

Money and
legal matters

Direct Payments

A guide for service users and carers

Welcome to Wandsworth's guide for direct payment service users and carers. This guide is in a 'frequently asked questions' format.





Direct Payments

This guide is in a ‘frequently asked questions’ format. It aims to give you the information you need to set up and manage your direct payment. An introductory fact sheet is also available online at

www.wandsworth.gov.uk/acis/fact_sheets or by asking the access team.

It is only a general guide and if you want to talk about your own situation, please contact our access team by phoning **020 8871 7707** or email acessteam@wandsworth.gov.uk. However, if you have questions about how we make and monitor your direct payment, please contact the direct payments helpline by telephoning **020 8871 6470** or email directpayments@wandsworth.gov.uk.

Before we can give you a direct payment you will need to have been assessed by adult social services and found to be eligible for care and support from the council and eligible for some financial help.

You will find the answers to the following questions in this guide:-

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Direct Payments

Q1 What are direct payments?

Direct payments, often shortened to 'DP', are payments made instead of adult social services provisions, so that you can purchase services yourself. Direct payments are made to individuals who have been assessed as eligible for both social care services and/or support and financial support. The aim of the direct payment is to give you more flexibility in how you receive the services you require to meet your needs. By giving people money to buy their own care, people have greater choice and control over their lives, and are able to make their own decisions about how their care and support is delivered.

In April 2015, the Care Act came into force. For the first time, the Act provided carers with a legal entitlement to a personal budget, if their carer's assessment shows they are eligible for support to carry out their caring role. Sometimes a personal budget will include a direct payment as the best way of meeting their needs.

Q2 What can you use your direct payment for?

Once eligibility for services and financial support from Wandsworth Council is established, and it is agreed that you will receive your personal budget as a direct payment then you can use the money to arrange care and support and services which you have been assessed as needing. In Wandsworth, direct payments can be used to purchase any care or support that would otherwise be arranged and paid for by the council.

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This could include:

- practical help (for example shopping and cleaning)
- respite care (where carers can have a break)
- things to do during the day
- independent living equipment

Q3 Can you use direct payments to employ your own staff?

Yes, if you want to. If you do directly employ staff you will become an employer and will need to complete tax and national insurance returns for the Inland Revenue. The council has a list of direct payment support agencies who can assist with this. (Alternatively, you can buy a service from an organisation such as a care agency which employs the staff – this is described in the answer to question 4 below.) You will also need to follow all employment regulations and be a reasonable employer.

If you would like more information, or support once you decide to become an employer, you can choose one of the council's accredited direct payment support agencies to assist you. They can advise you on your responsibilities as an employer, can assist you with recruitment (if needed), and can offer advice on training your employees. In the first year this support is offered to all new direct payment service users who decide to employ their own staff. In year two and onwards advice is available as needed. They also provide payroll services to ensure the staff you employ are paid correctly and the correct deductions are made to their pay.



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Q4 Do you have to employ your own staff?

No – not everyone who receives a direct payment wants or needs to take on the responsibility of becoming an employer. It is possible to use your direct payment to buy support from a range of different sources including a care agency. This would have been discussed when you were developing your care and support plan. Your social worker or care broker may suggest a suitable care agency but you do not have to use this agency; it is your choice. You do need to remember that you only have a certain amount of money in your personal budget to buy this support. So, if you choose a more expensive agency you may not be able to afford as many hours of care and support, or will need to decide whether to pay extra to top up in order to purchase services from a more expensive provider.

Q5 What about health and safety?

Employing a personal assistant (PA) to support you in your home means that you are responsible for their health and safety as well as your own. As an employer you have a legal duty to make sure that your employees work safely and have a safe place to work in. It is also the responsibility of the PA not to do anything, which might cause you, themselves or others injury or harm.

If you decide to employ a personal assistant (PA) you will be contacted by one of our accredited DP support agencies to arrange a visit. The visit will also be attended by a direct payments officer to guide you through the direct payment to completion of the Direct Payment Legal Agreement.

Q6 Do direct payments put you at more risk?

No, you are not at more risk but you do need to follow some very basic safety measures in order to stay safe.

- 1 Remember you are in charge
- 2 Your choices must be listened to and respected
- 3 Keep your finances private and secure

If you have concerns, contact your direct payment support agency for some more information and help with staying safe

If you are employing your own personal assistant (PA) you should ask for support and advice from a direct payment support agency it is important that you follow some simple guidelines:-

- Advertise carefully – don't put too much personal information into your advert.
- Check the PA's employment details – do they have the right kind of experience, what are the gaps in their employment record? Ask for and follow up references from previous employers.
- Don't interview people at home on your own.
- Check out potential employees – it is recommended that for non-family members they should have an enhanced Disclosure and Barring Service (DBS) check (formerly known as CRB check). In addition to making sure anyone you employ does not have any criminal convictions which may put you or a member of your family at risk, this check makes sure they are not barred from working with you by being on the Independent Safeguarding Authority (ISA) list. If you employ someone through an agency make sure you ask them for evidence that this check was clear. If your PA already has



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one, ask them to show you their valid DBS certificate and check it has been issued in the last three years.

