



Direct Payment Guidance - Summary

Introduction

If you have eligible care and support needs which are to be met by the Council, the Council will allocate a sum of money to you to pay for your care and support. This is called your Personal Budget. Your Personal Budget can be paid as a Direct Payment to you, or you can ask the Council to arrange the services for you (known as a managed budget).

If you choose to have a Direct Payment, the Council will make payments to you (or someone acting on your behalf) on a regular basis so that you can arrange and pay for your own care and support. This allows you greater choice and flexibility in how your care is delivered.

This document gives you information about how Direct Payments work in Leicestershire and provides guidance on what is expected from you when you receive a Direct Payment.

Definitions for terms used in the Direct Payment Holders Guidance and the Direct Payment Agreement

Term	Definition
Authorised Person	Someone who is responsible for the management of the Direct Payment on behalf of the person (who does not have the mental capacity to make a decision)
Direct Payment	If you choose to take your Personal Budget as a Direct Payment, the Council will pay you (or someone acting on your behalf) on a regular basis so that you can arrange your own care and support. This allows you much greater choice and flexibility in how your care is delivered.
Financial Contribution	The amount that the Council has calculated that you can afford to pay towards the care and support you need. The calculation will look at your income, savings, and individual circumstances
Nominated Person	Someone who has been identified by a person (who has the mental capacity to make a decision) to support them with their Direct Payments

Adult Social Care



Term	Definition
Outcomes	Your care assessment will identify whether you have care and support needs that are eligible for council funding and what outcomes you want to achieve from your Support plan.
Personal Budget	When you are assessed as being eligible for council-funded social care the Council will allocate a sum of money to you to pay for care or support to meet your assessed needs. You can take your Personal budget as a Direct Payment, ask the Council to arrange services (known as a managed budget), or have a mixture of Direct Payments and managed services.
Support Plan	A plan agreed between you and the Council which says how you will spend your Personal Budget to meet your outcomes and needs.

Who is responsible for the Direct Payment?

The basic principles of Direct Payments are that:

- You, have the mental capacity to decide about a Direct Payment.
- You, have control over the Direct Payments paid to you
- You are responsible for managing the Direct Payments and must use them only for what has been agreed in your Support Plan
- You may choose to ask another person or organisation to assist you to manage your Direct Payments, but you are still the person responsible to the Council for actions taken on your behalf and / or upon your instruction
- You accept responsibility for the decisions you make regarding the use of the Direct Payments and the consequences for misuse.
- Money given to you for your Direct Payment can be reclaimed by the Council, following discussion with you, if it is not used in accordance with this Guidance and for the outcomes agreed in your Support Plan

Direct Payment Agreement

Everyone who has a Direct Payment must sign a Direct Payment Agreement with the Council which sets out the roles and responsibilities for you, anyone who acts on your behalf and for the Council. If you want someone to help you manage your Direct Payment, this will be set out in the Direct Payment Agreement.

Adult Social Care



If you have the mental capacity to manage the Direct Payment, you can choose to have a Nominated Person to help you, but you will still be responsible for the Direct Payment.

If a person does not have the mental capacity to manage the Direct Payment, they will need to have an Authorised Person to manage the Direct Payment on their behalf. The Authorised Person will then be responsible for the Direct Payment.

Before you sign the Direct Payment Agreement it is important that you understand what it means and how it applies to you and your situation.

Your legal and contractual responsibilities

You have the responsibility to make decisions on how your Direct Payment is used to meet your agreed needs (subject to the restrictions above and in the Direct Payment agreement). This means that you are responsible for any misuse and for the consequences of your decisions.

Examples of your responsibilities:

- If you enter into contracts with organisations, e.g. Care Agencies, or individuals, you are responsible for managing the relationship with the agency / individual, complying with the Terms and Conditions of those contracts e.g. payment arrangements, notice of cancellation etc.
- If you employ a Personal Assistant, you are responsible for complying with relevant rules regarding Tax and National Insurance, Insurance and Employment Legislation in force at that time.

You are advised to seek your own independent legal advice as to the terms of the agreements that you may be entering into and any obligations that are placed on you.

Disclosure and Barring Service (DBS) checks

We recommend that you have a DBS check carried out on anyone that you are thinking of employing. If you wish, the Council will assist you to arrange the DBS check and will cover the cost.

