



# Direct Payments Policy



**STOCKPORT**  
METROPOLITAN BOROUGH COUNCIL



# Contents

	Page No.	
<b>Section 1</b>	<b>What is a Direct Payment?</b>	<b>3</b>
<b>Section 2</b>	<b>Who can ask for a Direct Payment?</b>	<b>4</b>
<b>Section 3</b>	<b>Who can have a Direct Payment?</b>	<b>5</b>
<b>Section 4</b>	<b>Who cannot have a Direct Payment?</b>	<b>7</b>
<b>Section 5</b>	<b>Deciding to have a Direct Payment</b>	<b>8</b>
<b>Section 6</b>	<b>Working out your Direct Payment budget</b>	<b>9</b>
<b>Section 7</b>	<b>Do Direct Payments affect other benefits?</b>	<b>10</b>
<b>Section 8</b>	<b>Paying towards the cost of your care</b>	<b>11</b>
<b>Section 9</b>	<b>Back up plans</b>	<b>12</b>
<b>Section 10</b>	<b>Administration of Direct Payments</b>	<b>13</b>
	• Managed Accounts	<b>13</b>
	• Family or friends managing your Direct Payment	<b>14</b>
	• Payments	<b>15</b>
<b>Section 11</b>	<b>Transitions – when a child becomes an adult</b>	<b>16</b>
<b>Section 12</b>	<b>What Direct Payments can be used for</b>	<b>17</b>
	• Using your Direct Payment to pay family members or friends to be your Personal Assistant	<b>19</b>
	• Using Direct Payments to pay for activities	<b>20</b>
	• Using Direct Payments to pay for respite	<b>22</b>
	• Using Direct Payments to pay for transport	<b>24</b>
	• Using Direct Payments to pay for stays in a care home	<b>25</b>
<b>Section 13</b>	<b>What Direct Payments cannot be used for</b>	<b>26</b>
<b>Section 14</b>	<b>Paying for council services</b>	<b>28</b>
<b>Section 15</b>	<b>Employing staff to provide your care and support</b>	<b>29</b>
	• Self-employed Personal Assistants	<b>30</b>
	• Arranging insurance	<b>30</b>
	• Safeguarding: keeping you safe	<b>31</b>
	• Health and Safety	<b>32</b>
<b>Section 16</b>	<b>Checking your Direct Payment is working well</b>	<b>33</b>
	• Reviews and Audits	<b>33</b>
	• The first review	<b>33</b>
	• Annual reviews	<b>34</b>
	• Keeping records	<b>34</b>
	• Audit checks	<b>35</b>
	• Changes to your Direct Payment following a review	<b>37</b>
<b>Section 17</b>	<b>Changes you need to tell us about</b>	<b>38</b>
	• Going into hospital	<b>39</b>
	• Moving house	<b>39</b>
<b>Section 18</b>	<b>Recovery of Direct Payment funding</b>	<b>40</b>
	• Unspent funds	<b>40</b>
	• Claiming back Direct Payment funding which has not been used for care and support	<b>40</b>
<b>Section 19</b>	<b>Ending a Direct Payment temporarily or permanently</b>	<b>42</b>
	• Ending a Direct Payment when someone dies	<b>44</b>
<b>Section 20</b>	<b>Making changes to who manages your Direct Payment</b>	<b>45</b>
<b>Section 21</b>	<b>What to do if you disagree with anything to do with your Direct Payment</b>	<b>47</b>

# Section 1

## What is a Direct Payment?

Direct Payments are funding from Adult Social Care to help you to pay for your care and support. You can choose to have a Direct Payment if you have had an assessment from Adult Social Care and we have decided that you need support with personal care, daily living and activities to help you to live Independently.

A Direct Payment is a more flexible option if you do not want the council to arrange a service for you. They give you more control over the types of support you receive and help you to improve your health and wellbeing.

### Policies

The option to have a Direct Payment is written into a number of pieces of government legislation. These are included below:

- Section 26 (Personal Budgets) of the Care Act 2014
- Section 117(2C) of the Mental Health Act 1983
- Care and Support (Direct Payments) Regulations 2014
- Care and Support Statutory Guidance June 2022

The Care Act (2014) is the main piece of legislation we work with in Adult Social Care. It says that all councils have a legal duty to offer a Direct Payment.

## Section 2

### Who can ask for a Direct Payment?

You can ask for a Direct Payment yourself if you feel you can manage everything that comes with it, or you can ask someone else to manage it on your behalf, we call this a 'nominated person'.

If you do not have capacity to request a Direct Payment yourself, someone close to you can ask for one on your behalf, we call this an 'authorised person'. This person looks after the Direct Payment for you. They may have power of attorney or a deputyship under the Mental Capacity Act 2005, but they do not have to have this to be an authorised person. We will need to be certain that this person will act in your best interests, before we agree to this.

## Section 3

### Who can have a Direct Payment?

To have a Direct Payment you will first need to have a Care Act assessment. This assessment decides if you need care and support to help you to live independently. A Social Worker or Social Care Officer will go through this assessment with you and you can have support from anyone who cares for you, or an independent advocate, during this process.