- Check what training the person has done and ask for proof.

Q7 Must you use direct payments for all your care needs?

No. You can use direct payments for as much or as little of your care as you want. Direct payments can be used to purchase services to meet all assessed needs or just a part, via an arrangement called a 'mixed package' of care.

Q8 What will you need to do to set up a direct payment?

If you have been financially assessed as requiring financial assistance from the council

We will send you:

- a copy of your care and support plan summary which describes the services you will buy with your direct payment
- two copies of the Direct Payment Legal Agreement. This legal agreement sets out your rights and responsibilities as a direct payment service user or carer and the council's responsibilities to you; and a
- a stamped addressed envelope

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You must:

- sign both copies of the Direct Payment Legal Agreement. The Direct Payment Legal Agreement must also be signed by a witness. The witness cannot be a close relative
- return one copy of the Direct Payment Legal Agreement as soon as possible in the stamped addressed envelope. You keep the second copy

The direct payment cannot start until you have signed and returned this document, agreeing the direct payment conditions and how the direct payment will be made.

Q9 Will you be paid in cash?

No. Your social worker/brokerage direct payments officer will talk to you about the ways in which you can manage the direct payment. These include:

- i. Your social worker/brokerage direct payments officer may recommend that you have a Third Party Supported Account (TPSA) to manage your direct payment, this means it will be paid to a support agency who will help you to manage the direct payment
- ii. We have introduced a pre-payment card, a new way of managing your direct payment. The prepayment card. It will work in a similar way to a debit card, and may be a suitable option for you



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Q10 What is a pre-payment card?

We will be introducing pre-payment cards for new direct payments customers during the 2015/16 financial year, replacing the need for a direct payment bank account.

Instead of operating a separate bank account for your direct payment you will be given a card that you can use to purchase services. It works like a bank debit card except you will not be able to get cash from an ATM. You will be able to run your account online (like online banking) or by telephone. You will also be able to pay for services at the provider's premises if the provider is able to take VISA payments with a chip and pin machine. It is not a credit card, therefore carries no credit facility. If you are required to make contributions towards your personal budget, you will also be able to set up these payments into your pre-payment card account.

With a pre-payment card account you will be able to check the balance of your account online 24 hours a day, 7 days a week and the council will be able to see what you are spending the direct payment on. This means you will have to give the council less information than if you ran a bank account for your direct payment.

Q11 How will you be paid and how will you pay for your services?

We will pay you every four weeks in advance for the majority of DP's, directly into your direct payment account or your Third Party Supported Account.

You will also need to make arrangements to pay your contribution towards the cost of your services into the direct

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payment account (if applicable, see Q9 below).

To pay for your services, depending on the type of account you are using you will need to use a pre-payment card and set up a standing orders and direct debits. If you have access to the internet, banks now offer a comprehensive online banking service which will allow you to pay bills and monitor your account.

Q12 If you have been financially assessed as contributing to the cost of your services, how does this work?

Direct payments are subject to the same financial assessment and charges as if you were receiving services provided by the council. The council will pay your direct payment after taking off the amount that you have been assessed as needing to contribute to the cost of your services. You will need to pay your contribution into your pre-payment card account or into your Third Party Supported Account. If you do not do this you will not have enough money to pay for your services. A fact sheet “How much will you have to pay for care and support services at home?” is available online at www.wandsworth.gov.uk/acis/fact_sheets or from the access team.



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Q13 Will you need to keep records of how you spend your direct payment?

Yes. The money you receive as a direct payment is for services to meet your eligible social care needs. It remains public money; it is not yours to spend as you wish. Wandsworth Council will require you to account for the money you receive. It can only be used for services in your care and support plan. If you have a Third Party Supported Account the support agency will send in this monitoring information on your behalf.

Q14 What monitoring information will you need to give the council and how often?

If you are managing your direct payment pre-payment card you will need to submit a photocopy of supplementary monitoring information to the council. The frequency will be discussed and agreed with you by our brokerage and direct payment team before the payments begin.

Supplementary monitoring information may include:

- Monthly returns
- Payments and income receipts
- Invoices paid for the care, services and goods received
- Payroll documents and staff timesheets
- Proof of equipment purchase forms
- Insurance cover documents where relevant
- Care and support payments record sheets

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- Any other documents relating to direct payments

If you have arranged for a direct payment support organisation to manage your direct payment they will provide this information on your behalf.

Q15 Why does the council need all this monitoring information?

