

# Direct Payments for Service Users

Information pack for people who have Direct Payments or may be thinking about having Direct Payments

A Guide by Leicester City Council  
February 2018



**Access for Everyone**

If you need help reading this publication or require it in a different format please contact: 0116 454 1760

# Direct Payments – Getting Started Factsheets

## Information and Factsheets about Direct Payments

This pack contains information and a series of Factsheets about direct payments.

There is support available to help you with your direct payments (see Factsheet 2).

### CONTENTS

Direct Payments – Getting Started Factsheets.....	3
Information and Factsheets about Direct Payments .....	3
Getting started with Direct Payments .....	4
What is Direct Payments?.....	4
How Do I Get Direct Payments? .....	5
Direct Payments –What will happen when you decide to have direct payments.....	6
Getting Started – Who Can Have Direct Payments and How .....	7
Having direct payments will not affect your benefits or be counted as income.....	8
If you cannot manage the money yourself (third party support).....	9
Getting Started – What Can Direct Payments Be Used For? .....	10
Getting started – What Direct Payments Cannot Be Used For?.....	11
Other Places You Can Find Information About What Help and Support Is Available Locally.....	12
Frequently Asked Questions – Direct Payments .....	13
Direct Payments Factsheet 1 – Pre-Paid Cards (PPC’s) Information for Customers.....	16
Direct Payments Factsheet 2 – Acting as a Suitable Person.....	18
Direct Payments Factsheet 3 – Keeping Good Records.....	21
Direct Payments Factsheet 4 – When Things Happen or Change .....	23
Direct Payments Factsheet 5 – Recruiting Staff .....	25
Direct Payments Factsheet 6 – Buying Care From an Agency or Another Provider Organisation .....	366
Direct Payments Factsheet 7 – Carers .....	399
Direct Payments Factsheet 8 – What To Do When Someone Receiving Direct Payments Dies.....	411
Direct Payments – Adult Social Care Words and Their Meanings.....	433
Useful Contacts – People you can call for information and support.....	467

## Getting started with Direct Payments

### What is Direct Payments (DP)?

- Direct Payments (DP) is a payment given directly to a Service User or 3<sup>rd</sup> party to purchase services to meet their assessed care needs which are outlined in your support plan.
- DPs offer greater freedom, flexibility, choice and control.
- You can decide how your assessed needs are met, and by whom in a way that suits you.
- The way you use your direct payments must be legal and must keep you safe and well; you will be asked to sign a DP agreement / order form to confirm this.

## How Do I Get Direct Payments?

If you already receive social care support from the council contact:

Your allocated worker / Your allocated team

Alternatively, if you do **not** have a social care worker and are not sure, please visit the following website:

<http://mysupportneeds.leicester.gov.uk>

## Direct Payments –What will happen when you decide to have direct payments

Your assessment is completed by a Social Care Worker

Your Support Plan will be drawn up – this can be done by

- you, your family, or a friend with help from Social Care Worker
- you, with help from your Social Care Worker;

You will need to decide if you want:

- Direct Payments for all your services or
- if you want some services arranged by the Adult Social Care

A financial assessment will be completed by the finance team to determine your contribution. They will write to you to let you know how much you will need to contribute towards your care.

You will need to sign your Direct Payments Agreement Form

You will need to decide how to manage your DP. You can:

manage it by yourself (PPC) (**see Factsheets 5 & 6**); or let a friend/relative / support worker help you (suitable person manage your PPC)

You may also be able to get help from a Direct Payment's Support Service (DPSS) Purple Conversation or mosaic (See Factsheet 5 & 6) (In Exceptional circumstances only)

How your money will be paid – The Council's Direct Payments Finance Team will send you a welcome letter to let you know how much your DP will be and how it will get paid into your prepaid card account (if it a new case).

Your DP will be reviewed within 6 months of set up.

Your DP will be reviewed within 6 months of set up. Remove page

## Getting Started – Who Can Have Direct Payments and How

Direct payments are available for:

- People aged 16 years and over and assessed by the council as needing care and support.
- Carers aged 16 years and over, who are caring for someone who needs social care support may also be entitled to direct payments in their own right.
- A disabled person with parental responsibilities for a child, for services to support their parenting role.
- Someone who lacks capacity (e.g. mental capacity) can have someone to act on their behalf. This person is known as a Suitable Person and they can help manage the payments (The council must agree who the suitable person is).

### **You must:**

Have had a social care assessment and be eligible for support.

### **And**

Tell your Social Care Worker you want direct payments.

That you are able to manage a pre-paid card (PPC) either:

- on your own; or
- have appointed a 'Suitable Person' (**see Factsheet 2**)

**Social Worker might determine you to have Direct Payments but via a 3<sup>rd</sup> party support service – under exceptional circumstances.**

You will have to sign a written DP agreement given to you by Adult Social Care stating that you will spend the money to meet your assessed needs as outlined in your support plan

- In some minority cases where Direct Payments are paid in to your bank account, you will be required to keep proof of spending, and other agreed documents for your records to check when DPSS (Direct Payment Support Services) or HMRC (Tax Office) ask for the information.
- For Direct Payment via PPC's Leicester City Council

have an in-house monitoring team who will monitor your Pre- Paid card transactions; service user is not required to keep any records for this method.

**We are required to make sure you have spent the money on the care and support you need as detailed in your Support Plan (see Factsheet 3) we will monitor and review this using the information available for us.**

## Getting Started Direct Payments

Before the DP is set up, you may have to contribute towards the cost of their care, depending on your financial circumstances. DP can be only set up after the financial assessment is completed and your contribution has been assessed.

This applies whether you use commissioned services or have direct payments.

