

## Direct payments – General advice and information

Direct payments are available for people who have a care and support plan in place following a social care assessment. An amount of money is allocated to meet the outcomes identified in your plan, which is known as your personal budget. Depending on your personal circumstances, you might be asked to make a contribution towards your personal budget.

When your personal budget is in place, you can either ask the council to arrange your care for you or you can use a direct payment to arrange your care and support yourself. Some people choose to combine the two options.

You don't have to decide straight away, the council can arrange temporary services to meet your immediate needs, while you take time to think about it.

Direct payments give you more freedom, flexibility, choice and control and most people who use them say they would never choose to have services arranged for them again, for example:

**Choice:** You can employ a personal assistant(s) of your choice to provide support at the times you want or you can choose which care agency you would like to use.

**Flexibility:** You can arrange care and support or day opportunities for the time and days that you want. You can also choose to use more than one agency or a combination of your own personal assistant and an agency, whichever works best for you.

**Control and independence:** You can choose and change the agency that provides your support without needing to ask the council to do this for you. You can use an agency of your choice that is not contracted with the council and top up the payments or buy additional hours from your own personal funds.

Direct payments can be used in a wide range of creative ways as long as it is safe and legal and meets your assessed eligible needs and outcomes.

There are some rules involved, for example, you cannot use your direct payment to:

- Pay for services or equipment normally provided by the NHS
- Pay for services from a provider that the council has already directly commissioned to provide services for them
- Pay for long term care in a care home
- Employ a close family member living in the same household as yourself or the direct payment recipient
- Purchase items that do not meet the agreed outcomes in your support plan

## Who can have direct payments?

You can only have a direct payment when you have had an assessment and the council agrees you have eligible needs and you are:

- A disabled person aged 16 years and above
- A parent (or person with parental responsibility) of a disabled child
- A disabled person with parental responsibilities for a child
- An appointed authorised person for someone who lacks capacity (the council must agree who the authorised person is)
- A carer aged 16 years or more (please see the separate factsheet for direct payments for carers and how a direct payment can be used to meet assessed eligible needs)

**Please note:** If you are considering direct payments for someone who lacks capacity to consent to the direct payment, please discuss this with your allocated worker and see the separate factsheet on becoming an authorised person.

## Will I need to pay anything myself and will it affect any benefits I receive?

The council charges people for services to meet care and support needs. The amount charged depends on individual circumstances and is calculated following a financial assessment.

The amount of direct payments we pay you will be reduced by the amount we assess you can afford to pay towards your support. This amount is known as your assessed client contribution and you will receive a letter from the welfare and financial assessment team confirming what this amount will be. It is important that you pay your assessed client contribution into the direct payment account, so that you have enough money to pay for the care and support in your plan.

It is important that you tell the Welfare and Financial Assessment Team straight away about any change of financial circumstances. This may include an increase/decrease or change in any benefits, savings, income and expenses that are included in your financial assessment. If you don't tell us about a change of circumstances within one month from the date it happens it may result in you having to pay a large bill at a later date. Any increase in benefit will be taken into account from the date it was awarded. This may result in a backdated charge.

If you choose to use an agency that does not have a contract with Herefordshire Council, the cost for your care may be more than you receive as a direct payment. If this happens, you will need to pay the difference using your own money, which is known as a top-up. A personal top is in addition to any assessed client contribution. Before agreeing to pay a top-up, you should consider whether you can afford and keep up the payments.

Direct payments are not taken into account when income related social security benefits are calculated or when maintenance is calculated under the child support formula. Direct payments are not treated as taxable income by HM Revenue and Customs.

Household benefits may be affected if it has been agreed that a family member can be employed and paid from your direct payment.

### **When and how will I receive my direct payments?**

When your care and support plan has been agreed, your allocated worker will arrange a set up meeting with you and a direct payment officer. You will be asked to sign an agreement form, confirming that you accept the terms and conditions of the direct payment.

**Please note:** Direct payments must be paid into a separate bank account so that the council can make sure it is being spent effectively to meet the needs agreed in your plan. The council can open a payment card account for you, when you have signed the agreement, or you can open your own account and provide the details at the meeting. Please see the information below about payment cards.

When we have the signed agreement and account details, your payments can start. A copy of the agreement will be sent to you for your records and safekeeping.

You will be given all the information you need to run your direct payment at the meeting. This includes advice on paying your assessed client contribution and any personal top-up; a schedule of when you will be paid; a guide to using the payment card; or if you're not using a card, details of when to send your accounts to the council and forms to help with recording your spend.

If you have any queries or concerns, you will be able to discuss these at the meeting, before signing the agreement.

### **The benefit of payment cards**

- It's an account opened for you by the council, so you don't need to open your own separate current bank account
- You can make payments online via a bank transfer, direct debit or standing order or in person using chip and pin or through telephone banking
- They provide you with 24 hour online access to your account
- We will carry out a 'know your customer' check to verify your identity
- We can set one up quickly when the agreement has been signed
- A nominated person can operate the account on your behalf
- The account cannot go overdrawn
- The council can view your transactions online.