We will use this monitoring information to ensure:

- that direct payments are being correctly and appropriately used for the purchase of services as agreed in your care and support plan
- that your contributions are being paid into the direct payments account
- that the direct payment is being used to pay your personal assistant in accordance with the employment contract

Q16 Will the council check on the services being provided from your direct payment?

Yes. By agreeing to a direct payment you are taking on responsibilities for purchasing services to meet the needs described in your care and support plan. The council needs to satisfy itself that the needs for which we are giving you a direct payment are being met. This is likely to be reviewed at least annually. The arrangements you make using your direct payment will be reviewed in the same way as if you received services managed by the council. This is to find out whether your needs



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are being met and whether your needs have changed.

If you are not the service user, but have been nominated to manage a direct payment on behalf of a service user who lacks capacity, we will carry out regular reviews of their care and support to make sure that you are using the direct payment to meet their needs in the way that was agreed and documented in their care and support plan.

Q17 Can you have help to manage your direct payment?

Yes. A direct payment can be managed by you alone or you can have friends and/or family to help you manage this.

Alternatively, you can choose to use a direct payment support agency. You can start off with a lot of support, but reduce the support you have as you become more used to direct payments. There are different types of support that you can choose from. These include:

- **Nominated Person.** You may feel that you need help to manage the money and may know someone that is happy to receive the direct payment on your behalf. This is called a payment to a Third Party. The person (nominee) would have to tell the council how the direct payment will be managed. You would still have control over how your care and support is given, but the nominated person would help with the day-to-day management of the finances. The person (nominee) may already hold lasting or enduring power of attorney for you, or it could be someone you know well and trust. A person that is being paid to give you care, cannot become your nominee as they are not allowed to pay themselves.
- **Payroll Service.** This is helpful if you manage your direct payment yourself and you employ staff. The service will make regular payments to your employees, including the calculation

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of the tax, national insurance, holiday pay and sick pay and submit end of year returns for tax purposes to HM Revenue and Customs (HMRC). The payroll service will ask you to sign an agreement for providing this service. The cost of the payroll service will come out of your Personal Budget. The payroll service will send you an invoice and you will need to pay them from your direct payment account.

- **Third Party Supported Account (TPSA)** is an account managed by a specialist direct payments support agency which holds your direct payment and carries out all the money management on your behalf. You still have control of what care you have and how it is delivered. The council only agree to pay for the management charges for a TPSA when a service user does not have the capability to manage money and where they do not have friends or relatives capable of assisting, if you feel you would not be able to take on the responsibility of managing the direct payment.
- **Suitable Person.** If a service user lacks the capacity to agree to a direct payment, but it is agreed by the council that it is in that person's best interest to receive one, a suitable person must be identified who can manage the direct payment and act in the service user's best interest. Someone cannot just decide to be a suitable person; in most cases it will be someone that is already involved in the care of the person concerned, for example a family member or a close friend. The council must be satisfied that having a direct payment is right for the individual and the care and support they need. We also must be satisfied that the suitable person is capable of managing the direct payment on the person's behalf. Often a direct payment support agency will be the best option in these circumstances.



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Q18 Where can you find out about training to help you be a better employer and for your personal assistant?

Skills for Care provide information to help individual employers and personal assistants with the training that you need. They may also have grants available to assist with paying for training, including covering the cost of someone to look after you when your employee is training. Please contact Skills for Care:

www.skillsforcare.org.uk/individualemployers

- Skills for Care produce a pack of information booklets (a toolkit). This includes: employing a PA, being a good employer, getting started, keeping your PA, sorting out problems, additional resources
- The Manager Induction Standards will also be helpful to you in your role as the manager of personal assistants whom you employ. Those standards are for managers new in post in all sorts of adult social care, so you should feel free to adapt them to suit you and your PAs.

The toolkit is available in easy read and as an interactive guide on the website.

You can get a copy of the toolkit and other documents by emailing or phoning Skills for Care:

marketing@skillsforcare.org.uk or by calling **0113 241 1275**.

Q19 How can you find a direct payments support agency?

The Brokerage and Direct Payment Team will give you a list of the council's accredited direct payments support agencies. The council has checked the finances of these agencies and will formally review the quality of the services being provided. You can use other agencies if you prefer, unless you already have a Third Party Supported Account with one of the agencies on the council's list.

You can approach these agencies yourself to find out about their services, but you will need a referral from the council to the agency for them to carry out any work on your behalf. The council will not pay for any service that has not been authorised through a formal referral.

Q20 What happens to money in your account that you do not spend on services?

The money paid into your direct payment account will include money to cover obligations that your social worker/care co-ordinator believes that you may have during the year. For example if you employ staff you may have to pay to make cover arrangements if your staff are sick.

To cover these types of costs, the council will allow you to build up a maximum of 8 weeks worth of unspent money in your account (we call this a buffer). If there is a good reason, we may agree to increase this buffer but your social worker/care co-ordinator would need to agree this formally in writing.