Using the Fairer Charging Policy, the Council will carry out a financial assessment to see how much, if any, you should pay towards your care and support. You can also enter your details on <http://mysupportneeds.leicester.gov.uk> to check what the average indicative charge will be.

To do this, Leicester City Council will need to know how much income you have as well as details of any capital and savings. Leicester City Council will also take into account certain expenditure.

If you have any queries about the financial assessment or contributions, please contact **Finance Team by emailing to [directpayments@leicester.gov.uk](mailto:directpayments@leicester.gov.uk)** .

**Having DP will not affect your benefits or be counted as income.**

Your DP will be made up of:

- Your contribution – this is the amount you have been financially assessed as being able to pay (If any).
- Our contribution – Adult Social Care will pay the difference



between your contribution and the total cost or the full cost depending on your financial assessment outcome that has been calculated to meet your needs.

In some cases, the package may be partially funded by Health (CHC), in this instance Leicester City Council Adult Social Care will pay the difference between CHC contribution and the total cost that has been calculated to meet your needs.

Direct payments are paid every 4 weeks onto your pre-paid card (PPC). You will also need to pay any contributions (if any) onto the PPC regularly. This is to ensure you have enough money to pay for your support.

### **If you cannot manage Direct Payments yourself (third party support / DPSS)**

Under exceptional circumstances where you are unable to manage the Direct Payments and you do not have any family or friends to help you, you may be able to get help from DPSS (Direct Payment Support Services).

This is known as Third Party Support.

You can also use Third Party or DPSS support for initial set up, PA recruitment and Payroll support.

If this applies to you, we have safeguards in place, to make sure that whoever is managing your direct payments:

- is acting in your best interest
- to ensure you still have control over the support you are receiving.

## Getting Started – What Can Direct Payments Be Used For?

You must use your DP to buy support to meet your needs and the outcomes that have been outlined in your support plan.

You can choose, who provides the support and when.

You can:

- Buy support for personal care from an agency or services of your choice (**see Factsheet 6**).
- Directly employ a Personal Assistant to provide support.
- Buy respite care (as agreed in your support plan)
- Have a mixed care package where some other services are provided by the council and some via DP
- Use it to fund a care package with another funding body.
- Purchase equipment not provided by the Council.
- Pay for travel expenses as part of your assessed needs and identified in your Support Plan
- For some service users, Direct Payments for equipment may be applied. This will be a separate process for the Occupational Therapy Service once the assessment is completed by an Occupational Therapist.

## Getting started – What Direct Payments Cannot Be Used For?

- Services provided by the Council directly.
- Employing close relatives who live in the same household (except in exceptional circumstances – this will need to be agreed by the council and all other options will need to have been explored. Your Social Care Worker will explain this more fully).
- Long-term residential or nursing care.
- Meals, food, clothing, items or services not identified in your Support Plan.
- Illegal activities.
- Gambling, alcohol, tobacco and other substance misuse.
- Accommodation/housing costs or related household bills.
- Services for your health care needs, including the cost of travel e.g. hospital appointments or support required to attend the health appointments.

## **Other places you can find information about what help and support is available locally**

- **Adult Social Care Support Directory enables:**

Adult social care customers, their carers, families or others needing help and support:

- to search for information about social care products and associated services, for example:
  - personal care assistants;
  - residential care;
  - advocacy services.

You can use the service at <http://www.leicester.gov.uk/your-council-services/social-care-health/adults/adult-social-care-directory/>

### **Community Directory**

You can also find information at [Community Directory](#)

<http://www.leicester.gov.uk/your-council-services/social-care-health/adults/services-for-adults-and-older-people/community-directory>

### **NHS Choices**

NHS Choices is the new online 'front door' to the NHS. It is the country's biggest health website and gives all the information you need to make choices about your health. You can visit the website at <http://www.nhs.uk/Pages/HomePage.aspx>

## Frequently Asked Questions – Direct Payments

Q.	What are direct payments?
A.	Direct payments for adult social care are not an additional monetary benefit. A Direct Payment is money provided by Leicester City Council to meet your assessed social care needs and is an alternative to services that we would otherwise organise for you.
Q.	What will I have to do and is there any help?
A.	The Council will give you a pre-paid card (PPC) where your Direct Payment will be loaded every 28 days. You can have help to set up your package of care, recruit a PA and have support to manage the PAYE.
Q.	If I have direct payments will it affect my benefits?
A.	No, having direct payments will not affect your benefits or be counted as income. However, depending on your personal circumstances you (to be aligned) may have to contribute towards meeting the cost of your care.
Q.	When will I have to decide?
A.	You can take as long as you want to decide if you want to use direct payments. While you decide the council will arrange interim services to meet your needs if required.
Q.	Can I pay more into meeting my care if I want to?
A.	You can add your own money to top up a direct payment to make it even more flexible; however, this must be arranged separately and paid privately.
Q.	Do I have to have all of my support via direct payments?
A.	You can mix your support, by choosing some services, which will be arranged by the Council, and some direct payments but this needs to be discussed with your allocated worker.
Q.	What am I responsible for?
A.	Managing the money on your PPC. If you employ staff you have the legal responsibilities that go with that.
Q.	What if I need to act on someone else's behalf?
A.	Please speak to your Social Care Worker. You may be able to act on someone else's behalf
Q.	What if direct payments don't work?

A	We can arrange services for you instead.
Q	If DP recipient dies what happens with employment liabilities?
A	If a customer dies any employment liabilities will be met by the person's estate. This could include using any unspent direct payment to contribute to any redundancy costs, having insurance in place that covers redundancy, or the Council agreeing to cover redundancy payments through the direct payment amount as one off payment. Whatever arrangements are made it is important that the Council and direct payment holder are both clear as to their responsibilities in this regard to avoid any disputes at a sensitive time for family and carers.
Q	What if my Direct Payments package is partially funded by health (CHC)? If you have been assessed to receive funding from Health (CHC), Leicester City Council will only pay their contribution directly to you. Health (CHC) will make a separate payment to make up the total amount of your care package.