There are some circumstances where you must obtain a fresh enhanced DBS check for a prospective employee, and the results of that check must be to the satisfaction of the County Council before the employee can start work. These circumstances are:

- There is someone living in your home aged under 18 years, or
- If you employ a Personal Assistant (PA) to support you with your day-to-day activities and it is highly likely that, in the course of their employment, the PA will have regular contact with the children who visit you e.g. if you have grandchildren visiting regularly.

Using your Direct Payment

This information sheet is for guidance only. Written by people who use Direct Payments. April 2024
www.leicestershire.gov.uk/adult-social-care-and-health



How can you use your Direct Payment?

You must only use your Direct Payment to meet the needs and the outcomes as stated in your Support Plan. Your allocated worker will give you a written copy of your Support Plan when it is agreed. Part of your Support Plan will be an agreement as to how much flexibility is available to you in how you use the Direct Payment, providing that you:

- Are still meeting all your outcomes
- Have enough money in the Direct Payment to do so
- Do not break any of the rules in this Guidance, or in the Direct Payment agreement, as to how you can use your Direct Payment.

If you wish to make changes to your Support Plan or want to use the Direct Payment in a different way from that agreed, for example to buy a different kind of service, you should contact the Council to ask for advice on 0116 305 0004. In these circumstances it may be necessary to change your Support Plan.

What you can't spend your Direct Payment on

You are not allowed to spend your Direct Payment:

- To support anything illegal.
- For betting or gambling.
- To buy tobacco products (including vapes) or alcohol.
- To buy food and drink (unless this has been specifically allowed in your Support Plan).
- To buy clothing (unless this has been specifically allowed in your Support Plan).
- To pay for housing or other "household" costs, e.g., rent, council tax, gas, water, and electricity bills.
- To pay for things or services that other organisations would pay for, e.g., Health agencies, the District or Borough Council or your landlord.
- To buy services from the County Council directly.
- To buy services that are a Health responsibility. This includes treatment and therapies (unless these are specifically agreed in your Support Plan) and support getting to and from hospital appointments.
- To pay someone who is not legally employed by you.
- To buy gifts for someone who may have helped you with something, for e.g., shopping.
- To pay any bank charges.
- To pay your financial contribution towards the cost of your care services.
- To reward a person or organisation, if you have been instructed not to do so by the Council.

How much will you get and when will you get it?

How much will your Direct Payment be?

Adult Social Care



Your Support Plan will show how much your Direct Payment will be for and how you should spend the money to meet your care and support needs. This may change from time to time, for example due to a change in your circumstances, or Council policy/procedures.

The amount that you receive for your Direct Payment may be less than the amount shown in your Support Plan. This is because most people must pay towards the cost of their care from their own money. How much you pay will be calculated by a financial assessment. An example is shown in the table below

Item	Weekly Calculation	4-weekly Calculation
Personal Budget identified in your Support Plan	£100	£400
Your Contribution towards the Direct Payment	£20	£80
The Council's contribution towards the Direct Payment	£80	£320
Total	£100	£400

The first payment that the Council makes for your Direct Payment may be a gross payment. This will happen if your financial assessment has not been completed by the time that the first payment is made. When your financial assessment is completed, the Council will adjust the amount they pay for the Direct Payment.

The amount that you are required to contribute will be based on your individual financial assessment and a letter will be sent to you showing how much you must pay. The amount that you must pay may change from time to time because of a change in your financial circumstances or a change in the Council's policy. You must notify the Council immediately about any change in your financial circumstances, i.e., change to any Benefits received.

Paying your personal financial contribution to the Council

The Council will inform you how much you are required to contribute towards the cost of your support. You must make this payment, from your own money, onto your Direct Payment Card or into your designated bank account. We recommend that you set up a Standing Order to do this.

Your contribution is deemed to be the first to be spent from your account when payments for services are made. If you do not pay your contribution, you may not have enough money available to meet the needs and outcomes identified in your Support Plan and the Council will not make up any shortfall. The Council will take steps to recover any arrears which arise because you have not paid your contribution, and this may include reducing future Direct Payments.



When will you be paid the Direct Payment?