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Q21 Can the council take back money from your account?

Yes - the council can claim repayment if:

- the money is used for purposes other than those intended and documented in your care and support plan
- there is a reduction in the price of the care, services or goods you are paying for from your direct payment
- you do not provide the council with the required and agreed monitoring information
- the direct payment has been misappropriated or fraudulently acquired or used
- you are admitted to hospital or respite for a period of more than 14 days
- your circumstances change so that you no longer need care and support from Wandsworth Council
- you have over 8 weeks balance in your account

Q22 Will direct payments affect your benefits?

No, the Department of Work and Pensions do not take direct payments into account when they are assessing benefits, because they are not income.

Q23 What if your needs change or you want to change your care and support plan?

If your situation or needs change, and you think you might need more or less assistance, you can ask your social worker/care co-ordinator to reassess your circumstances. You would then explain how your situation has changed and a decision would be made. If it were to be agreed that your eligible needs had changed then all the necessary adjustments to your direct payment would be made. If you wish to discuss your care and support plan, then please contact your social worker or care co-ordinator. If you don't have a social care worker/care co-ordinator then contact the access team:

- email acessteam@wandsworth.gov.uk
or telephone **020 8871 7707**, or minicom **020 8871 8485**
(Monday - Friday 9am to 5pm)

Q24 What happens if you don't comply with the direct payment regulations?

When you start on direct payments, you agree to certain conditions and duties and enter into a contract with Wandsworth Council (Direct Payment Legal Agreement). The council has the right to stop your direct payments if you do not comply with the regulations as laid down in this letter of agreement. We would try and discuss any problems with you before this happened, as often there is an explanation as to why someone is having difficulty keeping up with the paperwork etc.



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We will try and assist in every way to overcome any difficulties. However, if direct payments money has been used inappropriately or you cannot account for how it has been spent, or if you are not receiving the services you have been assessed as needing we will have to stop your direct payments. These are not common problems and issues can often be resolved, but it is important to make sure that you are clear about your responsibilities both as an employer and as a service user. If we make a decision to stop your direct payment we will review your care and support plan to meet your ongoing unmet eligible needs.

Q25 What happens if you get into difficulties with your direct payment? Where do you go for help?

Inform the direct payment helpline by telephoning **020 8871 6470** or email directpayments@wandsworth.gov.uk or contact your social worker/care co-ordinator or your direct payment support agency as soon as possible. We will provide you with as much support as possible to ensure the money you receive through your direct payment is spent effectively to meet your needs and is properly accounted for. If we feel that you are struggling to cope with your direct payment or not spending it on the services documented in your care and support plan to meet your needs, we may suggest your direct payment is:

- paid to an appointed representative; or
- paid to a Third Party Supported Account

If we are unable to resolve the problems we will stop your direct payment and the council will either arrange a direct payment support agency or provide you with a managed service.

Q26 What happens if you no longer want to use direct payments?

It is up to you if you want to stop your direct payments. You simply tell your social worker/care co-ordinator, giving 4 weeks notice where possible. This will then give enough time for any staff you employ to be given proper notice and alternatives to be made for your care. Any excess money in your account after all outstanding payments have been made will have to be paid back to the council.

Q27 How can you complain if you are not happy?

If you are not happy with the way we have managed your direct payment, please tell us. We try hard to get things right and if you are unhappy we want to know so that we can improve our services. Contact us by telephoning **0800 023 2011** (freephone), or email us at ssdcomplaints@wandsworth.gov.uk. A copy of our complaints procedure is available on request from our complaints and information team on the freephone number above.

If you are not happy with the services being provided by an agency or an individual, you should complain to the agency or take it up with the person concerned. You may find that an independent mediator can help resolve your problem.



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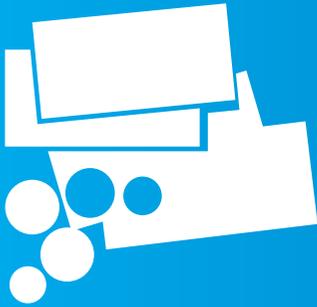
Q28 Where can you get more information?

If you wish to discuss direct payments further, then please contact your social worker or care co-ordinator. If you do not have a social care worker or care co-ordinator then contact:

- the access team: **email accessteam@wandsworth.gov.uk** or telephone: **020 8871 7707**, or minicom **020 8871 8485** (Monday - Friday 9am to 5pm).

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Information in this fact sheet is correct to the best of our knowledge as of April 2015.



Further information

If you have any questions about this fact sheet or if you need it in a different format (for example, large print) please phone (020) 8871 7707, email acessteam@wandsworth.gov.uk or minicom (020) 8871 8485.

For information about local services visit our website www.wandsworth.gov.uk/acis