There is a range of help available if you receive direct payments, to make it easy for you to manage and to keep you in control of your support. We have in house officers who specialize in all aspects of Direct Payments.

In addition to this, Leicester City Council currently have contracts with two Direct Payment Support Agencies (DPSS) who can manage your Direct Payments for you and to also provide support if you employ a PA.

We try and make direct payments as simple as possible.

Direct Payment support services can assist with the following:

- Providing information and advice on all aspects of Direct Payments.
- Manage Direct Payments on your behalf, pay your support providers and any other expenses or bills related to your direct payments.
- If you want to employ a Personal Assistant, help you with recruitment and employment advice, help with understanding such things as holiday entitlements, notice and redundancy payments etc. to your employees.

- If you employ a Personal Assistant, they can provide a payroll service.
- Develop appropriate contracts of employment.
- Carry out Disclosure Barring Service (DBS) checks.

## **Direct Payments Factsheet 1 – Pre-Paid Cards (PPC's) Information for Customers**

### **What are the advantages for me?**

- You will no longer need to set up and manage a Direct Payment bank account, retain receipts for each payment, or send receipts and bank statements to the council.
- You will be able to use your PPC for services identified in Support Plan.
- A PPC is easy to use and can be carried instead of cash.

### **When will my card be delivered?**

- Our card provider (Allpay) will post the card directly to you once the relevant forms and agreements are signed. The council will then load your Direct Payment onto your card for the next payment period.

### **What do I need to do when my card arrives?**

- You will need to activate your card by following the instructions in the letter which you will receive with your PPC. This will ask you to make a simple phone call to an automated phone line. That will give you your PIN, and you will then be able to start using your card.
- We expect that most customers will want to set up standing orders or direct debits: you can do this by providing your email address to Allpay or by calling Allpay customer services.
- If you make a contribution to the cost of your support, we would encourage you to set up a weekly – regular? standing order to pay this onto your PPC.

### **If you already receive a Direct Payment via bank account and would like to transfer to PPC:**

- You will need to transfer any remaining balance from your Direct Payment bank account to your PPC, close your Direct Payment bank account and send the final bank statement and any



remaining receipts to the council. The council will load your Direct Payment onto your PPC, and you will no longer have to keep receipts and send them to the council.

### **If you already receive a Direct Payment and use the Managed Service:**

- The managed service provider will be instructed by the council to pay any remaining invoices and then transfer any remaining balance for you onto your PPC account. If you need one-off support for recruitment or ongoing PAYE support for your Personal Assistants (PAs), this will still be available to you from the managed service provider.

### **How do I obtain help if I need it?**

- For any assistance once you have received your PPC, you should call the Customer Services Line on the following phone number: **0330 0808 0102**. The line is open 24/7.

### **Why should I switch from a managed Direct Payment?**

- A PPC is easy to use and requires none of the paperwork or bank set-up that may have put you off managing your own Direct Payment previously. Using it at Point of Sale, over the telephone and via the internet is very easy. It is also safer to carry a PPC than cash.

### **Can I withdraw cash using my card?**

- No.

If you have been recently assessed as a new Direct Payment recipient, you may have a backdated contribution to make to the cost of your support. If so, please pay this onto your PPC. You can do this as a one off transfer from your bank account

## Direct Payments Factsheet 2 – Acting as a Suitable Person

In November 2009, the law changed to extend Direct Payments to people who lack the mental capacity to consent to them. We now have a duty to offer direct payments to these individuals, where there is someone willing and able to act for them a 'Suitable Person' and receive and manage direct payments on their behalf if it is in their best interests.

### Acting as a Suitable Person

- This is someone who knows the person well and can receive and manage their direct payments for them. They should be either (in order of preference):
  - Someone who has Lasting or Enduring Power of Attorney over their affairs or someone appointed by the Court of Protection to act in their best interests.
  - A family member or close friend who agrees to take on the responsibility and act in their best interest (and either the Power of Attorney agrees, or where none, the council).
- You cannot just become a Suitable Person. The council must follow the guidance on how to appoint a Suitable Person. Please discuss this with your Social Care Worker.
- You must meet all the criteria as set out in the council's policy for appointing a Suitable Person.
- You will be acting as the Suitable Person on behalf of the person who lacks mental capacity to consent to receive direct payments.
- You must be willing and able to act as a Suitable Person.

## Suitable person's role and responsibilities

- As the Suitable Person you are accountable for the way the direct payments are used.
- You should involve the person who lacks capacity as far as reasonably practicable.

Do whatever is possible to allow and encourage the person to take part and be involved.

- When making decisions ask others involved in caring for the person, family members, close relatives, friend or others who take an interest in the person.
- For any major decisions, make sure a record is kept and why the decision was made – this should be in terms of how it relates to what we know is important to the person.
- You must inform the council of any changes or difficulties, or as soon as you believe, the person has regained capacity.
- You will sign the agreement with the Council on the person's behalf and you must keep to its terms.
- You agree to use the direct payments to purchase and obtain the support necessary to meet the needs of the person as agreed in the support plan.
- When making these arrangements it may involve legal responsibilities
  - for example, employing staff.
- If you employ Personal Assistants, you must ensure you act lawfully as an employer (**see Factsheet 5**).
- If you buy support from an agency, the advice on how to do this can be found in **Factsheet 6**.
- If you decide that you no longer want to act as the Suitable Person, you must let the council know.