The list below gives you an idea of what we look at during an assessment. We will ask you if you need support with these things:

- eating and drinking
- getting washed and dressed
- going to the toilet
- your mobility
- keeping your home safe and clean  
your relationships with family and friends
- going to work or doing courses, training or volunteering
- getting out into the community to go to the shops, use services or for activities that support you to be part of your community
- transport to help you get out and about
- caring for another adult or child

If, during the assessment, we decide that you need support with 2 or more of these things, and without this help you will struggle to live independently and remain safe, healthy and well, you may be able to get support from Adult Social Care.

Before we can agree to you having a Direct Payment, the law tells us that we also need to check a few other things:

- that you want a Direct Payment and understand what is involved in having one
- that you can manage the Direct Payment yourself, we can put support in place to help you with this if needed
- if you can't manage the Direct Payment yourself, you can ask someone else to do this for you, we call this a 'nominated person'. This person will take on all the responsibilities of managing a Direct Payment, so we need to make sure they can do this. We can also put support in place to help them with this if needed
- if you do not have capacity under the Mental Capacity Act and an authorised person requests a Direct Payment on your behalf, we need to be certain that they will act in your best interests
- we will talk to you, or your nominated or authorised person, about your finances. The reason for this is if you have savings over a certain limit you will have to pay for your care and support yourself. The current limit set by the government is £23,250
- everyone who has a Direct Payment will have a financial assessment. Adult Social Care support is not free, so most people will pay something towards the cost of their care and support

## Section 4

### Who cannot have a Direct Payment?

Sometimes we might decide that a Direct Payment is not the best option for you. The law is very clear that in some situations we cannot offer a Direct Payment. This could be because:

- we think that you are not able to give your consent to having a Direct Payment. If this is the case, we will carry out an assessment to see if you have the capacity to give your consent to having a Direct Payment. We will make sure you have the support of someone you know, or an independent advocate, during this assessment
- we have decided that you are unable to manage a Direct Payment yourself and you do not have someone who can be your nominated or authorised person. If you disagree with this decision, we will make sure that you have an advocate who can help you to challenge this
- someone may request a Direct Payment on your behalf, but we may not be able to agree to this
- you have a court order which means we cannot offer a Direct Payment or are on a drug or alcohol treatment programme
- the person who is your nominated or authorised person is also providing your support

# Section 5

## Deciding to have a Direct Payment

Once the assessment has been completed, we will work with you to write a support plan. This will include details of the support you need and how this support meets your individual outcomes. These outcomes are linked to the things we look at during your Care Act assessment, which are mentioned in Section 3.

Examples of outcomes could be things like:

- you want to make sure that you are clean and well presented
- you would like support to prepare food you enjoy, that is nutritious
- you would like to go out weekly to visit friends, or to go to a community activity and this will support the outcomes agreed in your assessment

If, after talking to your Social Worker or Social Care Officer, you decide that you would like a Direct Payment to pay for your care and support, the support plan will include details of how your Direct Payment will be used. It will also include details of your personal budget; this means how much money you will have to spend.



# Section 6

## Working out your Direct Payment budget

When we are working out your budget, we will always look at the most affordable way of paying for your care and support, we call this 'best value'. We will always make sure that you have enough money to pay for your care and support, but the council has a responsibility to make sure that all funding is spent in the best way. You can always 'top up' your Direct Payment from your own money if you want to pay for something that costs more than we think you need to pay.

If you are planning to use your Direct Payment to employ a Personal Assistant (PA), we will make sure that you have enough money to pay for the following:

- the Personal Assistants agreed hourly rate; this will always be paid at the Real Living Wage or above
- pension contributions
- holiday and sick pay
- employers' National Insurance contributions
- income tax

The council's Brokerage Service will give you information and support about employing Personal Assistants. Sometimes they can be self-employed or if not, you will take on the role of becoming their employer. The Brokerage Service will explain more about this and we can put extra support in place to help you with your employer responsibilities.

## Section 7

### Do Direct Payments affect other benefits?

Direct Payments should not affect other government benefits, but they cannot be used to cover things that these benefits cover such as food, clothes, household bills etc.

If you receive disability benefits, for example Disability Living Allowance (DLA) or Personal Independence Payments (PIP) for mobility and/or care, it is expected that you use these to help meet the outcomes in your support plan.

For example, if you receive mobility payments you can use this towards transport costs.



# Section 8

## Paying towards the cost of your care

Before you start to receive care and support, we will carry out a financial assessment which will look at your income, savings etc. If we think you can afford to pay towards the cost of your care and support, we will let you know how much you will need to pay as soon as possible. We call this your personal contribution. If your personal contribution is more than your expected Direct Payment budget, you will not be able to have a Direct Payment. If this is the case, you will pay for your care and support yourself.

