

Rotherham Adult Social Care

DIRECT PAYMENTS

HANDBOOK

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WHAT IS A DIRECT PAYMENT?

A Direct Payment is an amount of money Adult Social Care pay to you 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 have eligible care and support needs.

A Direct Payment is a flexible option if you do not want Adult Social Care to arrange your services for you, as it gives you more control over the types of support you can access.

Before agreeing a Direct Payment, we will work with you to help you to find alternative solutions to manage your day-to-day living. We will do this by agreeing with you what you are able to do and who might be able to support you including voluntary groups. The amount of your Direct Payment can change as your needs change.

DIRECT PAYMENTS AND THE LAW

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. It is also included in other government legislation such as:

- 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

Before we can agree to you having a Direct Payment, Adult Social Care have to make sure:

- You understand your responsibilities for managing a Direct Payment.
- That you can manage the Direct Payment or have the right support in place to help you to do this.

- You understand that you will need to have a financial assessment to confirm if you will have to pay something towards the cost of your care and support. Most people will have to pay something towards their Direct Payment costs.

WHO IS ELIGIBLE FOR A DIRECT PAYMENT?

To have a Direct Payment you will need to have a Social Care Assessment. The assessment decides if you need care and support to help you to live independently. A Social Work Practitioner will go through the assessment with you and anyone else you would like to be involved. Your Social Work Practitioner will discuss all the ways you can meet your care and support needs, including through a Direct Payment.

You can ask for a Direct Payment 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 person a 'nominated person'.

If you do not have mental capacity to request a Direct Payment yourself, someone close to you can ask for one on your behalf, we call this an 'authorised person'. An authorised person can look after the Direct Payment for you. They may have power of attorney or a deputyship (Health and Welfare) 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.

If you lack capacity, Adult Social Care may identify a provider who can manage the Direct Payment on your behalf, to enable you to have as much choice and flexibility in the support you can access. In these situations, we will ensure that the appointed provider acts in your best interests. This is called a Direct Payment Support Service.

TRANSITION FROM CHILDREN'S SERVICES TO ADULT SERVICES

If you are receiving support from Children's Social Care and you will continue to need support once you are aged 18, our Transitions Team will work with you, your family and your Childrens Social Work Practitioner to prepare for your transition to Adult Social Care. We will develop a support plan to identify how your needs and outcomes can be met, which may include a Direct Payment.

You will also need to have a financial assessment to understand if you will need to contribute towards your care and support services, which are chargeable in Adult Social Care.

CIRCUMSTANCES IN WHICH YOU CANNOT HAVE A DIRECT PAYMENT

It is important that Adult Social Care ensure a Direct Payment is the right option to meeting your care and support needs. The law is very clear that in some situations we cannot offer a Direct Payment because:

We must act in your best interests to ensure that the Direct Payment is the right choice for you.

- You are unable to manage a Direct Payment and you do not have a suitable nominated or authorised person.
- Someone has requested a Direct Payment for you, but we are unable to agree to this.
- You are not able to consent to a Direct Payment and there is no suitable person or provider who can manage the arrangement for you.
- You are subject to a court order.
- You are on a drug or alcohol treatment programme.
- Your nominated or authorised person is also providing your care and support.

AGREEING HOW TO USE YOUR DIRECT PAYMENT

After your assessment, your Social Work Practitioner will work with you to write a support plan. Your support plan will include information about the support you need and the outcomes you want to achieve.

The support plan will say the types of services and support you could access through your Direct Payment. This could include things like support to manage at home, to access your local community, to meet your personal care needs or ensure you are eating well.

You cannot use your Direct Payment to cover costs such as food, clothes, or household bills. It can only be used to purchase services as set out in your support plan.

CALCULATING YOUR DIRECT PAYMENT

We will provide you with a clear, upfront amount so you know how much is available in your Direct Payment. The money you receive will be enough to pay for your care and support. In some situations, you may want to buy a more expensive service than your budget allows. 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:

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

If you do want to employ a Personal Assistant, Adult Social Care have produced a Being a Good Employer Guide which can provide you with lots more information, advice and guidance.