- If the person you represent has fluctuating capacity, during periods when they regain capacity, you must ensure that you involve them as much as practicable in decisions.
- Whilst the council does not want to discourage you from acting on behalf of an individual who lacks capacity, we must ensure that you are aware that anyone acting as a Suitable Person may be guilty of fraud, if they, dishonestly abuse their position, intend to benefit themselves, or expose the person to risk.
- The Fraud Act 2006 created an offence of 'abuse of position'.  
This applies when someone is expected to safeguard the interests of a person but instead acts against their financial interests.  
Such a person can be found guilty of a criminal offence.
- If you are a corporation or an incorporated body, you must undertake checks for any workers you use to provide care to the person who lacks capacity.
- We strongly advise that checks by the DBS (Disclosure Barring Service) are undertaken for all Personal Assistants (PA) who provide support for an individual who lacks capacity. The Council will pay for this.
- The Direct Payments Support Service can provide access to DBS checks should you request one.  
We recommend DBS checks when children are present in the household.
- The Council will request you undertake a DBS check if you wish to be appointed as a Suitable Person, and you are not a family member, spouse, or a friend involved in the provision of care. However, a criminal record does not necessarily exclude you from being a PA or Suitable person (please discuss with your Social Care Worker for criteria).

## Direct Payments Factsheet 3 – Keeping Good Records

A checklist of records **to be kept** by the person who has Direct Payments

- The council does not expect you to keep detailed accounts but there are some records you must keep.
- We ask that you keep these as we may request them.
- The following information is for your guidance only, and you may wish to check with [HM Revenue and Customs](http://www.hmrc.gov.uk/) (<http://www.hmrc.gov.uk/>).

They can provide further guidance on employer records.

Alternatively, the Direct Payments Support Service (**see Factsheet 1**) will provide information for you.

- **The examples shown over the page** have been taken from information and guidance provided by CIPFA (Chartered Institute of Public Finance and Accountancy). They give you guidance on what records should be kept and for how long.

Record Category	Examples	Suggested Retention
Everyday supplies and services	Invoices, receipts for direct payments items, agency fees, PA wage slips, time sheets, domestic help, special supplies, leisure activities, and courses etc.  Also receipts for equipment such as a raised toilet seat.	Current year plus, one year

Record Category	Examples	Suggested Retention
Major equipment and non-permanent adaptations	Expenditure on major equipment or major non-permanent adaptation paid via the direct payment.  Records of warranties,	Life of equipment plus one year
Permanent adaptations	All records relating to permanent major	Indefinitely
Employer Records	Employer records – advice on this is part of the role of the support scheme. If you have chosen not to have this support you can receive advice from <a href="#">HM Revenue and Customs</a>	Contact <a href="#">HMRC</a> Employer Helpline 0300 200 3200 for advice or contact Direct Payments Support Service agency <b>(see Factsheet 1)</b>

## **Direct Payments Factsheet 4 – When Things Happen or Change**

Occasionally things will happen or changes occur and you will need to talk to someone about what to do. You must let your Social Care Worker know as soon as you can if:

### **Your needs are NOT being met:**

The council may have a responsibility to step in and help you. A review or reassessment of your needs may need to take place.

The council may have to arrange services for a period of time or support you to enable you to carry on using direct payments.

If you are assisting someone to manage their direct payments, please contact their Social Care Worker and let them know about the change.

### **The emergency plans you have in place do not work:**

You will have discussed a plan about what you will do if your Personal Assistant goes off sick, takes annual leave or doesn't show up for work.

Sometimes the best plans do not always work. The council has a responsibility to step in and assist you to meet your identified needs as discussed in your care and support plan.

If this happens, contact your Social Care Worker.

## **Buying a service from an agency:**

**Factsheet 6** explains what you should do when arranging your support from an agency. If something happens and you are not happy with the service from the agency, you must first contact them and discuss your concerns with them, as you are the customer. You can also contact your Social Care Worker. **If you don't know who to speak to contact Leicester City Council on telephone number 0116 454 1004.**

## **If you have a problem with your Personal Assistant**

Please contact the Direct Payments Support Service

OR

You can contact your Social Care Worker/Team.

## **If you get into any difficulty:**

Mistakes happen when people are using direct payments.

If this does happen, for example, you have not been paid, please contact the Direct Payments Finance Team by email [directpayments@leicester.gov.uk](mailto:directpayments@leicester.gov.uk)

If you are using the Direct Payments Support Service agency, you can call them directly on telephone number provided (see **Factsheet 1**).

## **If you have to go into hospital:**

Let the council know if you have to go into hospital for any reason.

If possible, inform your Personal Assistant or arrange for someone else to do that on your behalf.

## **Compliments and Complaints:**

If you have any comments or complaints about services, please let us know. Any member of staff will be pleased to help you.

For complaints, you can contact the Complaints Manager **0116 454 2470**.



## Direct Payments Factsheet 5 – Recruiting Staff

We try and make direct payments as simple as possible.

**We have a contract with two Direct Payments Support Service agencies that will help you and, if you want, manage your budget.**

This service is free. **(See Factsheet 1)**

You will be responsible for the following:

Managing the Pre-Payment Card

Arranging any services, including sorting out any problems if they occur.

If you employ staff you will be legally responsible as an employer

Direct Payments Support Service agency can advise and assist you with all the things you need to consider when recruiting your own staff. You do not have to do it by yourself.

If you choose **not** to use this support from the Direct Payments Support Service agency, you **must** inform your Social Care Worker, as there are a number of things you must consider when recruiting and employing your own staff.