You will pay your personal contribution into the account your Direct Payment is paid into every four weeks before you need to pay for your care and support. The council will also pay the money into your account four weeks before you need to use this. This is so that you have the money ready to pay for your care and support. Your personal contribution counts towards your care and support costs, so it is very important that you pay this into your account.

If you do not pay your personal contribution into your account, we may need to take some action.

### **This could include:**

- asking you to pay the contributions you should have paid
- reviewing your support plan and checking if you are still able to have a Direct Payment. If we decide that this is no longer possible, we will look at alternatives to make sure that you continue to receive the care and support you need
- suspending your Direct Payment

# Section 9

## Back up plans

When you are writing your support plan with your Social Worker or Social Care Officer, they will talk to you about a back-up plan for times when your planned care and support may not happen for different reasons, for example, your Personal Assistant may be ill or be going on holiday. Or there may be times when you need more support yourself because you have come out of hospital, had an accident or you are ill.

Your Direct Payment will include up to 8 weeks extra money to pay for extra care and support you may need during these times.

If there is a temporary breakdown in your care and support, you can also ask Adult Social Care to arrange cover for you. You will not use your Direct Payment to pay for this, but we may ask you to pay a contribution if your financial assessment has shown that you can afford to pay towards the cost of your care. We will send you invoices every four weeks if this is the case. We may also ask you to repay some of your Direct Payment if you decide to do this, as you will not need to use this funding when the temporary cover arrangements are in place.

# Section 10

## Administration of Direct Payments

Once you have agreed that you would like a Direct Payment to pay for your care and support and your support plan has been developed, your Social Worker will send this to the council's Brokerage Service. They will support you to get things up and running. They will also send you a copy of a Service User Agreement, which you, or your nominated or authorised person will need to sign, to say that you agree to the terms of having a Direct Payment.

## Managed Accounts

If you, or the person managing your Direct Payment, needs help to manage your Direct Payment money and any payments made from this, the Brokerage Service will give you information on managed account providers who can help with this.

Managed account providers will have responsibility for the following things:

- receiving all your Direct Payments and making sure they are correct
- paying Personal Assistant wages, agency fees and various other bills

- paying all amounts due to HM Revenue and Customs (HMRC)
- keeping a record of all the income received and payments made
- providing you with a statement showing all transactions
- dealing with the councils' audit and inspection checks

Managed account providers cannot take on the legal responsibilities that come with managing a Direct Payment. These responsibilities remain with you if you are managing the Direct Payment yourself, or your nominated or authorised person if you have one. This includes all the responsibilities of being an employer if you employ Personal Assistants.

## **Family or friends managing your Direct Payment**

You can also ask a family member or friend to manage the Direct Payment on your behalf, they will become your nominated person. Your nominated person cannot be involved in the delivery of your care and support, but another family member or friend can be.



## Payments

We can pay your Direct Payment in a number of ways:

- into a separate bank account set up by you for this purpose, a lot of people find that this makes it easier to keep a track of things
- into your personal bank account
- onto a pre-payment card (this is not suitable if you are employing a PA)
- to a managed account provider

We will pay your Direct Payment every 4 weeks before you need to use it to pay for your care and support, so you have the money ready.

If you choose to have your Direct Payment paid into your personal bank account, you will need to make sure that any payments from your Direct Payment are clear for the Audit Team to see. You can add a reference to the payment or write details on your bank statements. You may wish to cross through any personal transactions to protect your privacy, we are only interested in seeing evidence of the Direct Payment spend.

Our recommendation to most people would be to have separate accounts as this will make it more straight forward to manage, more private and easier to audit, however you can decide what works best for you.

# Section 11

## Transitions

### When a child becomes an adult

Children and young people can also receive Direct Payments. Children's Social Care and the Early Adulthood Team will work with you to complete a review of your needs before you turn 18 years of age. This is to see if you are likely to have eligible care and support needs under the Care Act, which means that you will be able to receive Adult Social Care funding. A Social Worker will work with you to develop a support plan identifying how your needs and outcomes are to be met, which may include a Direct Payment.

The section on 'Who can have a Direct Payment' will still apply for children moving into adult services.

You will also need to have a financial assessment because there are charges for Adult Social Care services, but you will only have to pay a contribution towards your care and support if we decide that you can afford to pay towards the cost of this.





## Section 12

### What Direct Payments can be used for

You will use your Direct Payment funding to meet the outcomes you have agreed in your support plan. You will already have an idea of what you want to spend the money on, as you will have discussed this with your Social Worker or Social Care Officer and they will have included these ideas in your support plan.

You can be flexible in how you use this money, as long as it meets your outcomes, and you will keep records of how you have spent this. You can also decide to spend your money differently from one month to the next, this is fine, as long as the outcomes included in your support plan continue to be met.

If at any point you think you would like to spend your Direct Payment on things that are very different to the support and activities included in your support plan, you will need to speak to your Social Worker or contact Adult Social Care to discuss this.



