

Direct Payments for care in North Somerset

Fact sheet 7

Managing your direct payment

A direct payment (also called a DP) is a sum of money from the council to use to arrange and pay for your care and support. It is not an income so it cannot be spent on anything else.

The aim is to give you greater flexibility, more choice and control over the support you get. If you get a direct payment, you can decide how your needs will be met, by whom, and when. For example, you might decide to employ your own Personal Assistant (PA) to work at the times you choose instead of receiving support from a care agency arranged by the council.

Setting up a Direct Payment - the Direct Payment Support Team

If you would like a Direct Payment your allocated worker will contact the Direct Payment Support Team in the council. The team supports with all aspects of setting up a DP. The team will explain more about direct payments, how they work and the support available to help you. They will explain the process to you so you understand what is happening and what you need to do.

There will be a Direct Payment Agreement between you and the Council setting out each other's responsibilities.

The direct payment team can help with:

- supporting you to set up a bank account.
- advising you on employment responsibilities.
- signposting and ensuring correct insurance is in place.



- providing forms if a management company is needed and assist with completing these forms if necessary.
- support with recruitment of Personal Assistants (PAs) or care agencies.
- completing Disclosure and Barring Service (DBS) checks for PAs.
- reviewing the DP after 6 weeks with you to ensure it is working well and meeting your needs.

Keeping a direct payment going

We will notify you every 4 weeks of the payments that are due to you. This will include details of the period to which payment relates and any deductions that have been applied to the payment.

Reviews

A review is a meeting between you and your council worker to discuss how things are going. Usually, the first review takes place within a few weeks of setting up a direct payment and then a minimum of annually, although a review can be held more frequently when needed.

The worker will explain the review and audit processes to you so that you understand what is happening and what you need to do.

If a review shows that you need a change to the amount of direct payment to meet your assessed support needs then your direct payment will be adjusted to the new, appropriate amount. You will be asked to return any excess monies in your account.

Financial Returns and Audits

You will need to complete regular financial returns and to submit these to the council to show how you have been spending your direct payment. You are required to account for all monies spent by sending bank statements and receipts, invoices, or payslips. You will be informed what you need to do and the dates you need to send in your returns. It is important we receive the information requested so that we can support you to know that all is well with your direct payment account.

The audit also provides the opportunity to check if there are any excess funds to be repaid to the Council or whether the account is in deficit. If you have accrued more than 2 weeks direct payment in your account, you may be asked to return any excess funds.

Contingencies

If you choose to have a direct payment, then your support plan will include a plan for contingencies. This is a plan for what will happen if your usual arrangements for using your direct payment are not available. For example, if you employ someone to help you (a personal assistant) then it would cover what arrangements would be put in place if they needed to take sick leave, and when they take annual leave.

Changing how you spend your direct payment

A direct payment is to help you to have care and support in a way that is flexible and meets your outcomes in the best way for you. If you want to spend your direct payment differently to what you have agreed in your support plan you will need to contact the council first to discuss.

A direct payment is not an income and if it is spent on anything other than meeting your care and support needs you may be asked to repay the money to the council.

When someone else manages the direct payment for you

If you do not want to manage the direct payment yourself, you can nominate someone to manage it for you – this is a **nominated person**.

A nominated person must be able and willing to manage the direct payment on your behalf. They can be a carer, relative or friend.

If you are unable to manage the direct payment yourself because you lack mental capacity to make the relevant decisions, then someone can be authorised to manage it for you – this is an **Authorised Person**.

You may be asked who you want to manage your direct payments.

The authorised person who receives the direct payments on your behalf must:

- act in your best interests.
- make sure you have as much input as possible in decisions which affect you.
- inform the relevant adult social care team as soon as possible if you become able to make your own decisions, as a result of regaining capacity.

Can the council ask for me to repay money from the direct payment?

The council can ask you to return money from the direct payment when:

- It has been used on something other than meeting your care and support needs.
- You have more money in your account than is needed to pay for your care and support needs.
- If you have more than 2 weeks' direct payment accrued in your bank account.
- You would like for the council to arrange your care and support instead.
- You wish to cease your direct payment.

The council will let you know how repay any monies due.

If you are unable to open a bank account

If you are unable to open a bank account, then the DP Support Team can discuss alternatives with you. For example, you can use a management company or broker to hold and manage your direct payment funds. The management company/ broker would receive the direct payment money from the council and pay any outgoings as approved by you. You would remain responsible for ensuring there are sufficient funds in the account to meet the costs of your care and support arrangements.

Using a payroll service

If you choose to employ a Personal Assistant with your direct payment you will become an employer. You may choose to use a payroll service to pay your PA. The cost of a payroll service is built into the hourly direct payment rate you would receive. However, you are advised to retain a minimum of 20% of that hourly rate to cover your oncosts as an employer. These are things such as payroll, liability insurance, annual leave costs, pensions etc.

A payroll service will register you (or your nominated person) as an employer with HMRC. Based on the hours worked by the Personal Assistant and notified to the service by you, it will advise you how much to pay your PA and HMRC and will carry out the necessary monthly reporting to HMRC on your behalf to ensure you are compliant and avoid being fined. However, this does require you to notify the service of the hours worked by a deadline every month.

As part of the process of setting up your direct payment the Direct Payment Support Team will provide you with a list of payroll services. The list is intended for guidance only and you are not limited to those on the list.

Ending/closing a direct payment

A direct payment may be ended in the following circumstances:

- If you are no longer capable of managing the direct payment even with support.
- If your eligible needs have changed so that you no longer need the support for which the direct payment was agreed.
- If you fail to comply with the conditions of your Direct Payment Agreement.
- If you fail to comply with the conditions imposed under the Care Act 2014 regulations covering direct payments.
- If there was evidence to suggest the direct payment had not been used to achieve the outcomes described in the support plan.
- The person loses capacity to consent and there is no (suitable) person to manage the direct payment and support arrangements for them.

- The authorised or nominated person no longer wishes to manage the direct payment or is no longer deemed appropriate by the council and no alternative appropriate person could be found.
- If the direct payment user dies.

The council worker will discuss with you, your authorised or nominated person and carer (as relevant), the proposal to end the direct payment and why.

Where a direct payment is ending following the death of the direct payment user, the council can only end the direct payment and reclaim unspent funds via the executor of the person's will.

In the event that your direct payment closes, you should liaise with the Direct Payment Support Team in the council who will support and advise to help ensure that all outgoings have been paid and advise on how to return surplus funds to the Council.

NB: if you are employing a PA directly, they could be entitled to redundancy pay, pay in lieu of holiday not taken and pay in lieu of notice.

Dealing with issues

If you are experiencing any difficulties with your direct payment, contact the council's Care Connect who will discuss with you to direct your request for help to the right person in the council.

If you would like to have a copy of the full direct payments guidance please request this via care connect.

Care connect is the first point of contact for all social services adult care general enquiries.

Care Connect

Town Hall
Walliscotte Grove Road
Weston-super-Mare
BS23 1UJ

Telephone: 01275 888 801

email: careconnect@n-somerset.gov.uk

Council documents can be made available in large print, audio, easy read and other formats. Documents on our website can also be emailed to you as plain text files. Help is also available for people who require council information in languages other than English. Contact Jennifer.monks@n-somerset.gov.uk