This information is given below:

Being an Employer

When you choose to employ people, you take on significant responsibilities. You must think about all the aspects of employing your own staff to ensure you are a good employer.

You **must** register with HM Revenue and Customs (HMRC). You can contact HMRC on telephone 0300 123 1083.

Employment law will apply to you as an employer and you must ensure that you follow its guidance.

## **Things to think about:**

### Payroll

Fair rates of pay, conditions of service– you must adhere to the minimum wage.

Writing job descriptions, job specifications, job adverts, preparing job application packs.

Contracts of employment.

Employee rights and responsibilities i.e. ensuring correct income tax, national insurance contributions, holiday pay, sickness pay, maternity pay, paternity pay.

Arranging Employer Liability Insurance and Public Liability Insurance

Pension – if you have 5 or more staff you will need to find out what your duties are. HM Revenues and Customs can help. You can contact them on 0300 200 3200.

Legal minimum statutory notice is:

- one week's notice if the employee has been employed by the employer continuously for one month or more, but for less than two years.
- two weeks' notice if the employee has been employed by the employer continuously for two years, plus one additional week's notice for each further complete year of continuous employment, up to a maximum of 12 weeks. For example, if an employee has worked for 5 years then they are entitled to 5 weeks' notice.

Contractual notice can be set by the employer above this.

Managing risks.

What you need them to do and when?

What training may be needed?

What you will do when your Personal Assistant takes annual leave, is sick or needs other unplanned time off work.

How to keep safe when advertising, interviewing and recruiting.  
The council strongly recommends that you seek advice from Direct Payments Support Service agency or another organisation specialising in employment.

The services of Direct Payments Support Service agency will be without charge to you. They can help you with this.

## **Other places to get useful information:**

### **Toolkit to help you employ your own staff**

There is a toolkit on the Skills for Care website to help employ Personal Assistants at

[http://www.skillsforcare.org.uk/entry\\_to\\_social\\_care/recruitment/employingpersonalassistants.aspx](http://www.skillsforcare.org.uk/entry_to_social_care/recruitment/employingpersonalassistants.aspx)

### **Employing a Personal Assistant**

[http://www.skillsforcare.org.uk/entry\\_to\\_social\\_care/recruitment/employingpersonalassistants.aspx](http://www.skillsforcare.org.uk/entry_to_social_care/recruitment/employingpersonalassistants.aspx)

### **Self Employed Personal Assistant**

Some people will tell you that they are self-employed.

You will need to check this with HM Revenue and Customs (HMRC). They rarely recognise a Personal Assistant as being self-employed for tax purposes. They will provide you with a leaflet, ES/FS1 and ES/FS2 to help you decide.

The local inspector at HMRC will also help you with this. If HMRC decide at a later date that the person is employed you may incur additional costs.

If they are recognised as self employed by HMRC you will not become the employer. They must provide you with insurance cover. They can choose if and when they work for you. You must decide if this will work for you. You should always ask for references from other people they have worked for.

The Direct Payments Support Service agency can provide you with support to help you keep safe, when using self-employed Personal Assistants.

The council strongly recommends that you do not use people who are self-employed to support you as a Personal Assistant.

You can get advice from **HM Revenue and Customs:**

Employer Helpline - 0300 200 3200

New Employer Helpline - 0300 200 3211

If you have hearing or speech impairments, the new text phone number for the:

Employers Helpline is 0300 200 3212

Website: <http://www.hmrc.gov.uk/employers/index.shtml>

### **Legally employing your own staff**

Legislation came into force in February 2008 that requires you, as an employer, to make basic checks with every person you are considering employing, to confirm that they can legally work in the United Kingdom.

The law says that you must do some document checks and failure to do this may result in a fine.

We recommend that you have advice and support from the Direct Payments Support Service agency to do this (**see Factsheet 1**).

If you want to manage this yourself instead, the Home Office Guidance document 'Prevention of Illegal Working' for Employers will guide you with what you must do.

You can get this from the Home Office helpline 0300 123 4699 or their website:

<http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/>

You must complete these checks before anyone starts working for you.

You can offer them employment once the checks are completed and you are satisfied they can work in the United Kingdom.

You must not employ anyone who is not legally able to work in the United Kingdom.

You need to know that using a self-employed Personal Assistant may not be straightforward. HRMC have advised they would consider almost all Personal Assistants to be employed rather than self-employed for tax purposes.

If you use a registered domiciliary agency the checks will have been done by the agency.

## **STAYING SAFE**

It is important to take certain steps to try and make sure that there isn't any threat to you from people who may harm you.

We believe that it would be better for you to have help and advice from the Direct Payments Support Service agency if you decide to employ your own staff. The service is free to you. Direct Payments Support Service agency will give you all the advice you need at each stage of employing your own staff (**see Factsheet 1**).

Direct Payments Support Service agency will carry out a Disclosure and Barring Service (DBS) check, previously known as a Criminal Records Bureau (CRB) check on the person you want to employ.

We ask that you seriously think about this when you employ your own staff.

**If you do not use the Direct Payments Support Service agency the council would recommend that you:**

Do not put your home address, telephone number, or details about yourself on the job advert.

You could ask the Job Centre to advertise for you.

The Job Centre has their own process to help you to stay safe or you can perhaps use a mail box number.

Make sure you ask for 2 written job references from the people you interview and follow them up.

When you interview people do it away from your home address if you can, and have someone with you to support you.

You must comply with employment legislation and the council strongly advises you have support to do this.

When the Personal Assistant starts working with you, it is advised that you arrange for a friend, parent or someone you trust to be with you as well.

If you still choose to recruit staff without this help, please talk to your Social Care Worker about it.

Your Social Care Worker can give you information on how to do this safely. If you choose to use an agency, the law says that care agencies must be registered with the Care Quality Commission.