Some examples of things people can spend their Direct Payment on are included below:

- to employ a Personal Assistant or care agency; you may decide to pay a family member or friend to be your Personal Assistant
- to pay for activities or services that will support your wellbeing
- to pay for respite (see page 22)
- to pay for one-off pieces of equipment that are not available through the NHS or support services
- for transport to services or activities which are included in your support plan if you are unable to get there yourself and/or the cost of this is much higher than most people would normally have to pay
- to pay for services provided by Stockport Council or any other council if they meet the outcomes in your support plan. This could be something like a day service or activity provided by a council which has a charge

You may decide to build up funds to pay for some of the things included in the list above later in the year, this is fine to do, but where possible, you should discuss this with your Social Worker or Social Care Officer. This is so that they can record this in your support plan.

## **Using your Direct Payment to pay family members or friends to be your Personal Assistant**

Sometimes family members or friends may be the best people to deliver your care and support. If you decide to ask someone you know to be your Personal Assistant, they will need to be set up as an employee in the same way as anyone else. Anyone over 16 years of age can become your Personal Assistant if we agree that they are the best person to provide your support. There are different rules about the hours of work and pay for people aged 16 to 18, the Brokerage Service can give you information about this.

Your Personal Assistant will be able to deliver any care and support that we have said you need when we completed your assessment. For example, if you need help with personal care, such as washing and dressing when you get up in the morning. The tasks or activities you need help with will be included in your support plan and you can pay your Personal Assistant to support you with these things.

Anything that is not included in your support plan will be classed as normal caring duties, which are not paid for from Direct Payments. Carers can receive Carers Allowance from the government for this if you receive disability benefits, for example Disability Living Allowance (DLA), Personal Independence Payments (PIP) or Attendance Allowance.

Your social worker will also offer your informal (unpaid) carer or carers a Carer's Assessment.

## Using Direct Payments to pay for activities

We will support you to explore activities that you are interested in and enjoy, which will meet the outcomes included in your support plan. These activities are likely to improve your health and wellbeing and will give you opportunities to meet other people and to go out into the community. We will not rule out anything unless the items and activities you are suggesting do not meet the outcomes in your support plan.

### Example 1

Mary is 80, she has had an assessment from Adult Social Care because her arthritis has got worse and she is struggling to get upstairs and to use her shower. The Equipment and Adaptations team have given her a shower chair and have fitted a lower shower head, so that she doesn't have to stand up. They have also helped her to arrange a stair lift.

Mary finds swimming an enjoyable and beneficial activity for her physical and mental health. It helps to relieve pain from her arthritis and keeps her body moving, helping her to stay as mobile as possible. Mary has always enjoyed swimming and now that she is older, this is the only exercise she finds she is able to do that doesn't make her arthritis worse. Mary struggles to swim in cold water and has had to stop attending her local pool because the water is too cold for her.

Mary asks if she can use her Direct Payment to join a local fitness centre that has a large pool, hydrotherapy pool, small warm water pool and various other standard gym equipment. The membership is £50 per month.

As long as the activity is not something that the NHS should provide for free, this is something we would support Mary to do, as it will help her to meet the outcomes in her support plan.

### **Example 2**

Arun is 26 years old and he has a diagnosis of autism, he lives at home with his parents. He has recently had his annual review from a Social Worker who works on the Autism Team in Adult Social Care. Arun has been going to a day service four days a week, but he explained to his Social Worker that he now wants to do different things on two of the days. He said that he enjoys going to the cinema and sometimes he likes to do quieter activities where there aren't as many people. He enjoys visiting National Trust properties and walking around the gardens or to go for a walk in the countryside.

Arun decides that he would like to carry on going to a day service two days a week. On the other two days he will go to the cinema or visit a National Trust property. Arun can use his Direct Payment to pay his Personal Assistant (PA) to go with him to 'The Light' cinema in Stockport, where they have Autism Friendly screenings.

His PA will use a CEA carers card to pay for her ticket and he will pay for his from his Direct Payment. Arun will also join the National Trust, which costs £76.80 a year for someone of his age, so that he can visit properties with his PA. Arun's parents have applied to the National Trust for an Essential Companion Card, so that his PA can go with him for free.

Arun can use his Direct Payment for these activities because they meet the outcomes in his support plan.

## **Using Direct Payments to pay for respite**

You can use your Direct Payment to pay for respite support to give any informal carers who support you a break, if we have agreed during their Carers Assessment that they need this. This could mean that you would have a short break in a care home or a supported living scheme, or you may be able to go on holiday if you would prefer this. You can decide to have different types of respite support, you don't need to have one or the other. We will assess how much respite your carer needs when we carry out their assessment.

If you decide to go on holiday, we will consider any accommodation and travel costs you will have to pay for you and your support worker, as well as any salary costs for the person who will be providing your support. If a family member or friend is supporting you and is being paid for this, they will need to be set up on payroll and be treated as any other employee. It is important to remember that any support workers or Personal Assistants going on holiday with you will need to have breaks and time off, this is the law and it is called the Working Time Directive.

We will need to make sure that your holiday plans are affordable and 'best value', this means that going on holiday should not cost more than if you decided to have a more traditional respite option. We will also not be able to pay for any holiday costs for your carer or other family members or friends who are not involved in providing your support.