IMPACT ON OTHER BENEFITS

Your Direct Payments will not affect other government benefits you receive.

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.

PAYING TOWARDS YOUR CARE COSTS

You will need to have a financial assessment before we set up your Direct Payment. Adult Social Care support is not free, so most people will have to pay something towards the cost of their care and support.

Your financial assessment which will look at your income, savings and other assets to calculate how much you can afford to contribute to your care costs. This is called your personal contribution. We will write to you to confirm how much you will need to pay.

If your personal contribution is more than your Direct Payment budget, you will not be able to have a Direct Payment and will have to pay for your care and support yourself.

If you are assessed as being able to contribute to your care and support costs, you will need to pay your personal contribution into your Direct Payment nominated bank account to ensure you have sufficient money to pay for your services. Adult Social Care will pay your Direct Payment into your nominated account every four weeks.

Your personal contribution counts towards the cost of your care and support services, so it is very important that you pay this into your nominated bank account. If you do not pay your personal contribution into your account, we will:

- ask you to pay the missing personal contributions you should have paid.
- suspending your Direct Payment.

- review your support plan and check 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.

DIRECT PAYMENT AGREEMENT

Once you have agreed your support plan, your Social Work Practitioner will support you to get things set up. This will include sending you a copy of your Direct Payment 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.

MANAGING YOUR DIRECT PAYMENT

If you, or the person managing your Direct Payment, needs help to manage your Direct Payment budget and any payments made from this, your Social Work Practitioner will give you information about Direct Payment Support Services who can help with this.

A Direct payment Support Service can receive your direct payment, help you to pay for your services and manage your payroll for any Personal Assistants you employ. They can also provide you with transactions and statements, and support with the annual audit of your Direct Payment account.

If a family member or friend is managing the Direct Payment for you, they will become your nominated person. Your nominated person cannot be involved in the delivery of your care and support.

PAYMENTS

Adult Social Care will pay your Direct Payment on a four-weekly basis. This must be paid into your Direct Payment nominated bank account. This will be a separate account to your normal personal bank account.

KEEPING RECORDS

It is important that you keep records of how you spend your Direct Payment. You can be flexible in how you use this money, as long as it meets your outcomes. You can also decide to spend your money differently from one month to the next, as long as the outcomes included in your support plan continue to be met.

You, or your nominated or authorised person, will need to keep records to show how you have spent your Direct Payment budget 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. Rotherham 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 record of what you have spent, including details of all purchases and transactions.
- copies of all bank statements.
- invoices, pay slips and timesheets if someone is employed to deliver your care and support.
- receipts for any purchases made using your Direct Payment budget, including one-off purchases.

EMPLOYING FRIENDS OR FAMILY

Sometimes people you know 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.

There are certain rules about employing family members, so you must get permission from Adult Social Care if you want to employ someone you are related to.

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 Work Practitioner will also offer your informal carer a Carer's Assessment.

USING YOUR DIRECT PAYMENT TO PAY FOR RESPITE

You can use your Direct Payment to pay for respite to give your informal carer a break where this is agreed as part of your support plan. You may choose to take your respite in a care home, in your own home or you may be able to take a break away. You can decide to have different types of respite support.

If you decide to go on holiday, we will consider any accommodation and travel costs you will have to pay for your support worker, as well as any salary costs for the person providing your support. It is important you talk to us before booking any form of respite break so that we can decide if your Direct Payment can be used in this way. We will need to make sure that your respite plans are affordable and are 'best value'.

If you do take your respite in the form of a holiday, your support workers or Personal Assistants will need to have breaks and time off, as this is the law, and it is called the Working Time Directive.

If you do not manage your Direct Payment yourself, but have a nominated or authorised person, they will help you to arrange your respite plans and will

make sure that you have all the support you need, subject to agreement with your Social Work Practitioner.

USING DIRECT PAYMENTS TO PAY FOR STAYS IN A CARE HOME

Direct Payments can only be used to pay for a care home respite service where the stay is not longer than four weeks at a time in a 12-month period. Direct Payments cannot be used to pay for long term stays in care homes.