Please discuss this with your Social Care Worker who will advise you how to do this. We advise you only to use an agency that is registered. You can find more advice at <http://www.cqc.org.uk/>.

**Remember – always ask for help if you think you need it.**

### **Insurance - Employed Personal Assistants**

You are legally required as a person who employs staff to have insurance.

The council strongly recommends that you use the support provided by the Direct Payments Support Service agency to do this **(see Factsheet 1)**.

Accidents can happen in a number of ways, for example the Personal Assistant may trip, fall, or be involved in an accident whilst they are working with you.

It could be that the Personal Assistant thinks you as the employer is to blame for this and may try to hold you responsible.

Sometimes, Employer's Liability Insurance and Public Liability Insurance, can be included in a comprehensive household policy but most policies don't.

You must check with your own insurance company and not assume that it does for these purposes.

**Employer Liability Insurance and Public Liability Insurance. These insurances must be in place before your Personal Assistant can start work.**

### **Employer Liability Insurance**

If your employee is injured whilst working for you, and you are held legally liable, you will be protected to cover legal costs and compensation.

By law most employers must have employer's liability insurance

### **Public Liability Insurance**

This will insure you against any damages or injury caused to someone else by you or your Personal Assistant while working for you.

The council will fund the cost of this insurance as part of your direct payments.

We do not recommend who you use to provide your insurance cover however, Direct Payments Support Service agency will provide you with information on where to get this and how to put it in place.

We advise you take out a policy that covers you in the event that your Personal Assistant takes you to an industrial tribunal, or you need to make someone redundant.

The Insurance company must also be made aware of the maximum number of staff who could be on duty at any one time.

There are terms and conditions you must follow and these will be explained



by the insurance company.

### **Self-Employed Personal Assistants**

It is extremely unlikely that the Inland Revenue would consider anyone who works as a Personal Assistant in your home as self- employed.

However, if you have had this confirmed (see above section on employing someone legally), it is the responsibility of the Personal Assistant who is self-employed, to provide their own insurance cover to offer their services.

You must ask to see a copy of the policy before you agree they can provide you with the service.

You would not pay for the insurance for someone who is self - employed.

### **Training Your Own Personal Assistant**

If you choose to employ your own Personal Assistants, the person assisting you with drawing up your support plan and/or the Direct Payment Support service organisation can help you think through what you need to do to become a responsible employer.

This will include thinking through any training you/your staff will need to undertake.

You need to make sure any staff you employ:

Are able to carry out the tasks you expect of them and do not put you or themselves at risk of being injured.

It is, particularly important that you and your staff understand the implications of any moving and handling tasks expected of them.

Insurance companies state that they will only pay out if the Personal Assistant is trained in moving and handling by an appropriate trainer.

Employers are required to provide their staff with instruction, information,

training and supervision.

In particular, health and safety legislation applies to employers of 5 or more staff who are then legally required to provide training.

We strongly recommend that you identify your own training needs, so you can provide some formal guidance/training to your Personal Assistants.

We also recommend that they/you access the training courses you have identified.

This may mean attending some courses together. Some training is also available in the home setting.

If your Personal Assistant has not already undertaken training, and depending on the tasks they will be asked to undertake, the sorts of courses you may need to consider are for example:

Moving and Handling – if your Personal Assistant is supporting you with any moving and handling tasks, then they will need to have Moving and Handling training.

First Aid Infection Control Food Hygiene.

Administration of Medication Health and Safety.

You may also want to consider other specialist courses, such as dementia awareness, autism, diabetes, etc.

**Some useful information is also available from Skills for Care:**

A framework for supporting Personal Assistants working in adult social care  
<http://www.skillsforcare.org.uk/paframework/>

Common Induction standards  
[http://www.skillsforcare.org.uk/entry\\_to\\_social\\_care/common\\_induction\\_standards/common\\_induction\\_standards.aspx](http://www.skillsforcare.org.uk/entry_to_social_care/common_induction_standards/common_induction_standards.aspx)

Code of Conduct for health and social care workers, including PA's  
[http://www.skillsforcare.org.uk/developing\\_skills/GSCCcodesofpractice/GSCC\\_codes\\_of\\_practice.aspx](http://www.skillsforcare.org.uk/developing_skills/GSCCcodesofpractice/GSCC_codes_of_practice.aspx)

Help for people who employ their own carers  
<http://www.skillsforcare.org.uk/individualemployers/>

<http://www.skillsforcare.org.uk/home/home.aspx>

You may also find the Personalisation briefing; Implications for Personal Assistants useful

<http://www.scie.org.uk/publications/ataglance/ataglance14.asp>

---

## **Direct Payments Factsheet 6 – Buying Care from an Agency or Another Provider Organisation**

You can contact agencies or provider organisations to ask them to supply you with support either in the home or support you with your social activities during the day.

### **Buying Care from an Agency**

You may want to use a home care (sometimes known as domiciliary care) agency to provide your care.

You may also want to use an agency to provide support for you to participate in community activities.

If you choose to use an agency, the staff who will work with you will usually be employed by the agency. If you use an agency, they will: -

Be responsible for managing the staff and will pay their wages.

Check that staff are safe to work with you.

You will still maintain choice and control as you will make arrangements directly with them and will be able to say how, when and where your support will be provided.

You will pay the agency invoice from your PPC

Always check that you have discussed all of your arrangements with the agency and have an agreement in writing.

Ensure that the agency has given you a breakdown of all their costs in writing. You do not want to have any unexpected costs, such as additional charges for mileage, bank holidays etc. that you have not previously agreed to pay.