If you do not manage your Direct Payment yourself, but have a nominated or authorised person, they will help you to arrange your holiday plans and will make sure that you have all the support you need, but they do not need to go on holiday with you.

You can use your Direct Payment to pay for services outside of the United Kingdom if you need to as part of your respite costs, this is likely to be the case if you are going on holiday. You will need to make sure that the person providing your care and support is registered to work in the country you are staying in and is keeping to that country's rules about employment and safe working. You will still need to keep records of how you have spent your Direct Payment abroad, including any invoices you had paid etc.

### **For example:**

John is married to Cath, he has dementia and needs quite a lot of support. A Social Worker has said that Cath would benefit from some respite as she cares for John most of the time.

John could have a short stay in a care home but neither of them want this as they have tried it before, and John was very unsettled. Cath decides that it would be nice if they could go on holiday to Scotland together, to a place they have been to many times before.

Cath asks John's Personal Assistant Jane if she will go with them. This means that Jane can care for John some of the time, so that Cath can do the things she would like to do, such as going for long walks and having a coffee and a cake in her favourite cafes.

## **Using Direct Payments to pay for transport**

We will not pay for all transport costs but may agree to this on an individual basis, where not providing this support would mean that you cannot get to a service or activity included in your support plan. Disability benefits can help towards the cost of transport, so we will only pay towards this if the costs are higher than usual.

### **For example:**

You have decided that you would like to go to a day service in Manchester, because there is no similar service which would meet your outcomes in Stockport. You cannot get to the centre with your own transport, or on public transport, or with the support of a transport service like Ring or Ride, or Stockport Car Scheme.

We may decide to pay for the cost of a taxi if this is the most affordable and safest way of you getting to the day service.



## Using Direct Payments to pay for stays in a care home

Direct Payments can be used in care home settings in a number of ways:

- they can be used to pay for respite support for short periods of time and for no more than four weeks at a time in any 12-month period
- if you have a short stay in a care home twice and there is less than four weeks between the two stays, the total length of stay should be no more than four weeks
- if you are living in a care home all the time, you may also be able to have a Direct Payment to help you to get out into the community or to try out more independent living. For example, some people may want to move out of a care home and into a supported living scheme, or Extra Care Housing

**It is important to note that Direct Payments cannot be used to pay for long term stays in care homes.**

# Section 13

## What Direct Payments cannot be used for

The list below gives you information on things a Direct Payment cannot be used for:

### Everyday living costs:

This could be things like food and drink, shopping, household bills and housing costs such as your rent, mortgage or service charges if you live in supported housing

### Costs covered by other benefits:

#### For example:

You may receive disability benefits such as DLA or PIP for mobility reasons, so we would expect you to use these for travel related costs

### Day to day travel:

Direct Payments should not be used for day-to-day travel costs, for example getting the bus or a taxi to go to the shops, or filling up yours or your carer's car with petrol

### To pay for NHS services:

#### For example:

the dentists, chiropodists, physiotherapists, or mental health services such as counselling and specialist therapies

Equipment, aids and adaptations: where the council already provides this

Anything that is illegal or may harm your health, safety and wellbeing

To buy alcohol, tobacco or to take part in gambling

To pay tips, bonuses or extra payments to the staff working for you or in services that you use:

**For example:**

You would like to give your two PA's a Christmas bonus of £100 each. You will not be able to use your Direct Payment for this

To pay for items, activities or services that do not meet your assessed care and support needs:

**For example:**

You decide that you would like to buy a new television, or that you would like to go to your favourite restaurant for a meal. These types of things have to be paid for from your own income as they are not linked to your care and support needs and your support plan

To pay for fixed charges made by the council for care costs: this may include the standard respite charge, your personal contribution, or charges for residential placements in supported housing or care homes

# Section 14

## Paying for council services

There may be times when you want to use your Direct Payment to pay for council services.

For example, you might want to go to a day service in Stockport or another local authority. If you regularly use a day service in Stockport provided by the council, such as Opportunities Together, it might be better for Adult Social Care to arrange this for you.

You can use your Direct Payment to pay for council services if you and your Social Worker agree that this is the best option for you.

# Section 15

## Employing staff to provide your care and support

Some people use their Direct Payment to employ staff to deliver their care and support. In most cases this will be through a Personal Assistant, but it could be through a care agency.

Employing staff means that the person managing your Direct Payment has to make sure that a number of things are in place. This may include paying tax to HMRC, national insurance, pensions, the Real Living Wage, sick pay and annual leave. The council has a payroll service, which can help you to pay their salary and work out how much you have to pay for holiday pay, sick pay and any tax you need to pay to HMRC.

If it is decided that you will be directly employing a Personal Assistant, you will be required to be registered with HMRC as you will become their employer. If you have a nominated or authorised person who employs a Personal Assistant on your behalf, they will become the employer. You will also need to check that the person you are employing is legally allowed to work in the United Kingdom.