Your Support Plan will state whether you will receive a one-off payment or whether you will receive weekly payments which will be paid every 4 weeks in advance.

How will the Direct Payment be paid?

If you receive weekly payments the Council will normally arrange for you to have a Direct Payment card which will have your name on it or the person who is managing it for you, and which can be used in the same way as a normal bank debit card. The Council will make payments electronically onto this card and you will need to pay your personal financial contribution onto the card.

A Direct Payment Card account is the Council's preferred way to pay a Direct Payment: there are several benefits of having a Direct Payment card.

There is no need for you to:

- Set up and manage a Direct Payment bank account
- Keep receipts (apart from employment records)
- Send receipts and bank statements to the Council

A Direct Payment Card is easy to use. You can use the card in the same way as a Debit Card. The account can be managed either by telephone or online.

When you receive your Direct Payment Card, you will also receive the Direct Payment Card Provider's Terms and Conditions which you will need to comply with.

If you receive a one-off payment the Council will normally pay the money into a Bank or Building Society account of your choice. The Bank or Building Society account must be able to accept electronic bank transfers.

Guidance for alternative arrangements to using a Direct Payment Card

The Council prefers Direct Payment Holders to use a Direct Payment card to manage their Direct Payments as this provides an easy-to-use account which can be set up very quickly.

Alternative arrangements may be made by agreement between you and the Council to use a bank or building society account of your choice for the sole purpose of managing your Direct Payment. Additional rules apply where this arrangement has been agreed.

You must ensure that:

- You provide the council with the details of a separate Bank or Building Society account that you only use to manage your Direct Payments.



- The Bank or Building Society account can accept electronic bank transfers.
- Pay into the account the amount that you are required to contribute towards the cost of your care and support.
- The account you use does not incur bank charges. You must not use the Direct Payment to meet any bank charges on this bank account.
- Any interest paid on the account is used towards the cost of your care and support.
- You keep records and receipts of how you have used the Direct Payment money.
- When requested to do so, you provide the Council a detailed bank statement showing how you have used the Direct Payment monies and be able to demonstrate that you have paid your contributions.
- Make the records and receipts available for inspection by the Council at any reasonable time including during Reviews by the Council.

What if my support needs change?

Tell the Council about changes to your support needs

The amount of money you receive as your Direct Payment is based on the assistance that you needed at the time that your needs were assessed, and your Support Plan was agreed with the Council. This may have been when you first started to receive a Direct Payment or at a later Review.

You must notify the Council as soon as possible of any significant change in your needs so that the Council can consider whether your Support Plan needs to be adjusted and the amount of Direct Payment allocated to you needs to be amended. For example:

- You go into hospital
- You leave hospital and move back to home
- Your health improves or gets worse
- There is a change in the amount of support that your friends and family can give you.

Suspending or stopping the Direct Payment

Normally your Direct Payment will continue to be paid to you until it is reviewed by the Council. You must make your contribution to the Direct Payment account for the whole period that the Council pays the Direct Payment to you.

There may be times however when you don't need to use your regular Direct Payment. If you know in advance that you will not need to use your Direct Payment, you can contact the Council (0116 305 0004) and ask them to suspend your Direct Payment. If your Direct Payment is suspended, you will not need to pay your contribution. The period for the suspension must be a whole number of weeks (one week, two weeks etc.). It cannot be for less than 7 days, and the start date must be a Monday. Before making a request for your Direct Payment to be suspended you must be sure you

Adult Social Care



are not required to continue paying some form of retainer to your Personal Assistant or care provider.

The Council will also stop your Direct Payment at any time if you request this. If you wish your Direct Payment to stop, you should contact the Council (0116 305 0004) to discuss the reasons for the request.

If you are admitted to hospital or residential care due to an emergency (so not a planned admission), you or someone on your behalf must notify the Council, who will review the status of your Direct Payment, usually after a period of 4 weeks. If the stay goes beyond this and you do have costs that need to continue you can ask the Council to continue to pay you some or all your Direct Payment.

The Council reserves the right to decline a request after consideration of the circumstances. If the Council does agree to continue to pay some or all your Direct Payment, you will still be required to make a financial contribution towards the cost of your care.