Sometimes the agency may charge an hourly rate, which is more than your direct payments hourly rate paid to you. It is likely you may have to pay the

difference from your own personal funds. We would advise you to discuss any additional costs with your Social Care Worker when your support plan is costed.

Agencies providing personal care are required by law to be registered with the Care Quality Commission (CQC). You can ask the agency to show you details of its registration.

When choosing an agency/provider to support you with your social activities you should also think about the following:

If you can have a taster session?

Is it clear what support will be provided?

Can they meet your needs?

How do you pay them, each session or for several before you start?

Once you have been working with individual members of staff for some time from a care agency you may think you could employ them direct as a Personal Assistant and not use the agency.

We strongly recommend that you talk to us before you do this. Some agency agreements allow you to employ their staff directly but may charge you a fee as part of their conditions for providing the service for you.

We have only given you a few suggestions of the type of questions you may want to ask. Please think about the information you want and what questions you need to ask the Direct Payments Support Service agency to help you to choose the right agency for you.

**Care Quality Commission (CQC)**

Telephone: 03000 616161 <http://www.cqc.org.uk/> email:  
[enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk)

A contract or agreement, which tells you how much it costs, what support you will receive, when you will receive it and what, is expected from you. All this should be included in the agreement. If they are not, ask them about them.

## Direct Payments Factsheet 7 – Carers

### What are Direct Payments?

If the eligible needs of the person you care for are already being met in some way (eg by you as a carer), then the Council do not have to meet these particular needs, but they should still be recorded in the care and support plan. As a carer you are entitled to be involved in this process if the person you care for agrees.

You can use the Carers' Direct Payment to buy the support or services which may support you as described in your support plan after a Carer's assessment.

We will talk to you about what you want to achieve and the different ways that the Direct Payments could be used to support you and your wellbeing as a carer. This will be written down in a document called a carers' support plan. You can use your Direct Payment to buy and organise the things you decided on in your support plan.

### Young carers

Young carers are children under 18 with caring responsibilities. Their rights to be assessed come mostly from the Children's Act 1989 and the Children and Families Act 2014, and as part of the whole family approach, if there is a disabled adult being cared for, then the local council has a duty to consider whether there are any children involved in providing that care, and if so, what the impact is on that child.

When carrying out any assessment, the Council is expected to adopt what is called a whole family approach. This means considering how the needs of the person being assessed impacts on other family members, or anyone in their support network. We will carry out the carer's assessment and signpost to the relevant organization where it is appropriate.

### How could I get Direct Payments?

You can ask for a Carers Assessment by contacting **Adult Social Care on telephone number 0116 454 1004** or the locality team for your area if the person you care for is in the review system. Your doctor, health visitor, district nurse or community psychiatric nurse may be able to make a referral on your behalf if you would like them to.

This information provided upfront should assist you to decide whether you wish to request a direct payment to meet some or all of your needs and should also be available at various points in the process to ensure you have the best opportunities possible to consider how direct payments may be of benefit to you. However, if you choose to have your needs met, whether by Direct Payment, by the provision of local authority-arranged or directly provided care and support, or third-party provision, or a mix of these, there should be no constraint on how the needs are met as long as this is reasonable. The Council has to satisfy itself that the decision is an appropriate and legal way to meet needs.

However, you **cannot** use the Direct Payments money for:

Debts

Household bills

Credit card bills and anything that has not been authorized and agreed on your support plan.

## **Suitable Person**

Sometimes a person who needs social care support is not able to make the necessary decisions about direct payments. This is described as lacking the mental capacity.

It is possible for someone to receive direct payments on their behalf, and to use them to meet the person's needs.

If you are the carer of someone who would benefit from direct payments, and either you or someone you know would be willing to act as the 'Suitable Person' (**see Factsheet 2**), please get in touch with:

There are only very limited circumstances when direct payments could not be offered and the reasons would be explained.

We will always seek to make decisions that are fair by following guidelines about who qualifies for a service.



## Direct Payments Factsheet 8 – What To Do When Someone Receiving Direct Payments Dies

When someone on direct payments dies, the council needs to be informed so that they can stop the arrangements that are in place.

You can call the deceased person's Social Care Worker.

If you cannot get in touch with the Social Care Worker you can also email the Direct Payments Team [directpayments@leicester.gov.uk](mailto:directpayments@leicester.gov.uk).

You will need to provide the name of the executor or the person who will be dealing with the affairs of the deceased. (The executor will be named in the deceased's Will as the person who will deal with their affairs after their death).

If there is a solicitor involved, please give their name and contact details to the Social Care Worker, so they can send any correspondence directly to them.

The direct payments will cease and we will write to the executor / solicitor to explain and support you regarding the direct payment account and meeting all the legal requirements.

The council has a contract with Direct Payments Support Service agencies. They may be involved during this time to ensure all the employer responsibilities are completed correctly.

The money has been provided to meet someone's social care support. It does not form part of the person's estate and cannot be used for any purpose other than direct payments contractual obligations that need to be met. It cannot be used for such things as funeral expenses.

Any money left in the direct payments account once all the contractual and legally required invoices have been paid, must be returned to Leicester City Council. We will advise you on how this can be done.

## **If you are the executor of the Will**

You will need to find out if there are any contractual obligations or payments that need to be made from the direct payments account. For example, if the deceased had been employing a Personal Assistant this person will need to be paid for the work that they have already completed and any redundancy/ annual leave pay that is due to them. The council or Direct Payments Support Service agency can assist you to do this.

## **How can we meet the contractual responsibilities if we cannot access the money?**

In the case where the account has been frozen or there is no access to the account, the council will, in certain circumstances, pay out some outstanding payments e.g. salaries on the individual's behalf. This money will then be recovered once the account has been reactivated and closed.