### **How often are direct payments paid?**

Following the set up meeting, once we have your signed agreement your first payment will be requested. You will then be paid on a four weekly basis on a set payment date.

### **How will my direct payments be monitored and what records do I need to keep?**

If you have opened a bank account for your direct payment, you will need to keep a record of how you have spent the money and send your accounts to the council. You will be told when to send us your first accounts at the set up meeting and forms to help you with recording your direct payment spend.

If you have a payment card, you don't need to send in details of how you have spent the money, as we will be able to view your account online.

**However, everyone** needs to keep invoices / receipts for **everything** paid from their direct payment account. This includes paperwork relating to personal assistants such as payslips, timesheets, payments to HM Revenues and Customs, liability insurance and invoices from employment support providers.

**Please note:** Documents should be kept for seven years and if you don't have a payment card you will also need to retain bank statements.

When we monitor your account, you will receive a report if there is any action that you need to take. For example, you could be asked to pay any arrears in client contribution; repay money if it has not been used to meet your needs or outcomes set out in your support plan or if you have employed your spouse, partner or any close relative without the council's approval.

We will also check that the balance of the account isn't too low or high. We can offer support and advice with budgeting to ensure you have sufficient funds to meet the cost of your support.

### **What happens if I don't spend all of my direct payment funds?**

If you appear to have excess funds, we will send you and our social care team a copy of our calculations for discussion. If the surplus funds are not needed by you to meet your assessed needs, the funds may be recalled and your needs may be reviewed.

### **What happens if I don't use my direct payment appropriately?**

We will always work with you to resolve any issues. You may be asked to repay any money if your direct payment has not been used to buy support or services in your plan.

The council may decide that additional support is needed and agree that your direct payment should be managed by a third party.

The council can stop the direct payment if you continue to spend the direct payment inappropriately or illegally. We would talk to you about this and see what services you need instead.

### **What support is available to me?**

A direct payment puts you in control, but this doesn't mean you have to do everything on your own.

The council has a team of direct payment officers who can help you with any direct payment queries, including:

- Advice about the cost of services and day activities available to you
- Advice on payment cards or setting up a direct payment account and paying your contribution
- Help you to find information, support and advice about being an employer

- Help you with information about using a care agency
- Providing details of organisations that can manage your direct payment for you, provide payroll, bookkeeping and employment related services
- Help you understand the requirements of the financial accounting of your direct payment
- Advice on closing a direct payment, including assisting your family or an authorised person to pay all outstanding liabilities

The following factsheets and documents are available on the council's website or from your direct payment officer to help you make your choice:

- Direct payments – Agency advice
- Direct payments – Employing a personal assistant
- Direct payments – Acting as an authorised person
- Direct payments – Carer's direct payments
- Direct payments – Policy and agreement
- A guide to using the payment card
- Easy read guide to direct payments

### **What do I do if my circumstances change or something happens?**

If your needs are not being met, the council may need to step in and help you with a review of your needs. If you are helping manage direct payments for someone else, please contact the council and let them know about any changes.

### **What if my emergency plans don't 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 and if this happens, the council has a responsibility to step in and help make sure your identified needs are met.

### **What happens if I get into any difficulty with my direct payment?**

If you get into difficulty with arranging the care you need or need a review of your care plan, please contact the advice and referral team (ART) on 01432 260101 or [ASCAdviceandReferralTeam@herefordshire.gov.uk](mailto:ASCAdviceandReferralTeam@herefordshire.gov.uk).

If you are having difficulty managing your direct payments funds, contact a direct payment officer or your direct payment support provider, if you have a managed account.

### **What happens if I need to go into hospital?**

Please let the council know if you have to go into hospital for any reason. Don't forget to inform the agency or your personal assistant or arrange for someone else to do that on your behalf, so they're kept informed. If you employ a personal assistant, the direct payment can continue if the employee's contract of employment says that they will be retained in these circumstances.

### **What do I do if I no longer want a direct payment?**

If direct payments do not work for you, the council can arrange services for you instead. Simply contact the advice and referral team on 01432 260101.

### **What do I need to do if my direct payment ends?**

Either you or the council can end your direct payment by giving four weeks' notice. You will need to give appropriate notice to any agency or personal assistant that you pay from the direct payment. Please see separate factsheet on employing a personal assistant.

You will need to pay all outstanding bills, your assessed client contribution and any personal top up, up to the end date of your direct payment. Your direct payment will be monitored so any unspent funds can be returned to the council.

### **What happens if someone receiving a direct payment dies?**

The council must be informed so that the direct payment can be stopped. They'll need the name of the executor or any solicitor involved.

