



**Adult Social Care Direct
Payments Practice Guidance
Version 2**

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If you would like to make any comments, amendments, additions etc please email
ASCH.AdultCare.Policy@derbyshire.gov.uk

1. Introduction and Legal Context

Direct payments are financial payments made to individuals who request to receive all or part of their personal budget in monetary form to meet some or all of their eligible care and support needs. Direct payments have been in use in adult social care since the mid - 1990s and they remain the government's preferred mechanism for delivering personalised care and support. They provide independence, choice, and control by enabling people to commission their own care and support in order to meet their eligible needs. Direct payments, along with personal budgets and personalised care planning, mandated for the first time in the Care Act 2014, provide the platform with which to deliver a modern care and support system. People should be encouraged to take ownership of their care planning and be free to choose how their needs are met, whether through local authority or third-party provision, by direct payments, or a combination of the three approaches.

In this guidance, references to care and support to meet an adult's eligible needs include care and support provided or commissioned by a local authority to discharge its duty under section 117 of the Mental Health Act 1983.

The statutory duties and responsibilities around direct payments are set out in:

- The Care Act, 2014 (Section 31,32,33)
- Care and Support Statutory Guidance 2014
- The Care and Support (Direct Payments) Regulations 2014

The Care Act 2014 supersedes all previous legislation and guidance relating to direct payments.

Links to other legislation are:

- [The Mental Health Act 1983](#) (s117)
- [Mental Capacity Act 2005](#)
- [Human Rights Act 1998](#)
- [Equality Act 2010](#)

2. Making Direct Payments Available

Adult care workers have a key role in ensuring that people are given relevant and timely information about direct payments, so that they can decide whether to request a payment, and, if doing so, are supported to use and manage the payment appropriately. The route to a direct payment is for a person to request one, but the local authority should support a person's right to make this request by providing information and advice. People must not be forced to take a direct payment against their will, but instead be informed of the choices available to them.

Individuals need sufficient information to enable them to make an informed choice about whether a direct payment is right for them. This includes ensuring they understand what their responsibilities will be and what support is available to them if they do choose to receive their personal budget via a direct payment.

To fulfil the council's responsibilities set out in The Care Act 2014 the local authority needs to make information available to everyone as part of the universal offer. Anyone wishing to explore direct payments further should be given the '**Direct Payments Information Pack.**'

Both these can be found on the council's [direct payments](#) website.

Anyone with access to the internet can also be signposted to this page for further information. The Care Act 2014 guidance specifies that in addition to this general information, authorities must also explain to people during the care and support planning process what needs could be met by direct payments.

Further support to explore direct payments can be provided by the direct payment team or by [Penderel's Trust](#). These services can be accessed by referral.

3. Referral to the Direct Payment Team

Adult Social Care workers can access support from the direct payment team with:

- providing information to support individuals explore if direct payments are right for them
- making referrals to Penderel's Trust for support with recruiting personal assistants
- setting up direct payments
- information to inform annual reviews
- support with direct payment issue resolution

Referrals to the direct payment team are made by completing an additional worker referral 2014 on Mosaic, on the person's electronic record.

From the individuals front screen:

Select Start > Additional Worker Referral 2014 > Free Text box to detail what support is required > Direct Payment Intervention > Direct Payment Social Work Team.

Finish the workflow (green tick) and the referral will be sent to the direct payment team. Once this has been allocated the direct payment worker will contact you and/or the person. Workers can also contact the Direct Payment advice line on 01629533345 or email to asch.directpayments@derbyshire.gov.uk. Individuals or their families can also be directed to the advice line.

4. Direct Payment Support Services

Derbyshire County Council have contracted with [Penderel's Trust](#) to provide support services to Derbyshire residents with direct payments. [Penderel's Trust](#) provide:

- advice and information on direct payments (including exploring if direct payments are right for someone)
- personal assistant (PA) finder service (PA register or support to recruit a PA)
- employer support (support with all aspects of being an employer)
- peer support services

Individuals can access Penderel's Trust Services by referral directly to Penderel's, a referral to

the direct payment team or they can contact Penderel's Trust directly on 01332 981046

5. Direct Payment Team Role

The direct payment team can support with any aspect of direct payments; however, the case coordinator is responsible for annual reviews and retains case responsibility. The direct payment team will support with providing advice and Information, setting up direct payments and reviewing the direct payment within 6 months.

