

Direct Payments GUIDE

Giving *You*
Choice
and Control



VERSION CONTROL
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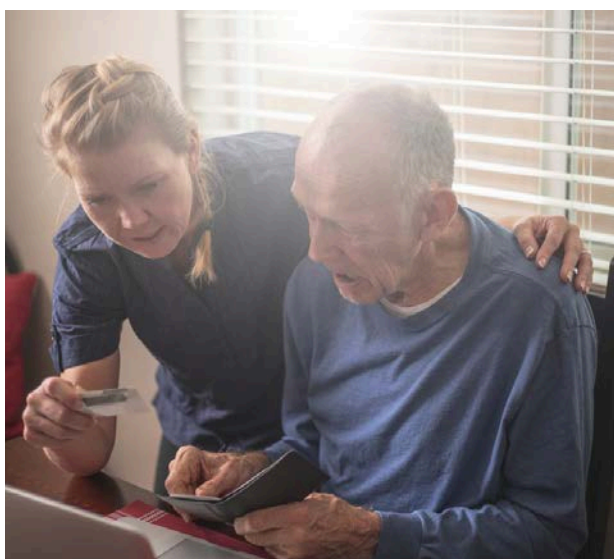
What is a direct payment?

A Direct Payment is an amount of money we give you, called a personal budget, which allows you to organise your own care and support instead of Adult Social Care (ASC) arranging this for you. To get a direct payment you must first have a Care Act assessment to determine if you are eligible for services from ASC and determine the amount of your personal budget. A Direct payment can be used to provide some or all of the care and support that your assessment has identified, to meet your eligible needs.

ASC must offer a direct payment to everyone who meets the eligibility criteria. In some circumstances there are regulations which prevent ASC from agreeing a direct payment. If a request for a direct payment is turned down, the reasons for this will be provided in writing to you, and if you wish to challenge this decision the complaints procedure can be followed. If a direct payment is not appropriate, we will discuss other ways of making sure the outcomes agreed in your Care and Support Plan are met.

A direct payment puts you in control. It means you have more say and flexibility in choosing how and when you receive care and support as agreed in your Care and Support Plan, rather than needing to rely on ASC to do this for you. This can be a more creative way to meet the outcomes that matter to you and can give you more control over your support and how it is delivered. You CANNOT use direct payments however to pay your bills, buy food or clothes or for any other purpose except to provide the care and support as agreed in your Care and Support Plan.

You must be able to manage your direct payment, but if you can't do it all on your own, you can have someone to help you. You can choose an authorised person who can manage your direct payment on your behalf. This person must be able to act in your best interests when managing the direct payment. There is support available for the authorised person which is detailed further in this booklet. If it is not possible for an authorised person to be chosen the Mental Capacity Act 2005 will be followed.



The Council will always seek to understand the wishes and feelings of the person with care and support needs. At any point if the Authorised Person is unable or unwilling to carry on with this role, they should let the Council know so that we can discuss other options with you.

Your direct payments agreement (DPA)

To receive a direct payment, you will need to sign a contract with Hull City Council, this is called a direct payment agreement. The agreement is a legally binding document that details yours and the Council's responsibilities. The terms within the agreement will be discussed in full with you and you can ask any questions you may have.

If the terms in the direct payment agreement are not followed the Council can suspend or end your direct payment. However, before reaching this decision, the Council will do everything reasonable to support you to resolve any issues and review your care and support plan. If you manage the Direct Payment account yourself, you will be asked to sign the contract as it will be your responsibility to meet the terms within the agreement. If you have nominated an Authorised Person to manage the account on your behalf, or this has been determined in best interests, they will be required to sign the contract as the responsibilities within it are theirs.

This agreement will be posted or emailed to you, read it carefully and if there is anything you don't understand please ring the Brokerage Team (614530) to discuss this before signing. A representative from Hull City Council will also sign this agreement.

What happens next?

Support planning will be undertaken with you to agree how your personal budget can be used. ASC will request a financially means tested assessment which will determine if you need to contribute towards the cost of your care and support. This will be a weekly figure and is called a contribution. You must pay your contribution into your direct payment account from your own income from a separate bank account (this is discussed in more detail in your contribution on page 8)

ASC will tell you when they have agreed funding for direct payments.