You can contact the Direct Payments Team by emailing to [directpayments@leicester.gov.uk](mailto:directpayments@leicester.gov.uk).

## Direct Payments – Adult Social Care Words and Their Meanings

Term/Word	Definition/What it means
Assessment	<p>The processes of working out what your needs are. A community care assessment looks at how you are managing everyday activities such as looking after yourself, household tasks and getting out and about.</p> <p>You are entitled to an assessment if you have a disability or difficulties in managing some aspects of your life, and your views are central to this process.</p>
Benefits	<p>Payments from the Government that you may receive because of your age, disability, income or caring responsibilities.</p> <p>Some benefits are universal – paid to everyone regardless of their income.</p> <p>Others are means-tested – only paid to people whose income or savings fall below a certain level.</p> <p>Benefits in England are paid by the Department of Work and Pensions, not your local council.</p>
Care Agency	<p>A home care agency is an agency that provides care workers to help you at home.</p> <p>The agency might be a private company or a charity.</p> <p>The agency can be employed by the council to provide you with services, or you can employ the agency's staff yourself from your own resources or using direct payments</p>

Term/Word	Definition/What it means
Carer	A person who provides unpaid support to a partner, family member, friend or neighbor who is ill, struggling or disabled and could not manage without this help. This is distinct from a care worker, who is paid to support people.
Direct Payments	Money that is paid to you (or someone to action on your behalf), on a regular basis by the Council, so you can arrange your own support, instead of receiving social care services arranged by the Council.
Direct Payments Support Service agency	<p>Is a specialist agency, who can help you manage your Direct Payments. They can pay your support providers and any other expenses related to your direct payments.</p> <p>They can also help you to employ your own staff, this can include, advertising, interviewing, carrying out Disclosure Barring Service (DBS) checks, contracts of employment and how much to pay.</p> <p>(See also Third Party Support)</p>
Eligibility	<p>When your needs meet the Care Act 2014 for the Council-funded care and support.</p> <p>The Council decides who should get support, based on your level of need and the resources available in your area. The eligibility threshold is the level that is in line with Care Act at which your needs reach the point that the Council will provide funding. If the Council assesses your needs and decides they are below this threshold, you will not qualify for council-funded care.</p>
Domiciliary/Home Care	Care provided in your own home by paid care workers to help you with your daily life. It is also known as domiciliary care. Home care workers are usually employed by an independent agency, and the service may be arranged by your local Council or by you (or someone acting on your behalf).

Term/Word	Definition/What it means
Lacking Capacity	Sometimes a person who needs social care support is not able to make the necessary decisions about direct payments due to an impairment of, or a disturbance in the functioning of a person's mind or brain. This is described as lacking capacity.
Personal Assistant (PA)	Someone you choose and employ to provide the support you need, to assist the way that suits you best. This may include domestic help and personal care such as washing and dressing, and other things such as getting out and about in your community. Your Personal Assistant can be paid through direct payments as a personal budget.
Respite Care	<p>A service giving carers a break, by providing short-term care for the person with care needs in their own home or in a residential setting. It can mean a few hours during the day or evening, sitting service, or a longer-term break. Night time service in exceptional circumstances.</p> <p>It can also benefit the person with care needs by giving them the chance to try new activities and meet new people.</p>
<p>Social Care Worker</p> <p>(When we talk about Social Workers in this document we also mean Care Management Officers – who will also help you find the services you need)</p>	<p>They are professionals who work with individual people and families to help improve their lives by arranging to put in place the things they need.</p> <p>This includes helping to protect adults and children from harm or abuse, and supporting people to live independently. Social Care Workers support people and help them find the services they need.</p> <p>They may have a role as a Social Care Worker, arranging care for customers. Many are employed by councils in adult social care teams.</p>
Suitable Person	This is someone who can receive and manage direct payments for a person who needs social care support, but is not able to make the necessary decisions about direct payments.

Term/Word	Definition/What it means
Support Plan	<p>A plan you develop with support that says how you will spend your personal budget to meet your needs. You need to map out your week, define the outcomes you hope to achieve, and show how the money will be used to make these happen. The Council must agree the plan before it makes money available to you.</p>
Third Party Support	<p>If you are not able to manage your direct payments, for example, you are not able to open your own bank account, or you do not want to manage your own money but still want direct payments, someone you trust or a specialist agency can manage direct payments on your behalf. This is known as Third Party Support. The Council has a contract with 4 support service agencies that can provide this support for you.</p>
Voluntary Organisations (Provider Organisation)	<p>Organisations that are independent of the Government and local councils. Their job is to benefit the people they serve, not to make a profit. The people who work for voluntary organisations are not necessarily volunteers – many will be paid for the work they do. Social care services are often provided by local voluntary organisations, by arrangement with the council or with you as an individual. Some are user-led organisations, which means they are run by and for the people the organisation is designed to benefit – e.g. disabled people.</p>

## Useful Contacts – People you can call for information and support

Issue	Contact	Telephone	Email/website
Serious concerns about agencies/ CQC	Care Quality Commission	<b>03000 616161</b>	<a href="mailto:enquiries@cqc.org.uk">enquiries@cqc.org.uk</a>  Website: <a href="http://www.cqc.org.uk/">http://www.cqc.org.uk/</a>
Being an Employer	HM Revenue and Customs	Employer help line: 0300 200 3200  New Employer Helpline: 0300 200 3211	Website: <a href="http://www.hmrc.gov.uk/employers/index.shtml">http://www.hmrc.gov.uk/employers/index.shtml</a>
Advice to employers about preventing illegal working	Home Office UK Border Agency	Helpline 0300 123 4699	<a href="http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/">http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/</a>