The council also recommends that you carry out an enhanced Disclosure and Barring check (DBS) to check that the person supporting you does not have any previous offences, which may mean that they should not be working with vulnerable adults or children. Adult Social Care can arrange this for you.

It is important to remember that any staff you employ need to have breaks and time off work, in line with the Working Time Directive.

### **Self-employed Personal Assistants**

Sometimes a Personal Assistant may be self-employed, which means that they will have responsibility for organising all the administration themselves. This will include paying tax to HMRC and arranging insurance. If you decide to employ a self-employed PA, they will need to provide you with their Unique Taxpayer Reference (UTR) to prove that they are registered with HMRC before they start to support you. The Audit Team will ask to see this. If you employ a self-employed PA you will need to ask them to provide you with invoices which include details of the hours they have worked and the cost of this, so that it is clear what you are paying for.

### **Arranging insurance**

If you are employing staff yourself, you will need to take out an annual insurance policy which includes Employers Liability Insurance and Public Liability Insurance with a minimum limit for any one claim of £10 million. This is so that if they or you have an accident when they are supporting you, you have insurance cover to protect you both. The Brokerage Service will support you to get insurance in place before your staff begin to work for you. You will get an insurance certificate from the company you decide to use and it is important that you keep this safe.

## **Safeguarding: keeping you safe**

It is the responsibility of Adult Social Care to make sure that anyone who has been assessed as needing care and support is kept safe and free from any type of abuse.

This means that we will put things in place to make sure this happens. This is even more important if during your assessment we have confirmed that you do not have capacity to make decisions about your care and support under the Mental Capacity Act. If this is the case, we will make sure that the person managing your Direct Payment, your authorised person, works in your best interests and keeps a close eye on the care and support you are receiving. Your authorised person will also need to make sure that enhanced DBS checks are carried out on anyone who is being paid to support you.

If at any point, we have concerns about the person managing your Direct Payment or the staff being paid to deliver your care and support, we may temporarily suspend your Direct Payment and put other arrangements in place. We may carry out a safeguarding investigation to check whether you have been put at risk and this will decide if we need to make changes to your Direct Payment and your care and support arrangements in the future.

## **Health and Safety**

It is important that the health and safety of you and any staff you employ is considered before your Direct Payment begins. The Brokerage Service will provide information on this and we will make sure that the person managing your Direct Payment has copies of any assessments Adult Social Care have completed during your Care Act assessment. For example, this may include a moving and handling assessment and your individual risk assessment. Any staff you employ may also need to attend training on safe working practices and moving and handling if they need this to keep you and them safe when delivering your care and support. The Brokerage Service will be able to give you information on this. You can also find information on the Health and Safety Executive **website: [www.hse.gov.uk](http://www.hse.gov.uk)**



# Section 16

## Checking your Direct Payment is working well: Reviews and Audits

The council has a responsibility to make sure that all public funding is spent as it should be. If you are receiving a Direct Payment, we will carry out checks to make sure that you are receiving the care and support you need and to make sure that the funding is being spent on the things we agreed in your support plan. We call these 'reviews'.

### The first review

Six weeks after your Direct Payment has been set up, the Brokerage Service will contact you to check that everything is set up properly and that the person managing your Direct Payment is clear about their responsibilities.

Your Social Worker or Social Care Officer will also contact you to carry out the first review within 6 months of the Direct Payment starting. This is to check that you are happy with the care and support you are receiving and that the outcomes included in your support plan are being achieved. We will also speak to your nominated or authorised person if you have one, to check that everything is working well.

## Annual reviews

Anyone who receives funding from Adult Social Care has an annual review of their assessment and support plan. Reviews can also be more regular than this if your needs change sooner. The purpose of a review is to:

- see if your circumstances have changed
- check you are getting the care and support you need to meet the outcomes in your support plan
- make any changes to your support plan and the care and support you receive if needed

If you have a nominated or authorised person, they will be involved in your review and wherever possible we will get your views on how your care and support is working for you.

## Keeping records

If you decide to have a Direct Payment you, or your nominated or authorised person, will need to keep records to show how you have spent this funding on your care and support. These records will need to be kept safe for seven years after your Direct Payment has ended, in case there are any queries or issues later down the line. The council may ask to see these records at any point.

As part of the agreement of having a Direct Payment, records will need to be kept by you or the person managing your Direct Payment.

These will need to include the following:

- a fully completed spending record, with details of all purchases/transactions made for the period the Audit Team are checking, showing cheque numbers if these are used to make payments
- copies of all bank statements for the period the Audit Team are checking
- invoices, pay slips\* and timesheets if someone is employed to deliver your care and support
- receipts for any purchases made using your Direct Payment funds, including one-off purchases

\*If you are using Stockport Council's Payroll Services, the payslips will be electronic.