Once the funding has been agreed by ASC you will need to open a bank account, with either online banking facilities or cheque book access. A monthly bank statement will be required for audit purposes. This account can only be used for the purposes it is intended.

ASC will send a signed copy of your direct payment agreement and your bank details to the Income and Payments Team, who will use these bank details to send your personal budget amount to every four weeks. Once your personal budget has been agreed and you know the amount you will receive and how this money must be used, you will need to arrange who will give you support. This support can be arranged either through:

- Employing a Personal Assistant
- An Agency

Employing a personal assistant

Choices and Rights are an organisation that are independent from Hull City Council who can support you with the recruitment and employment of a Personal Assistant. You can employ a friend or a member of your family so long as they don't live in the same house as you. This is only possible in very exceptional circumstances. If you would like support from Choices and Rights, a copy of your direct payment agreement and care and support plan will be sent to them.

Choices and Rights will contact you and support you to complete the employment forms and advise you about keeping accounts. The Employment forms are then sent to Hull Community and Voluntary Services (CVS) who will act as your payroll support and will work out pay and produce payslips for your personal assistant. They will also handle all the Inland Revenue paperwork, informing you what needs to be paid.

Direct payments and Self-employed workers

If the person you choose to provide your care tells you that they are self-employed, you should ask them to check their status with HM Revenue and Customs.

This can be done at Gov.uk:

[Employment status guidance for employed or self-employed.](#)

If they are confirmed as being self-employed, they must be registered with HM Revenue and Customs and have the appropriate liability insurance cover. You must provide the Direct Payments team with a copy of their liability insurance for our records. It is the responsibility of the self-employed person to keep their insurance cover up to date and they should produce annual evidence of this to you.

We strongly advise that you also ask the person for evidence of their Disclosure and Barring Service (DBS) check and obtain a contract detailing their terms and conditions e.g. the hourly rate they will charge, how much notice they require for cancellation. You should always ensure that the self-employed worker provides you with a typed invoice each period, detailing the dates, hours and cost of care they have provided.

Please make sure you keep a copy of all invoices for audit purposes.

Using an agency

You may want to use your direct payment to pay a home care agency (sometimes known as domiciliary care) to provide care and support in your own home. If you use an agency, the staff who work with you are normally employed directly by the agency, so you will not be their employer and therefore not responsible for managing them or paying their wages. You will still have choice and control over your care, as you will make arrangements directly with them and be able to say how, when and where your support is provided.

Paying the agency

Always ensure you have fully discussed your arrangements with the agency and have an agreement and breakdown of all costs in writing. This will avoid any unexpected costs, such as additional charges for mileage and bank holidays, which you have not previously agreed to pay. The agency will send you an invoice for the support they have provided, normally once every four weeks or monthly. The invoice is paid from your direct payment account.

If you choose to use an agency that does not have a contract with the Council, the cost for your care may be more than you receive as a direct payment. If this happens, you will need to pay the difference using your own money, which is known as a top-up.

If the total cost of the care and support is being paid in full from the direct payment account you must pay your top-up into the account before making payment to the agency. This is to ensure that the balance of your account is sufficient to pay for services to meet your assessed needs.

The agency may invoice you separately for your top-up, in which case you will not need to pay your top-up into your direct payment account. A personal top-up is in addition to any financial contributions that you have been assessed by the council as requiring to make towards the cost of your care. Before agreeing to pay a top-up, you should consider whether you can afford and keep up the payments.

We advise you to discuss any additional costs with your allocated worker during your support planning. If you choose to have extra support from the agency, you will also need to pay for this using your own money.

Which agency to use

All agencies providing personal care are required by law to be registered with the Care Quality Commission (CQC) and you can ask the agency to show you its CQC registration. Your allocated worker can also provide you with a list of registered care agencies that are used and approved by the council, you can also access homecare information on the [Live Well Hull](#) website.

Once you've been working with individual members of staff for some time, you may think about employing them directly as a personal assistant, instead of using the agency. We strongly recommend talking to a council direct payment officer before you do this, as while some agency agreements allow you to employ staff directly, you may be charged a fee as part of the conditions of your service provision.