**Please note:** A direct payment is provided to pay for support and care and does not form part of a person's estate. It cannot be used for funeral expenses and any money left in the account, once all contractual obligations have been met, must be returned to the council. If you receive a direct payment, it is very important that you explain to your executor (the person you have named in your will to deal with your affairs after your death) about your direct payment.

The executor will need to find out if there are any outstanding invoices or wages that need to be paid from the account, and arrange for any arrears in client contribution or personal top-up to be paid.

If a personal assistant has been employed, your support provider can help claim from the liability insurance to cover in lieu of notice and redundancy payments. If the account is frozen or there is no access to the account, the council will, in some circumstances, pay some of the outstanding payments such as salaries. This money will be recovered once the account has been reactivated.

If there is no will, you'll be said to have died 'intestate' and your family will have to apply for the legal right to sort out your estate. They will need to apply to the Probate Registry for a grant of letters of administration and it is advisable that a solicitor is used to help with this process. The grant provides proof to banks and other organisations of who has authority to access and distribute funds held in the deceased person's name.

### **Useful contacts**

**Direct payment officers** (For general direct payment advice)

01432 260060 • [directpaymentadvice@herefordshire.gov.uk](mailto:directpaymentadvice@herefordshire.gov.uk)

**Advice and referral team (ART)** (For referral for an assessment of assessed needs)

01432 260101 • [ASCAdviceandReferralTeam@herefordshire.gov.uk](mailto:ASCAdviceandReferralTeam@herefordshire.gov.uk)

**Transactional support team** (For payment queries)

01432 383733 • [chargingteam@herefordshire.gov.uk](mailto:chargingteam@herefordshire.gov.uk)

**Welfare and financial assessment team** (For financial assessment advice and information)

01432 383444 • [financialassessments@herefordshire.gov.uk](mailto:financialassessments@herefordshire.gov.uk)

### **Safeguarding team**

Abuse of any description is wrong. By reporting abuse you can help bring it to an end. If you have any concerns regarding the management of your money or the staff supporting you please contact the Safeguarding Team. Our staff will discuss your concerns, give you advice and take referrals.

01432 260715 or 0330 123 9309 out of hours • [Safeguarding@herefordshire.gov.uk](mailto:Safeguarding@herefordshire.gov.uk)

**Herefordshire Council** (For information on direct payment support providers, additional factsheets and the direct payment policy and agreement)

[www.herefordshire.gov.uk](http://www.herefordshire.gov.uk) (Search 'direct payments for social care')

**Talk Community** (For wellbeing information and signposting for Herefordshire)

[www.talkcommunity.org](http://www.talkcommunity.org)

**Department of Health** (For information on statutory guidance)

[www.gov.uk/guidance/care-and-support-statutory-guidance](http://www.gov.uk/guidance/care-and-support-statutory-guidance)

### **HM Revenues and Customs**

0845 143 143 • New employers helpline 0845 607 0143 • [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### **Home Office**

0845 010 6677 • [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

**Skills for Care** (For information about applying for funding for employer and personal assistant learning and development)

[www.skillsforcare.org.uk](http://www.skillsforcare.org.uk)

**Compliments, comments and complaints**

If you have any compliments, comments or complaints about our services, please let the council know. Our teams will be pleased to help you or you can contact the team directly on 01432 260535 or email [complaints@herefordshire.gov.uk](mailto:complaints@herefordshire.gov.uk)

If you would like help to understand this document, or would like it in another format or language, please call a direct payment officer on 01432 260060 or e-mail [directpaymentadvice@herefordshire.gov.uk](mailto:directpaymentadvice@herefordshire.gov.uk)

## **Direct payment fraud**

Where funds are spent on things other than what's included in a care and support plan, this may constitute fraud.

Some examples of direct payment fraud include:

- Using money from the direct payment to pay for care for your own personal use
- Being dishonest about financial circumstances or care and support needs when asking for social care funding.
- Not telling the council when a service user has died, and keeping the direct payment money.
- A person abusing their position of care to take money from a vulnerable person.
- Creating a fictitious unregistered care provider
- Submitting false receipts as evidence of care expenses
- Using the direct payment account for money laundering

Any individual who intentionally and dishonestly provides false information, may be investigated in line with the Fraud Act 2006 and other relevant legislation. We may also pursue prosecution under Section 222 of the Local Government Act 1972, or work alongside the Crown Prosecution Service (CPS).

## **Fraud prevention privacy notice**

If you request financial support from Herefordshire Council to pay for care, the personal information we collect from you will be shared with fraud prevention agencies who will use it to prevent fraud and money-laundering and to verify your identity. If fraud is detected, you could be refused certain services, finance, or employment. View further details of how your information will be used by us and these fraud prevention agencies, and your data protection rights, at [www.herefordshire.gov.uk/fraudprivacy](http://www.herefordshire.gov.uk/fraudprivacy).