THINGS YOU CANNOT PAY FOR WITH YOUR DIRECT PAYMENT

There are certain things your 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 fuel.
- 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.
- 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.
- To pay for items, activities or services that do not meet your assessed care and support needs. For example, eating out at your favourite restaurant or buying a new television.

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

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 monitors the care and support you are receiving. Your authorised person will also need to make sure that recent enhanced Disclosure and Barring Service (DBS) checks (Criminal Record) 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.

CHECKING YOUR DIRECT PAYMENT IS WORKING WELL

Adult Social Care has a responsibility to make sure that all public funding is spent as it should be. If you receive a Direct Payment, we will carry out checks to make sure that you are getting 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'.

FIRST REVIEW

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

SIX MONTH REVIEW

Your Social Work Practitioner 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 REVIEW

You will then have annual reviews to make sure your support is continuing to meet your needs. 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.

If at any point we feel that changes to your Direct Payment are needed after a Social Work Practitioner 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.

AUDIT CHECKS

Our 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 within the first six months of your Direct Payment starting. 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 Work Practitioner 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 12 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 you 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 Work Practitioner 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 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 could 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 or no longer live in Rotherham.

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 us to check.

You can contact Adult Social Care on 01709 822330 or email ASC-CustomerContactTeam@rotherham.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.

RECOVERY OF DIRECT PAYMENT FUNDING

There may be times when Adult Social Care needs to reclaim some or all of your Direct Payment budget because it has not been used to pay for the care and support agreed in your support plan. We will write to you to explain this decision.

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 it 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 eight weeks, the Direct Payment Audit Team will ask you about these when they carry out your audits. If the funds 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

If during the audit or review process, we find that your Direct Payment budget 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 your Direct Payment budget has been misused on purpose, by you or someone else, we will refer your case to the 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. A safeguarding concern will be raised if it is found that someone else has been misusing your Direct Payment budget.

The council will only reimburse any Direct Payment budget you have lost if the investigation finds that you are not at fault. If following an investigation, we find that Direct Payment budget has been misused, we may decide that a Direct Payment is no longer a suitable option for you. If this is the case, we will support you to make alternative arrangements for your care and support.

ENDING A DIRECT PAYMENT

Adult Social Care 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 the situation.

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.

- 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 Direct Payments Agreement.
- you are not paying the contributions towards the cost of your care.
- evidence and official records showing how you have used your Direct Payment budget is not provided to the Audit Team.
- we have found evidence that your Direct Payment budget 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.

If we need to end your Direct Payment, 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. 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, 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.

If a person accessing their care and support through a Direct Payment dies, the Council would work with their nominated / authorised person or other representative to make sure that their Direct Payment arrangements are

closed legally and contractually. This will include advice and signposting in relation to paid Personal Assistants (as they likely to be redundancy payments) as well as payments needing to be paid to service providers and His Majesty's Revenues and Customs (HMRC).

If there is not enough money within the person's Direct Payment Account to settle these payments the Council would need invoices and records of support provided so that these can be paid. A final audit of the Direct Payment will also take place with any remaining funds in the person's Direct Payment needing to be repaid to the Council.

MAKING CHANGES TO WHO MANAGES YOUR DIRECT PAYMENT

There may be times when Adult Social Care 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 plan to pay these to your authorised person instead. In some cases we may instruct a Direct Payment Support Service if there is no-one else to manage the payment for you. If there is any delay in setting up these new payments, 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 Adult Social Care 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, 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 your nominated or authorised person. 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.

If you are unhappy with anything to do with your Direct Payment, the first thing to do is speak with your Social Work Practitioner 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 www.rotherham.gov.uk/council/complain-council-services. Alternatively, you can email complaints@rotherham.gov.uk or call 01709 382121.

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.

Rotherham Council wishes to acknowledge and thank Stockport Metropolitan Borough Council for the work they undertook in the preparation of their guidance and the role this played in assisting Rotherham Council in developing its own guide. However, the contents of this guide are solely the responsibility of Rotherham Council.