

Direct Payments Guide

A guide on what these payments are,
and how to use and manage them



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The aim behind personal budgets and direct payments is to give people choice and control over how they meet their social care goals.

This guide explains what these payments are, and how they work in York.

It's been written for anyone considering applying for a direct payment, their carers, friends or family and people working in the care and support sector.

I. Personal budgets and direct payments - the basics

What is a personal budget?

City of York Council gives financial support to people who need assistance to meet their social care goals. To do this, we carry out a social care and a financial assessment.

The amount we work out we need to pay a person is called a personal budget. In the personal budget, we say what we, the council, will pay and what (if any) you need to pay towards the cost of your care, as agreed in your support plan.

Every adult or carer who is eligible for care and support has a personal budget.

2. How do I use my personal budget?

You can receive your personal budget in a number of ways:

Direct payment

A direct payment means that your personal budget is paid to you directly. It enables you to buy the support you need to achieve the goals in your support plan. You have the choice and freedom to employ who you want. This gives you lots of choice in how you want your goals and outcomes to be achieved. Having this control is likely to improve your resilience and wellbeing.

People who have been assessed as having savings over £23,250 are not eligible for a personal budget and must self-fund. If this applies to you, please go to section 10 of this guide: you may be able to get help from a direct payment support provider.

Managed budget

If you are eligible for financial help from the council, you may prefer us to manage your personal budget and arrange your services.

If you want us to do this, the council will buy your support from organisations with which we already have a contract. This can mean your support is not as tailored or as flexible as you might like. This option is available to self-funders who will pay an administration and arrangement fee.

Combination budget

You may choose to purchase some services through a direct payment and some from the council. This option is not open to self-funders.

Individual service funds (ISF)

If you like the idea of a direct payment but don't want the responsibility, an individual service fund (ISF) might suit you. An ISF lets you choose an organisation to look after your personal budget and arrange your services. With an ISF you get choice and control without having to manage the money yourself.

ISFs are ideal for people whose situation changes regularly, and where flexible support may be needed.

We can help you choose a provider who will help you meet the goals and outcomes agreed in your support plan. The provider can use your budget for your support only and must give you details of how much has been spent and what is left.

3. Direct payments making a difference to real people

Here is what some people who currently use direct payments have told us:

“ I think more people should have direct payments. They don't know what they are missing ”

“ My needs are met and it's my choice ”

“ It gives you more freedom to live your life ”

“ It's a lifeline to enable me to live how I want to live in my own home ”



4. Who can have a direct payment?

Anyone who is eligible for a personal budget, wants a direct payment and is capable of managing one, can have a direct payment. This includes:

- People who are eligible to get help from us to meet their goals in the community and not in a care home
- Carers aged 16 and over to support them in their caring role and to maintain their own health and wellbeing.

If you are not able to manage your direct payment, you can nominate someone to do this for you. Please go to the next section of this guide for information about direct payments for adults lacking the capacity to consent.

All direct payments must meet the following legal requirements:

Consideration 1

The adult has the capacity to make the request and, where they have nominated a person to make the payments to, that person agrees to receive payments. In most cases we will offer a direct payment if you have been assessed as having eligible unmet needs.

Consideration 2

The council is satisfied that it is not prevented by regulations under section 33 of the Care Act 14 from making direct payments to the adult or nominated person.

Consideration 3

The council is satisfied that the adult or nominated person is capable of managing direct payments either by him/herself or with whatever support the council thinks the person or nominated person will be able to access.

Consideration 4

The council is satisfied that making direct payments to the adult or nominated person is an appropriate way to meet the adult's unmet needs and outcomes. If the council decides that it is not appropriate to make direct payments, the reason for the decision will be recorded and communicated to the individual.

5. Direct payments for adults who don't have the capacity to consent

When somebody has been assessed as not having the capacity to request a direct payment, another person can do it for them. This authorised person may already be supporting the individual.

If the council agrees that this is a safe and appropriate way to meet someone's unmet outcomes, we can make the direct payment to the authorised person to manage it and arrange the necessary care and support in the person's best interests.

When the authorised person is not a close family member they must have a Disclosure and Barring Service check before they can receive the direct payment.

When the authorised person becomes the direct payment recipient, they must sign the direct payment agreement, use the payments to buy the support needed. They will employ any personal assistants and carry out all the responsibilities of an employer.

The authorised person will be responsible for contracting service providers and adhering to any contract. They will be responsible for meeting all monitoring requirements associated with managing a direct payment.

The money they manage belongs to the council, not the authorised person, and is only to be used to provide support to the person as agreed in their support plan.