Direct Payment Task

Support Available

Choosing a direct payment

Adult care worker
Direct Payment team
asch.directpayments@derbyshire.gov.uk
Penderel's Trust
derbyshire@penderelstrust.org.uk
01332 981046

Recruiting a personal assistant

Penderel's Trust
derbyshire@penderelstrust.org.uk
01332 981046

Calculating and Paying Tax and National insurance

[Payroll Services](#)
Penderel's Trust can support to find the right payroll service
01332 981 046
HMRC
Tel: Employers helpline **0300 200 3211** or **0300 200 3200** for advice and to register. Or visit
www.hmrc.gov.uk

Contracts of employment

Individuals can contact their insurance provider or payroll who may also be able to provide sample contracts.
Penderel's Trust
derbyshire@penderelstrust.org.uk
01332 981046

Employer and disciplinary advice

Insurance provider – suitable insurance providers can be found in the direct payment's information pack.
[ACAS \(Advisory, Conciliation and Arbitration Service\) - 08457 47 47 47](#)
ACAS can help with employment matters providing independent free advice to employers and employees to solve problems.
There is also a question and answer section on direct payment employment matters in the Advice A – Z topics on their website

Employer support

[Penderel's Trust](https://www.penderelstrust.org.uk)
derbyshire@penderelstrust.org.uk
01332 981046

Resolving direct payment issues
other than employment

Direct Payment Team
ASCH.directpayments@derbyshire.gov.uk
01629 533345
Direct Payment Finance Team
CFS.directpayments@derbyshire.gov.uk
01629 532119

6. Using Direct Payments

A direct payment can be used for support which achieves eligible outcomes and is safe, healthy, and legal.

A direct payment cannot be used for:

- anything which does not achieve outcomes agreed on the support plan
- anything which is an ordinary living cost such as ordinary bills, furniture, white goods, food shopping
- anything illegal, alcohol or gambling
- anything the individual has been financially assessed as their personal contribution including STC, co-funding, DFG's and telecare standing charges

A direct payment can be used for:

- support which will achieve eligible outcomes on the support plan
- employing a personal assistant
- costs associated with employing a personal assistant
- contracting with a provider for support with activities of daily living
- day services
- short term care in a residential establishment, excluding any financially assessed contributions - anyone with capital over £23,250 cannot use their direct payment for residential care
- equipment which substantially increases independence and reduces support needs

Local Authority Services

Normally any local authority services should be arranged via a virtually managed budget and not paid for from a direct payment, however the Care Act does allow for a direct payment to be used for local authority services in exceptional circumstances. This may be a local authority day service which has agreed an individual can attend on an ad hoc basis and only pay for when they attend. Individuals may also purchase local authority services with their direct payment from neighboring authorities.

Pooling Direct Payments

Individuals may choose to share the costs of services, by 'pooling' their direct payment. Examples of this may be:

- activities including hiring a tutor, room hire, transport
- renting an allotment and buying appropriate tools, etc
- employing a personal assistant to go out, i.e., cinema, days out, etc
- form or join a social or friendship group

Each person should have their own direct payment to meet the outcomes on their support plan. To set up a pooled direct payment it is best to arrange a meeting to include all interested parties, this should be:

- the individuals
- their DCC workers
- chosen family member, supporter, or advocate
- direct payment team worker

Specific contingency arrangements need to be considered for all parties to a pooled budget for situations where one party withdraws from the agreement. For further support with setting up a pooled direct payment, contact the direct payment team.

7. Employing Family Members

A direct payment can be used to employ a family member as long as they do not live within the same household. Employing close family who normally live within the same house as the individual is not allowed via a direct payment unless the local authority is satisfied that it is necessary to meet the person's needs.

DCC have the discretion to make the exception if we feel it is required to meet the person's needs. The direct payment service manager is required to make the decision to grant exceptional circumstances. Workers should submit information to the direct payment service manager where they feel a family member living in the same house is the only way to meet the person's needs. This should consider all factors as to why another service or another personal assistant is not appropriate and consider if it is necessary to make an exception, to meet the person's needs.

It may be helpful to consider the following questions in coming to a decision:

- why can the support not be met by another personal assistant or agency
- why is it exceptional in these circumstances and why now
- have other routes been explored
- is it envisaged to be a long term or a short-term option
- if the person does not have capacity, how have they expressed their views on whether they want their close relative to be their PA
- does the person understand if they receive a direct payment, their close

relative would then be their employee and the bottom line is that they may have to discipline them, and ultimately could have to terminate their contract of employment

- what will they do when the employee is sick or on leave - who will cover the support required

Examples of exceptional circumstances include:

- communication difficulties where only the family member can understand their needs
- geographical location preventing access to provide care i.e., a remote location
- unpredictability of times that support is required
- cultural or religious factors that cannot be found in the local community
- mental health considerations such as severe anxiety, etc

These are only examples, and each circumstance must be considered by itself. If it is just choice, then this is not allowed in the regulations for direct payments. If there is a reason this would be the best way to meet the person's needs, we can agree an exceptional circumstance. All decisions regarding exceptional circumstances are made by the direct payment service manager and should be recorded on the individual's records.