Other options

In order to help keep autonomy, choice and control it is important that the person where possible manages their own care and support needs. The best option in most cases is for the person to manage their own personal budget, however in exceptional circumstances it may be necessary to use a Broker or an Individual Service Fund.

Using a broker

In exceptional circumstances if you are not able to manage the Personal Assistant's wages with the support from CVS and you do not have a nominated person who can manage your direct payment account on your behalf, you can opt to use a broker.

If you choose this option, there still needs to be a nominated person to manage the employment role. This involves sending in timesheets and liaising with the broker when there is a change in hours worked and if your Personal Assistant takes some annual leave or has sickness absence.

In order to set up this service we will require the following details of the person nominated to manage the employment side of this process:

- National Insurance Number
- Name
- Address

The nominated person will also be required to sign the direct payment agreement agreeing to the responsibilities within it.



Your direct payment account

Every four weeks you will receive your personal budget into your direct payment bank account to cover the costs of the service you have set up for yourself, less your assessed contribution.

If you are using an agency there will be enough money to cover their invoices to you.

If you are employing a Personal Assistant there will be enough money to pay the current recommended wage. In addition to this you will receive some extra money, usually about 18%, This is for 'on-costs'

The on-costs build up in your account and can only be used for specific purposes:

- paying someone else to provide your support when your regular personal care assistant is on holiday*
- paying someone else to provide your support when your regular personal care assistant is sick*
- Employer's National Insurance
- renewing your Public and Employer's Liability Insurance
- recruitment and training costs
- sundries that you may need to help you manage your account, for example, stamps, envelopes etc. (you must get a receipt for these).

***Anyone who you pay from the direct payments account should be registered as your employee with the CVS and must receive payslips. The exceptions are Self-employed Personal Assistants and agencies that are not registered with CVS.**

TIP:- When starting a direct payment buy a box file or ring binder and keep everything relating to the direct payment in it. When the Income and Payments Team request the paperwork for audit send in the box file/ ring binder and then go and buy another one to keep current paperwork in. When your paperwork is sent back to you archive it and keep your box file /ring binder for next time.



Your contribution

You may be required to make a financial contribution towards the cost of your care and support. The amount you pay is determined by a financially means tested assessment undertaken by someone from the Financial Assessment Team. Prior to your financial assessment taking place, you can complete the Paying for Care Cost Calculator, which will give you an idea of what your contribution may be.

[Access the Calculator on this link](#)

The Finance and Assessment Team will take in to account your benefits, income, pensions and any savings you may have and from this they will be able to tell you exactly how much your contribution will be. You can refuse to have a financial assessment, but you will automatically be charged the full cost of your care and support.

The Finance and Assessment Team be contacted on 01482 614842.

Financial assessments still apply if you choose to have services provided for you instead of organising your own support though direct payments.

You should pay your contribution into your direct payment bank account ideally via a 4 weekly standing order.

Example of how a contribution works

Based on the cost of your needs for your care and support being £100.00 weekly and your contribution being assessed as £10.00 weekly.

Hull City Council will pay £90.00 per week and you will pay your contribution towards the cost of your care of £10.00 into your separate direct payment bank account, added together this will up to the full cost of your assessed care.



Being a good employer

The person you employ is entitled to good working conditions, a job description and job contract.

The Choices and Rights Support Worker will assist you with the job description and job contract but only you can ensure good working conditions.

- Be as clear as possible about what you want your personal assistant to do. (This may be difficult at first until you get used to managing your staff), however Choices and Rights are there to support and advise you.
- Don't expect your employee to change their hours of work at short notice, remember that they may have their own family commitments and maybe another job to go to



- Don't expect your personal assistant to do something that is not part of their job description even if they are willing to do more.
- Ensure CVS are informed of any changes to your personal assistant's working week. Pay slips will always be right if you do.
- Pay your personal assistant's wages on time.
- Ensure your personal assistant takes their holidays; they are entitled to four weeks a year.
- Make yourself familiar with your personal assistant's job contract; this will help you to sort out any problems that may arise.
- Treat your personal assistant with the same respect and dignity that you expect from them.