Either you or your nominated person or authorised representative will be responsible for your direct payment. This includes:

- Managing the direct payment account
- Making sure the direct payment is spent in a way which meets your eligible unmet outcomes set out in your support plan
- Ensuring that spending is within your budget
- Arranging your care and support
- Managing invoices and timesheets
- Sending statements and receipts to the council as necessary.

If you decide to employ personal assistants, you become an employer and you take on responsibilities. For more information, please go to the skills for care website at: www.skillsforcare.org.uk/Employing-your-own-care-and-support/Information-for-individual-employers/Information-for-individual-employers.aspx

For people who like the flexibility that direct payments bring, but don't want to become an employer or manage the money, we recommend you use a council-approved Direct Payment Support Provider. You can find some at section 10 of this guidance, or the full list is at City of York Council's website at www.york.gov.uk/ChoosingYourCare.

6. Exclusions

Direct payments may not be made to people who have been placed by the courts under certain conditions or requirements relating to drug and/or alcohol dependency. (This is specified in schedule 1 of the Care and Support Regulations 2014.)

These include:

- Offenders on a community order, or serving a suspended sentence under the Criminal Justice Act 2003.
- An offender on a community rehabilitation order under the Powers of Criminal Courts (sentencing) Act 2000, which includes a requirement to accept treatment for drug or alcohol dependency.
- Offenders released from prison on license under the Criminal Justice Act 1991, the Criminal Justice Act 2003 or the Crime (Sentences) Act 1987, subject to an additional requirement to undergo treatment for drug or alcohol dependency and
- People subject to equivalent provisions under Scottish criminal justice legislation.
- Where the recipient is placed by the courts under a condition or requirement relating to a drug and/or alcohol dependency.

7. How do I apply for a direct payment?

If you already get care and support from the council, please talk about a direct payment with your social worker or review manager.

If you feel you have care and support needs and would like to find out if you are eligible for a direct payment, please call the Adult Social Care Community Team on 01904 555111 (9am-5pm Monday to Friday).

8. What can I use a direct payment for?

You can use the money for anything that is safe, healthy and legal and which achieves the outcomes in your support plan. Everything you use your direct payment for must relate directly to an agreed outcome.

If you are not sure if something is agreed please talk to your social care worker.

Direct payment should be used to improve your wellbeing, as well as meeting your assessed goals and outcomes.

Some usual things direct payments can be used for include:

- Employing a personal assistants to support you and help you live independently. Personal assistants (PAs) can help you to dress, cook, shop, do household tasks and help you get out and about. A PA can sometimes be a friend, neighbour or family member who does not live at the same address as you. Very occasionally we can agree to let you employ a family member or partner living in the same household. Please go to section 15 of this guide for further detail.
- Contracting an agency, service provider or social enterprise to provide you with help at home when you need it
- Paying for services to allow you or your carer to take a break. Short breaks support will pay for a short break
- Buying or renting equipment which your Occupational Therapist agrees you need, but is not covered by any health or disabled facilities grant
- Paying for transport and travel to and from any services or activities which have been agreed as part of your care and support package where you are unable to travel independently
- Setting up your own group, support services and social enterprise. Your direct payment can be used together with other people's direct payments to develop new care and support services which are not met elsewhere.

9. What can't I use a direct payment for?

Direct payments cannot be used for:

- Anything illegal
- Your health needs (for those areas the Local Authority funds)
- Employing a family member living at the same address unless it is approved by a council head of service
- Ordinary living costs such as food, clothes, gas, electricity, water rates, Council Tax, rent etc
- Telecare and pendant alarm standing charges.
- Any services that the council, the NHS or any third party already funds for you
- More than four consecutive weeks of short term care in a care home. This would be paid for in a different way as otherwise it affect your benefits and income
- Gambling or any alcohol/tobacco products
- Repaying debts
- Funeral expenses
- Anything that has not been agreed in your support plan.



10. What is a direct payment support provider?

You might want support with some of the responsibilities that come with taking a direct payment - especially employing staff. Direct payment support providers offer a range of services such as:

- Employing personal assistants, from advertising for one to interviewing people who apply for the job
- Getting the right personal assistant for you and meeting your legal obligations as an employers
- Arranging insurance to protect you and the people you employ in case of any accidents or injuries while they are supporting you. These can also help cover redundancy costs for personal assistants
- Getting a Disclosure and Barring Service (DBS) check, to see if the person you are recruiting has a criminal record or has been barred from this sort of work
- How to buy a service from an agency or provider.
- How to keep track of your direct payment, by budgeting and keeping a record of what you have spent and how you have spent it, as well as payroll services for your personal assistants' wages
- Managing your direct payment account and making payments on your behalf
- You can contact the direct payments support provider at any time for help and advice once you are getting your direct payment.