### **Audit checks**

After four months of your Direct Payment starting, the Direct Payment Audit Team will contact you, or your nominated or authorised person if you have one, to arrange the first audit of your Direct Payment funding. They will ask to see copies of your bank statements, receipts and invoices to check that you have spent your Direct Payment funding in the right way. The Audit Team may contact you and ask you to explain things if anything is unclear from the documents you have provided. This could be because you have spent more or less funding on the care you have received, or it could be because any payments made are not clear. You will need to respond to these requests for information in 14 days.

If you do not, the Audit Team may ask a Social Worker to carry out a review, who will discuss the circumstances with you. This is so that we can make sure that your care and support needs continue to be met and to address any areas of concern you might have.

If you have used your Direct Payment in the way we agreed, and on the things included in your support plan, we will ask you to complete audits every six months in the future. Following any audits, the Audit Team will write to you to let you know if everything is as it should be, so that you are clear that the records you are keeping are all in order.

If after your first audit, we find that things are not working as we would expect them to be with your Direct Payment, we will discuss this with you, or your nominated or authorised person. We need to be confident that the person managing your Direct Payment understands their responsibilities. If we think they may be struggling with this, we will offer advice information and support to get the Direct Payment on the right track. If after the next review, we still have some concerns about how the Direct Payment is being managed, the Audit Team will discuss this with you or the person managing your Direct Payment and if necessary, they will ask a Social Worker or Social Care Officer to carry out a review. This review will decide if a Direct Payment is the best way of meeting your agreed care and support outcomes.

## **Changes to your Direct Payment following a review**

If at any point we feel that changes to your Direct Payment are needed after a Social Worker or Social Care Officer has carried out a review, we will discuss this with you, or the person managing your Direct Payment. This may include increasing or decreasing the funding you receive to pay for more or less support. It may also mean that we end your Direct Payment and put other arrangements in place, if we decide that a Direct Payment is not working for you. We will always discuss this with the person managing your Direct Payment if that is not you and will always give you 28 days' notice of any changes. We may give you more than 28 days notice if you employ staff and this will affect their terms and conditions and/or their contracted hours.

# Section 17

## Changes you need to tell us about

There may be times when you need to let Adult Social Care know of changes to your personal circumstances, as this may affect your Direct Payment. These changes may include the following:

- you are admitted to hospital or move into a care home for more than 4 weeks
- you no longer need the care and support included in your support plan
- your needs change so you need more or less support, or a different type of care and support
- you move house and no longer live in Stockport

If you are not sure if you need to let us know of any changes which may affect your Direct Payment, it is always best to contact Adult Social Care to check this. If you have a Social Worker you can speak to them, or if not, you can contact the Adult Social Care team at the contact centre, their details are below:

**Telephone number: 0161 217 6029**

**E-mail address: [adultsocialcare@stockport.gov.uk](mailto:adultsocialcare@stockport.gov.uk)**

If you do not need the care and support paid for by your Direct Payment for a period of time, we may reduce or suspend your Direct Payment.

## **Going into hospital**

If you are admitted into hospital for less than 4 weeks, it is likely that we will continue to pay your Direct Payment because you may need to continue to pay any staff you employ. This is so that they can continue to provide the support you need whilst you are in hospital or when you leave hospital. If your stay in hospital is likely to last for longer than 4 weeks and you want your Direct Payment to continue, you will need to speak to Adult Social Care about this.

Any stay in hospital is likely to result in a review of your support plan, so that we can make sure that you will receive the care and support you need when you are discharged. Your Direct Payment may even be increased temporarily so that you can receive extra support until you feel better. If you have been in hospital for more than four weeks and your Direct Payment was stopped temporarily, your Direct Payment will restart and continue as normal once you have returned home.

## **Moving house**

If you move to an address outside of Stockport, we will make sure that you have 6 weeks funding available to pay for your care and support. This will give the council where you are moving to time to complete an assessment of your needs.

# Section 18

## Recovery of Direct Payment funding

There may be times when the council needs to consider reclaiming Direct Payment funding because it has not been used to pay for the care and support agreed in your support plan.

### Unspent funds

You may build up funds in your Direct Payment account for different reasons. This could be because you have not needed to use this funding to pay for your care and support, or because you are planning to use this at a later stage. Your support plan should say if you are planning to build funds up to use in the future, so that this is clear. If you build up unspent funds of over 8 weeks, the Direct Payment Audit Team will ask you about these when they carry out your audits. If you both agree that they are not needed to pay for care and support now or in the future, the Audit Team will ask you to pay this back to the council.

### Claiming back Direct Payment funding which has not been used for care and support

If during the audit or review process, we find that Direct Payment funding has not been spent on the things included in your support plan, we will need to speak to you about this. If you have used your Direct Payment to pay for things that we do not consider as care and support, we may ask you to pay this back to the council. If you are not able to return this money, we may refer your case to the council's Debt Recovery Team.



If at any point we find that Direct Payment funding has been misused on purpose, by you or someone else, we will refer your case to the internal audit team, who will investigate this. If they find that there is evidence of fraud or criminal activity, they may involve the police or our legal department, who may decide to take legal action. They may also raise this as a safeguarding concern if it is found that someone else has been misusing your Direct Payment funding.