If there are any employment issues, or disputes, you can contact Choices and Rights for support and advice.

More about employing personal assistants

You choose who to employ, however only in exceptional circumstance are you able to employ your husband/wife/partner or a close relative living in the same household as you. This must be discussed with your worker.

If you want to find someone to provide your support, Choices and Rights will provide a Support Worker who will help you to advertise and interview for the job. If you already know someone who you want to employ, the Choices and Rights worker will help you to start their employment.

We strongly advise you to undertake the relevant employment checks for the person you are employing but you may not want to do this if you know the person very well. The Choices and Rights support worker will arrange a Disclosure and Barring Service (DBS) check and help you take up references if you wish.

Your personal assistant is employed by you and must have a job description and job contract, they will also need proper payslips and any tax and national insurance will have to be paid to the Inland Revenue.

The Support Worker from Choices and Rights will help you with the job description, job contract and insurance.

Hull Community and Voluntary Services (CVS) will support you with a payroll service and will produce a regular payslip for your personal care assistant and provide an advice letter telling you how much money needs to be paid to the Inland Revenue. You should inform CVS of the hours your personal care assistant has worked, including any bank holidays, if they have been sick or taken any annual leave. You will pay your personal assistant according to the amount on the pay slip the CVS send you from your direct payment bank account.

You will need to write a cheque payable to the Inland Revenue 4 weekly for the amount the CVS have worked out for you and send the cheque to the CVS who will handle all your Inland Revenue business.

You must keep all the paperwork you get from CVS (except for the payslip which you give to your personal assistant) and any bank statements and cheque book stubs.

On a yearly basis the Income and Payments Team will request your Direct Payment records in order to undertake a Direct Payment Audit. You must provide them with all your saved paperwork, they will check that your accounts are ok and that you are adhering to your responsibilities within you Direct Payment contract.

Support for you

If you have any queries about staff issues or need advice about being a good employer, contact your named Support Worker at Choices and Rights:

Choices and Rights

Tiverton House
Tiverton Road
Hull
HU7 4DQ
Telephone: 01482 878 778
Email: office@choicesandrights.org.uk

If you have any payroll queries, contact the payroll section at Hull Community and Voluntary Services:

CVS

The Strand
75 Beverley Road
Hull
HU3 1XT
Telephone: 01482 324 474
Email: enquiries@hull-cvs.co.uk

For progress updates regarding increases / decreases or new agreements contact:

Hull City Council

Adult Social Care Brokerage Team

Warehouse 8
Guildhall Road
Hull
HU1 1HJ
Telephone: 01482 614 530
Email: ASCFA@hullcc.gov.uk



Reclaiming Direct Payments

Direct Payments can only be used for your assessed care and support needs, and can't be used for things like buying groceries, utility bills and housing costs. It will be clearly explained to you how a Direct Payment can be used, but if a Direct Payment isn't used as it was intended, the Council may claim the money back from you.

There are other reasons why we may need to claim some of the Direct Payments back.

These include:

- The Council has overpaid you for whatever reason
- There is an excess amount of money in the account, covering more than 12 weeks' worth of care
- You have not been making the agreed contributions to the account

In any of these circumstances, we will write to you and agree a way forward.

Summary

There is a lot of information for you to take in at first. Here's a summary of what your responsibilities are:

If you're employing a personal assistant

- Open an appropriate bank account separate from your own bank account
- Pay your contribution into your direct payment bank account either weekly or 4 weekly
- Inform CVS of the hours your personal assistant has worked.
- Pay your personal assistant's wages
- Send Inland Revenue cheques to CVS
- Keep all the paperwork for your annual audit
- Be a good employer, use the Support Worker at Choices and Rights when you need them

If you're using an agency

- Open an appropriate bank account separate from your own bank account
- Pay your contribution into your direct payment bank account either weekly or 4 weekly
- Pay your agency bills (invoices for staff hours)
- Keep all your paperwork for your annual audit

Remember

If receiving your personal budget and managing your own direct payment account is not working for you or you feel your needs have changed and you require less / or more support, please ring your ASC Team and speak with your named worker or a duty worker. You will normally see your worker at reviews but if you cannot wait, arrange to see them sooner.