These services are also available to self-funders.

All direct payments support providers offer a free no-obligation phone call or visit. If you choose to use one you will have to pay them for the help they give you. The council will add an extra amount to your direct payment to pay for the support we think you need.

I 1. How will I receive my direct payment?

Once you have agreed how your goals and outcomes will be met, you will be asked to sign an agreement known as a DPI form. This agreement shows how your direct payment money is split, if it is to be used to buy different services or support. It will show much money you will receive and how much you will need to contribute towards the cost of your support. The agreement also sets out the terms and conditions of your direct payment.

You can receive your direct payment funds in two different ways:

Online direct payment account

We can set up an online direct payment account in your name. This reduces the amount of information you will need to provide us when we audit your account. Most direct payment customers have asked us to set up this sort of account for them.

Self-managed account

Your direct payment will be paid into a dedicated bank account, which must only be used to pay bills relating to your care and support.

This account can be a standard current account with online banking facilities and a debit card. You or your representative can use this account. If a nominated person manages your funds, they can open a bank account in your name.

Either of these accounts can be managed by a direct payment support provider, who will take responsibility for supplying any information needed by the council.

I 2. Will I have to pay towards the direct payment?

Adult social care services are not free. We will assess your financial situation to work out your contribution towards the cost of your care, and we will ask you to pay this amount.

Receiving a direct payment doesn't affect your entitlement to any other state or disability-related benefit.

I 3. Keeping track of your direct payment

When your support plan and its outcomes have been agreed, your social care worker will check with you that the direct payment amount is enough to achieve the plan.

You will need to send us any paperwork - receipts etc - to prove what you are spending your direct payment on.

You can keep four weeks money in your account, plus money to pay for employee holidays, employers and public liability insurance and any unpaid wages or invoices.

You will need to complete and send us a record of your spending on a form known as the DP2 Form. Your social care worker will be able to tell you more about this or your direct payment support provider will help you to complete it.

If you have an online direct payment account, we can see the payments you have made. This makes it easier for you to manage your direct payment.

If the direct payment is paid into your own bank account, you will need to keep financial records and paperwork.

I 4. Staying Safe

Direct payments give you control over your care arrangements. While having choice and control makes us stronger against a fear of abuse or neglect, we are ready to support you if you have any concerns about staying safe.

You can call us on 01904 555444 (9am-5pm Monday to Friday) or email us at adult.socialsupport@york.gov.uk. For people who have a hearing impairment, text 07534 437804. For urgent calls outside our usual office hours, please call 01609 780780. You can find out more at www.safeguardingadultsyork.org.uk/org

15. Exceptional circumstances

A council may agree that someone who gets a direct payment, can employ a family member, or partner living in the same household “in exceptional circumstances” only. (Family members living elsewhere can be employed through direct payments.)

Before agreeing such arrangements, which could be open to abuse, we need to be certain that:

- There are genuine, overwhelming reasons why the family member needs to be employed
- There is a contractual arrangement for care-giving by the family member
- There is no substantial risk of financial or other abuse.

What are “exceptional circumstances”?

If there is enough evidence available, the circumstances are:

- For reason of ethnicity or religion, specific limitations apply to who may acceptably be employed to deliver the care, and there is no likelihood of being able to recruit an appropriate carer locally
- That delivery of personal care by a third party would cause genuine distress to the cared for person
- There is a need for live-in care, but no appropriate accommodation available
- Care needs are intermittent and unpredictable, and recruitment or use of an agency to meet such needs is impracticable
- Substantial effort at recruitment has been unsuccessful due to exceptional local workforce pressures or geographical isolation
- That this is the only practicable way of meeting care needs during a temporary breakdown of other arrangements.

How do I prove “exceptional circumstance”?

Any decision to allow the employment of a co-resident family member must be fully recorded on your support plan. This must include:

- The reason for the application of “exceptional circumstance” (this should be one or more of the reasons listed above)
- The name(s) of family member(s) to be employed
- The specific tasks that the employed family member will undertake
- Authorisation from the relevant social care service manager.

Reviewing “exceptional circumstances”

The date for a review should reflect the original reason used to apply for exceptional circumstance.

- The review period should not exceed one year.
- At each review, the information provided should be verified and, if necessary, the arrangement renewed for a defined period pending further review
- All situations where exceptional circumstances have been applied are subject to the same record-keeping requirements
- as other direct payment recipients. Please keep all letters, statements, invoices, and receipts together in one file to make it easier for you and us to manage.

If you have any comments or suggestions about this guide, please email us at adult.socialsupport@york.gov.uk