8. Reviewing Direct Payments and the Making of a Direct Payment

The direct payment team will monitor the direct payment for the first 6 months, completing a review of the direct payment within 6 months. The direct payment team will liaise with the case coordinator if there are any concerns during this time. If all is satisfactory at 6 months, the direct payment team will end their involvement.

Annual reviews

We recommend all workers refer to the direct payment team for information prior to completing annual reviews. The direct payment team can provide information on expenditure, budget and highlight any concerns prior to the review. Please make a referral to the direct payment team for information on the direct payment.

Reassessment and budget adjustments

Where there is a change in need and a reassessment has required a change in the amount of the direct payment, case coordinator must follow the guidance below.

Reduction in budget

If following reassessment, an individual circumstances have changed and they no longer require the previous level of support, you may wish to reduce the direct payment. To do this the case coordinator must:

- inform the person in writing giving, 4 weeks' notice of adjustment and the new budget
- inform the person they need to take advice from their insurance provider

if any personal assistant employment is affected - the direct payment team can provide a template letter

- complete a new support plan which documents the new budget amount and frequency and what outcomes this will achieve - the direct payment team can support with this if required
- Update the direct payment information form
- send a purchasing next action to CFS direct payments with the amount of the new budget and from which date the reduction applies.

Increase in budget

If following reassessment, there is an increase in need and the budget needs to be increased, the case coordinator must:

- update the support plan to document the new budget amount and frequency and what outcomes this will achieve - the direct payment team can support with this if required, please make an additional worker referral.
- Update the direct payment information form
- complete an IB/PB mismatch if the budget is not insufficient
- Send a Purchasing Next action to CFS Direct Payments with the amount of the payment and date of the increase

Purchase orders where this hasn't been completed will not be authorised.

Terminating Direct Payments

No longer Eligible

If following reassessment, an individual circumstances have changed and they are no longer eligible for social care, you may wish to terminate the direct payment. To do this the case coordinator must:

- inform the person in writing giving, 4 weeks' notice
- inform the person they need to take advice from their insurance provider if any personal assistant employment is affected - the direct payment team can provide a template letter
- send a purchasing next action to CFS Direct Payments to adjust the budget with the date of the reduction

Individual has moved to another local authority

The receiving local authority is responsible for funding from the day the person moves into their local authority. The receiving local authority should fund at the rate we funded until they have completed their own assessment. We are responsible to pass on information, with the individual's consent, regarding our assessment and direct payment amount. Where there is any

dispute over funding, we should continue to fund whilst this is resolved. Seek legal advice where there are issues over ordinary residence.

Now Eligible for fully funded continuing health care

Where an individual is assessed as eligible for continuing health care and funding responsibility changes to the integrated care board, you may be able to terminate the direct payment. However, you must check first if there are personal assistants affected. If there are personal assistants, it is likely the direct payment will need to continue until their personal health budget has been set up. This can take up to 3 months. We recommend you make a referral to the direct payment team, so we can advise on the appropriate action depending on the individual's circumstances.

Individual is no longer able to manage a direct payment or there are safeguarding concerns

If someone is not managing their direct payment or we have safeguarding concerns that the direct payment isn't being used to meet their needs, we must ensure we have tried everything to enable the person to be able to manage. We also need to consider if there are any employment responsibilities. If you are concerned about the management of a direct payment, please make a referral to the direct payment team for support. If this advice is needed urgently, please telephone the direct payment advice line on 01629 533345

Temporary Increase in Need

Where an individual needs additional support over a short term, we recommend you contact the direct payment team in the first instance to check if there is sufficient funding in the persons contingency. This contingency may cover the costs without additional funding. If there is not sufficient, then additional funding can be provided via a short-term assessment and plan.

9. Approval and Authorisation History

Approval and Authorisation History

Name	Job Title	Date
Camille Pace	Service Manager – Direct Payments	November 2020

Change History

Version	Date	Name	Reason
Version 1	November 2020	Camille Pace	New practice guidance required
Version 2	September 2023	Camille Pace	Review and updates to external documents. Updates to review process. Updates to telephone numbers.