



## Direct Payments

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### **What are direct payments?**

You can get direct payments if you've been assessed by Nottinghamshire County Council's Adult Social Care and Health Department as needing care and support. A direct payment is money given to you by Nottinghamshire County Council so that you can arrange and buy the things that will meet your care and support needs.

If you do need care and support a worker from the Adult Social Care and Health Department will talk to you about different ways that your needs could be met. For example help may be available from friends and family. If it is decided that your needs cannot be met in any other way than by support from the Council, you will be given a personal budget. This is the money we calculate is needed to pay for your care and support.

If you are offered a personal budget you can either ask the Council to use it to arrange and buy care and support services for you, or you can ask for a direct payment so that you can arrange and buy these things for yourself. If you want to, you can ask the Council to arrange some of your support and take a direct payment for the rest of it. This is called having a "mixed package".

Direct payments are voluntary, and you need to request or agree to have one.

You can't be forced to have direct payments. If you decide to have direct payments, you can change your mind about this at any time.

You can ask for a direct payment when you are first given a personal budget. If you are already receiving a personal budget but the Council has been arranging services for you, you can ask for a direct payment at any time, either by talking to your worker or by contacting the Customer Service Centre.

### **Why choose a direct payment?**

Direct payments were introduced to give people more choice and control over how their care and support is arranged, to help them live more independently.

The direct payment is paid to you by the council so that you can decide how you want to meet your care and support needs. Many people choose to employ their own personal assistant, although there are many other ways direct payments can be used.

The greater control over care and support that direct payments enables is an attractive option for many people.

### **What do I need to do to manage a direct payment?**

If you decide to use a direct payment you will be asked to sign an agreement

with Nottinghamshire County Council. This sets out the conditions under which the direct payment is made to you and the obligations and responsibilities of both you and the County Council.

There are a number of things that you need to do;

- You need to open a separate bank account or pre-payment debit card account. The account must only be used to manage the direct payment. (see separate guide to using a direct payment pre-payment debit card)
- You need to arrange your care and support services and pay the bills for these.
- If you employ some-one to support you, you must meet all of the legal responsibilities associated with being an employer (see below)
- You need to buy any equipment agreed.
- You need to keep records that show how the money is being spent and share these records with the County Council when asked to do so.
- You can only spend your direct payment on meeting the outcomes you have identified in the support plan you have written with your worker.

The County Council can charge for care and support. This means that you may need to make a personal financial contribution towards your personal budget amount. If you receive all your personal budget as a direct payment, you will need to pay your contribution into the direct payment bank account or

pre-paid debit card account on a regular basis.

If you have some of your support through a Direct Payment, and some organised by us, we call this a “mixed package”. If you have a “mixed package” we will pay you the total amount of your Direct Payment, and send you invoices for your personal contribution

If you do not meet the terms of the agreement, for example if you spend a direct payment on something that doesn't meet your needs, or if you don't pay your contribution, the County Council can recover the money from you or terminate the direct payment agreement.

### **Who can have direct payments?**

In most cases, if you or the person you're looking after are assessed and the Council decides you need support services, we must offer you the option of receiving direct payments. If you want a direct payment, but do not wish to manage the money side of things by yourself, a “nominated person” can receive the direct payment and manage it on your behalf. This is a person who can, for example, open a bank account or pre-paid debit card account on your behalf and arrange to pay the bills and keep the records. If you decide to use a “nominated person” you are still responsible for how the direct payment is used, but you allow someone else to deal with the money side of things.

In some cases a person may not have the mental capacity to request a direct payment. The decision about whether someone does or does not have mental capacity to request a direct payment is

made as part of the County Council's assessment process. If someone doesn't have the mental capacity to request direct payments, it's possible for an "authorised person" to request the direct payment. This will usually be a carer, a family member or friend. If the County Council agrees, the authorised person takes on all of the responsibilities for the direct payment. An "authorised person" getting direct payments on behalf of someone else who lacks capacity must:

- act in the best interests of the person who lacks capacity
- make sure that the person has as much input as possible into decisions that affect them
- let social services know as soon as possible if it seems that the person might be regaining the mental capacity to make their own decisions

There are very limited situations when the Council does not have a duty to offer direct payments. This applies to:

- certain people who are subject to mental health laws; in this case, social services can decide whether or not to offer direct payments
- offenders who are required to undergo treatment for drug or alcohol dependence

If someone is assessed as being eligible for support and it's not possible for them to get direct payments or they do not want one, the Council must provide care and support directly.

## **Pre-paid debit card accounts**

You must open and use a separate account to manage your direct payment

An easy way to do this, and the Council's preferred option, is to use a pre-paid debit card. The card is like a bank debit card. The amount of your direct payment (what your support costs) will be put on the card every 4 weeks, minus the amount of your personal financial contribution. You can use the card to pay whoever provides your support with the card, in the same way as you would use a debit card. When you receive the card you will have to activate it by telephone before you can use it.