The council may only reimburse any Direct Payment funding you have lost if the investigation finds that you are not at fault.

If following an investigation, we find that Direct Payment funding has been misused, we may decide that a Direct Payment is no longer a suitable option for you and if this is the case, we will support you to make alternative arrangements for your care and support.

# Section 19

## Ending a Direct Payment temporarily or permanently

The council will only end a Direct Payment as a last resort. We will work with you to try and avoid this and will always make sure that you continue to receive the care and support you need. We will carry out a review of your support plan and put alternative arrangements in place for your care and support if you need this.

We will give you notice of your Direct Payment ending, which is usually four weeks, but it could be more or less than this depending on your personal situation.

For example, if you employ staff you may need to end their contracts and arrange redundancy pay, or if you purchase services, you may need to agree to a notice period with the provider.

Here are some examples of why we may need to end your Direct Payment:

- you no longer have care and support needs
- you no longer want to have a Direct Payment; we can help you to put other care and support in place if this is the case
- you are no longer able to manage the Direct Payment yourself and you have no one else who can do this for you

- your nominated or authorised person is not acting in your best interests
- you, or your nominated or authorised person, is not keeping to the terms of the Service User Agreement, which was signed when the Direct Payment was first set up
- you are not paying the contributions towards the cost of your care
- evidence and official records showing how you have used your Direct Payment funding is not provided to the Audit Team
- we have found evidence that your Direct Payment funding is being used fraudulently or is being misused, or spent on things that are illegal
- you are placed on a court order due to drug and/or alcohol dependency
- there is a safeguarding adult investigation or plan which involves you and this has an effect on your Direct Payment and the care and support you receive
- it has been agreed that your care and support needs will be met by the NHS, under Continuing Health Care arrangements for example

Before your Direct Payment is ended, the Direct Payment Audit Team will carry out a final audit. You, or your nominated or authorised person, will be asked to pay any unspent funds back to the Council.

If your Direct Payment ends and you have not paid your personal contributions, we will ask you to pay these before we close the Direct Payment down. Also, if you have a shortfall of funds to pay your final bills or salaries because you have spent your Direct Payment on other things, you will need to cover this yourself.

If your Direct Payment has been ended by the council, this does not mean that you cannot have another Direct Payment in the future. But we will need to make sure that there are no outstanding issues from your previous Direct Payment before we can consider this.

## **Ending a Direct Payment when someone dies**

Adult Social Care will make sure that Direct Payments are ended for people who die whilst receiving care and support. If there is a nominated or authorised person in place, we will work with them to make sure that all the necessary arrangements are made legally and contractually. This may include ending the employment of any paid staff in line with their contract, organising redundancy payments and making any payments to service providers and HMRC. Invoices and records of support received will need to be provided so that these payments can be made. Once all this has been dealt with, a final audit will take place, any unspent funds will be recovered by the council and the Direct Payment will be ended.

## Section 20

### **Making changes to who manages your Direct Payment**

There may be times when we need to transfer the management of your Direct Payment to someone else. This could be because you no longer have capacity to manage this yourself, either temporarily or permanently.

If there is someone you know who can become your authorised person, we will ask them if they would be willing to take over the management of your Direct Payment, this could be a family member or a close friend. If they agree to this, we will discontinue the payments we would normally make to you and make arrangements to pay these to your authorised person instead. If there is any delay in doing this, we will make sure that temporary arrangements are put in place for your care and support. If at any point you regain capacity and become able to manage the Direct Payment yourself again, your authorised person will need to contact the council to tell us this. We will transfer the management of your Direct Payment back to you, if this is what you want.

If we have transferred the management of your Direct Payment to an authorised person, but later have concerns about their ability to manage this in your best interests we will, in line with the Mental Capacity Act 2005, carry out a Best Interests meeting. This will decide if a Direct Payment continues to be the best way of providing your care and support. If we do not think that it is, we will arrange alternative care and support services on your behalf.

If at any point your nominated or authorised person is unable to manage your Direct Payment because of personal issues, for example illness, they will need to contact Adult Social Care. A review of your care and support needs will take place and we will see if there is someone else who can take on the responsibilities of being a nominated or authorised person temporarily. If there is no-one available to do this, we will put in place a short-term arrangement to make sure that you continue to receive the care and support you need.

## Section 21

### What to do if you disagree with anything to do with your Direct Payment

If you are unhappy with anything to do with your Direct Payment, the first thing to do is speak with your Social Worker or contact Adult Social Care to discuss your concerns. If we are unable to resolve your concerns, you can follow the council's complaint process.

We can give you information about this or there is an online form you can complete on the council website:

<https://www.stockport.gov.uk/complaints>

If you have a complaint about any of the services or activities you have purchased using your Direct Payment, you will need to discuss this with the provider or organisation. If you have a complaint about any members of staff you employ, you can get advice from your insurance provider. If we feel that you have been put at risk in any way we may take action and if it is serious, we will deal with this as a safeguarding concern and investigate this.