If you are struggling or if things go wrong

If you are struggling to use your Direct Payment to meet your needs safely, legally and effectively the Council is available to provide assistance and support. If you are struggling, please contact the Council on **0116 305 0004**.

We recommend that you always have a contingency plan in place to meet your care needs if things go wrong. This should be arranged with the care worker as part of the support planning process. If you don't have a plan, your arrangements fail, and it is not possible for you to make alternative arrangements you should contact the Council for advice and support.

In either case, the Council will try to arrange for help to be provided to deal with the immediate problem. It must be recognised though that a direct replacement for your usual service cannot be guaranteed.

Audit and Review

The Council has a responsibility to review Support Plans at least once a year or sooner if required by the Council or requested by the you/your family. The Review will look at the following areas:

- Outcomes agreed in the Support Plan
- Needs and risks
- Value for money
- Quality of support
- Changes in needs and circumstances
- Management of Direct Payment account

Adult Social Care



If you would like to request a Review, please contact the Council 0116 305 0004.

Auditing and accounting for how you have used your Direct Payment

The rules in the Direct Payment agreement, are designed to help you make the best use of your Direct Payment and to protect both you and public funds. The Council is required to check that these rules are being applied and will periodically monitor the expenditure on your Direct Payment account. This is to make sure that it is being used in line with your agreed Support Plan.

If you misuse the Direct Payment

If you do not follow the rules of the Direct Payment Agreement, e.g. if you have used the money on things that are not allowed or on things that were not agreed in your Support Plan other than as described in this Guidance or the Direct Payment Agreement the Council may:

- Require you to refund the Council the value of any Direct Payments that have been used inappropriately, and / or
- Refuse to make Direct Payments to you in future, or
- Only make Direct Payments to you in future if you agree to further conditions, e.g., extra monitoring of how you use the Direct Payment money

If you over-spend the money

You will need to check that you are not paying more out from your Direct Payment account than is being paid into it. It may appear that there is a lot more money in the account than is available to be spent and you will need to balance the account in the same way that you balance your normal bank account. An example of how to do this is shown below:

What to do	Amount
Balance in the account at the start of the period	£800
Deduct the amount of unpaid invoices or wages (services used but not yet paid for)	-£140
Deduct the amount saved up for respite / holiday cover etc	-£200
Deduct the Council's 4-weekly payment in advance	-£500
Add in the amount for any financial contribution not yet put into the account	£100
Useable balance	£60

If you have too much money in the account

If you do not need, or have not spent, all the Direct Payment then any excess funds should be returned to the Council. The amount of money in the Direct Payment account will vary over the

Adult Social Care



weeks as you may have money in the account which is either set aside for the future or needed to pay for services that you have already received. The Council will always allow you to keep enough in your account to cover these items. The 4-week payment in advance will provide you with a reserve in case of unexpected payments.

The Council will periodically review the amount in your Direct Payment account. If the Council considers that excess funds need to be returned to the Council they will talk to you to agree the amount to be returned.

The Council will use the following information to consider how much money needs to be returned to the Council.

- The amount of the weekly Direct Payment (from the Support Plan) multiplied by 4 weeks
- The amount of money saved for respite / holiday
- The amount of any unpaid invoices / wages

What happens when the Direct Payment ends?

A Direct Payment might end because your circumstances change, e.g., your health deteriorates, or you move out of Leicestershire. The Council makes payments 4 weeks in advance so you will need to make sure you do not spend any money which covers the period after your Direct Payment stopped.

If you still need to pay for support which took place before the Direct Payment stopped, the Council will wait for a reasonable amount of time to allow you to do so. After this, any outstanding money left on your Direct Payment account will be reclaimed by the Council.

If you have directly employed Personal Assistants, you will need to give them the minimum notice period and a redundancy payment where they are legally entitled to it. If necessary, the Council may make additional payments to cover this. However, under no circumstances will the Council make additional payments to you to make up any shortfall (regardless of what the money is needed for) caused by you not having paid your financial contribution towards the cost of your support.

Who to contact if you need more information or need assistance

If you need more explanation or need to update the Council about your circumstances, please talk to your allocated worker or contact the Customer Service Centre on **0116 305 0004**. If you have a crisis which occurs outside of normal office hours the Out of Hours Team can be contacted on **0116 255 1606**.