You can pay for your support by direct debit from the card account if the person or company you are paying has a direct debit facility. Alternatively you can set up a standing order, pay by bank transfer, or you can use the card like a debit card and use a pin number and the security code from the back of the card.

Usually you are not allowed to make cash withdrawals using your card. However, if you need to pay for some of your support with cash, your social care worker can request that you have a card with this facility. Receipts for all cash purchases should be kept for auditing purposes.

There are charges for using the card which will appear in your support plan. The charges are taken directly from the card account.

## Opening your own bank account

If you choose, you can open a separate bank account and have your Direct Payment paid into it. You then pay for your support from this account. We pay the Direct Payment in every 4 weeks, in advance, minus your personal contribution unless you have a “mixed package” (see above for a description of a “mixed package”). You will be expected to keep all the bank statements for this account, and not use it for anything other than paying for the support agreed in your support plan. Any cash withdrawn or paid out will need to have receipts showing what the cash was used for. We will periodically audit the account to ensure that the money is being spent properly.

## Employing people

If you decide to use your direct payment to hire a person directly you must make sure that you meet all of the obligations and responsibilities associated with being an employer, for example;

- Registering as an employer with Her Majesties Revenue and Customs (HMRC).
- Paying the national minimum wage.
- Paying the relevant tax and national insurance contributions to HMRC.
- Taking out employer’s liability insurance.
- Paying statutory sick pay and maternity pay to employees as required.
- Enrolling employees in pension schemes
- Issuing contracts of employment

- Carrying out “right to work” checks on employees.

In some situations, employing a family member to provide care or administrative support may be an option. However, the council needs to agree it is necessary for you to use direct payments to employ a spouse or partner, or a close relative you live with.

## Using agencies and self-employed workers

If you decide to use your direct payment to contract with an agency or recruit a self-employed care worker, you won’t have the responsibility of being an employer.

It is only Her Majesty’s Revenue and Customs (HMRC) who can decide whether some-one is self-employed. In most cases people who work as personal assistants to people with direct payments are judged **not** to be self-employed. You can find out whether someone is self-employed or if they count as your employee by using [HMRC’s employment status indicator online tool](#).

If you choose instead to use an agency for your care services, they will take on many of the employment responsibilities.

When choosing an agency, you’ll need to decide what sort of service you’re looking for and the tasks you need help with. It’s a good idea to contact more than one agency as they may offer different types of services.

You can find out about local care agencies by:

- Looking at the [Nottinghamshire Help Yourself](#) web site.
- contacting the [UK Home Care Association](#)
- speaking to other people who get direct payments
- contacting the [Care Quality Commission](#), which regulates all care providers

### **If you need help to manage the direct payment or employ personal assistants**

Many people may require support to take on and manage a direct payment. The support may come from the “nominated” or “authorised” person (see above). You can also receive support from a Direct Payment Support Service. These are organisations that can provide help in various ways. They can set up a bank account in your name, and manage all the money going into and coming out of the account. If you employ people they can set up payroll and organise tax and national insurance. They can also help you recruit personal assistants, produce a contract of employment, do risk assessments, sort out annual leave, redundancy and holiday pay.

The nature and the cost of any support you might need to manage the direct payment will be agreed with your worker and included in your support plan. The costs associated with direct payment support service will be included in the direct payment.

A separate fact sheet is available that gives information and advice about choosing a Direct Payment Support Service.

### **Having your Direct Payment audited**

Every so often we will ask to see your bank statements if you use a conventional bank account to manage your direct payment. You will be asked to sign a form to confirm that you are spending the money as agreed in your support plan and we may also look with you at how the money is being spent.

If you have a pre-paid debit card account we can access the accounts for the card on line and so will just ask you to sign a form to confirm that you are spending the money as agreed in your support plan. As with conventional bank accounts we may also look with you in more detail at how the money is being spent

### **Contact information:**

#### **Customer Service Centre**

Phone: 0300 500 80 80

Monday to Friday: 8am to 8pm  
Saturday: 8am to 12 noon

(Calls cost 3p a minute from a BT landline. Mobile costs may vary).

Email: [enquiries@nottscc.gov.uk](mailto:enquiries@nottscc.gov.uk)

Website: [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

Minicom: 01623 434993

Cls cost 3p/min from BT landlines. Mobile costs may vary.

Phone 0300 500 80 80 if you need the information in a different language or format.

## **Adult Care Financial Services**

### **Direct Payments Team**

Phone: 0115 9775760, Option 2

Monday to Thursday: 8.30am to 5.00pm

Friday: 8.30am to 4.30pm

Email:

[acfs.directpayments@nottsc.gov.uk](mailto:acfs.directpayments@nottsc.gov.uk)