payments have been spent.

### **Keeping social services informed**

If the council is concerned about how you have spent your direct payments, for instance; if it wasn't used to meet the outcomes agreed to and explained in the care plan, if the direct payment has been spent on something illegal or if it has been spent on exceptional circumstances without the councils agreement (see the [Direct Payments Policy](#)) we can ask for the money to be repaid. Given this, it is essential you let your assessor know if you intend to make any changes to the services you buy which are not set out in your care and support plan. The direct payment agreement may allow for some small changes to be made without notifying them. However, substantial changes should always be discussed with your assessor first.

### **Dealing with emergencies**

There may be times when the care arrangements funded by your direct payments break down, for example, because your PA is ill or leaves at short notice. When you first set up your direct payments, you should speak to your assessor about what will happen in an emergency and what cover you might need. For example, you may be able to arrange for cover with an agency. This should be documented in your care and support plan.

If your emergency plan does not work for any reason, the council should step in and provide care during any period when your normal services are unavailable.

If you require support contact your assessor or Kirklees Gateway to Care on 01484 414933 (24 hours).

## **Reviewing your direct payments**

The council is still responsible for reviewing the services purchased with the direct payments. This is to check that your needs in the care and support plan are still being met and that the quality of the service is adequate. The council should arrange for regular reviews to take place but you can request a review if circumstances change suddenly. Typically your services will be reviewed annually following an initial review to make sure the services are in place which have been agreed in your care and support plan. Following a review, changes to your assessment or care and support plan may be needed. The changes may involve an increase or reduction in your direct payments.

## **Who can I complain to if I am not happy with the service I receive via direct payments?**

If you are buying care from a service provider and you are unhappy with the service being provided, then you should raise this with them directly. You should have a written agreement with the provider which sets out what they are supposed to do. You might like to think about someone who could advocate on your behalf if you feel you need some support, your assessor might also be able to help. Alternately, you may be able to complain to the agency responsible for registering that provider, i.e. the CQC. Ultimately, if you are not happy with the provider, you can stop the service and use another. It is a good idea to keep the council updated as they may need to step in and help if you need to support to make alternative arrangements for your care.

If you are not happy with the support provided by a PA, then you will have to discuss the matter with them as soon as possible, preferably before the initial probationary period ends. As an employer you will need to follow the correct procedures when disciplining staff; you cannot just automatically dismiss staff if you are not happy and failure to follow the correct disciplinary procedures could result in an employment tribunal, so always seek advice from the council or ACAS.

## **What if I decide that direct payments are not right for me?**

You can always contact the council to discuss concerns about your care package. If you decide you no longer wish to use a direct payment, the council can arrange the support you require through in-house services. It is essential you inform us as soon as you feel unable to manage the direct payments as we will need time to arrange the correct support for you which meets the needs set out in your care and support plan. You also need to take into account any commitments you have made if you stop using a service provider or PA for example, you will probably need to comply with any notice periods and payments done.

## Useful contacts

Care Navigation Team on 01484 414774 or [care.navigation@kirklees.gov.uk](mailto:care.navigation@kirklees.gov.uk)

Kirklees Gateway to Care on 01484 414933 (24 hours).

DBS information - [0300 0200 190](tel:03000200190) or email [customerservices@dbb.gsi.gov.uk](mailto:customerservices@dbb.gsi.gov.uk)

Employment Advice (ACAS) - [www.acas.org.uk](http://www.acas.org.uk) or [0300 123 1100](tel:03001231100)