

Direct Payments

Information and Guidance Booklet



Direct payments from Hertfordshire County Council for adult social care





Inside you will find the information you need to help understand what a direct payment is and how to manage and spend your direct payment. We have some more fact sheets available on request. Either call us on **0300 1234 042** or you can read and download them online at **www.hertfordshire.gov.uk/directpayments**

If you chose to have a direct payment please read the 'Terms and Conditions' as this will form part of your direct payment agreement.

For more information about our charging policy, please visit **www.hertfordshire.gov.uk** or contact us on **0300 123 4042**.

This information tells you about:

Getting a direct payment

Spending your direct payment

Managing your direct payment

Changes to your direct payment

Employing a personal assistant

Direct Payment Account Card

Terms and conditions

Getting a direct payment

What is a direct payment?

A direct payment is a cash payment that we pay direct to you if you have eligible care and support needs. Having a direct payment means you can have more choice and control over arranging your own care and support, including who helps you, and at what time. A direct payment is not a form of income and will not affect your benefits. Direct payments are not a benefit and are different from the Department of Work and Pensions 'direct payment'.

Who can have a direct payment?

Direct payments are available to anyone who currently has support or has been assessed by us as needing support from us. You must be aged 16 or over and willing and able to manage this money, with help if needed.

How much will my direct payment be?

The amount of money we pay you will normally be no more than it costs us to buy the care and support you need. Depending on your income and savings, we may ask you to pay a contribution towards the cost of your care. If you need to pay a contribution then we will deduct it from the amount we pay you.

How will I get my direct payment?

We will send you a direct payment account card. We pay the money into this account so you can buy what you need. The direct payment account comes with a payment card (like a debit card) and can be used anywhere the MasterCard logo is displayed. There is no cheque book but you can set up direct debits and standing orders and purchase your support online, in shops and over the phone. You can also make cash withdrawals and check your account online. If you need to pay some money towards your care you will need to pay your contribution into this account. The easiest way to do this is with a standing order.

Spending your direct payment

What can I spend my direct payment on?

It's up to you. You can pay for help from anywhere you want as long as the service or equipment you buy is legal and meets your agreed social care needs. You can choose to buy traditional services from a care agency or day centre but you don't have to. Your care and support plan will set out what you want to achieve and how you intend to spend your direct payment.

What can't I spend my direct payment on?

You cannot use your direct payment for anything that does not help meet your agreed care and support needs or for anything that is illegal. If you are not sure if the service or equipment you wish to buy is OK then please ask us first.

Withdrawing cash

Sometimes you may need to take some cash out to buy what you need. You will need to keep receipts to show us how the money has been spent. If spending cash is something you need to do regularly then it must be discussed and agreed with your care manager and written in your care and support plan. Cash withdrawals are limited to £50 per day.

Incorrect spending and fraud

Always check with us first if you need advice on spending your direct payment. Some people have spent their money on things they don't need. Most of the time it's a mistake and we will help you if this happens. Sometimes people want to do something new or different but are not sure if it's OK to spend their direct payment in this way. If this happens then you should ask us for help. We will look at your care and support needs and see if it is OK. In rare cases people buy things they shouldn't. We take fraud very seriously and we will investigate all situations where fraud is suspected and involve the police if we need to.

Using a broker

A broker is someone that can help you work out how to spend your direct payment. They can help you to find what you need and workout

how much it might cost. Brokers may charge a fee so be sure to obtain a quote before proceeding. If you are concerned about the cost of brokerage service please discuss this with your social care worker. For more information on brokers visit us online at www.hertfordshire.gov.uk/directpayments or call us on **0300 123 4042**.

How people have spent their direct payment

These are some examples of how people in Hertfordshire have spent their direct payment.

• Employing a Personal Assistant

This means directly employing someone to help you. Some people say this gives them the most freedom and control over the help they get. You can agree with a personal assistant how much help you want and when you want it. This might include help with personal care, preparing meals, shopping and help getting out and about. This option comes with the responsibility of being an employer. This might sound like a lot of responsibility but support and advice is available free of charge if you want to do this.

• Using a Care Agency

Some people like to buy care from a care agency. This is popular because it's quite easy to do and you can use any agency you choose. The amount of money we pay you will normally be no more than it costs us to buy the care and support you need. Some private care agencies can be very expensive so you may need to think about using a cheaper care agency or think about what you might be able to do for yourself rather than pay someone to do.

• Being active in your community

Getting out and about in your community might be very important to you. A lot of people like to use day centres because these are fun and friendly places but not everyone wants to go to one. You can use your direct payment to take part in meaningful activities like support to take part in a hobby or support to visit places of interest.

• Taking a break

Friends and family can spend a lot of time looking after someone they care about. These people are often called carers. Carers can also have a direct payment to take a break from their caring role, explore opportunities to relax and perhaps get things done which they have not had time to do.

Managing your direct payment

When you choose to have a direct payment you will need to make sure you don't spend too much and what you buy must meet your agreed needs. You can have as much or as little help as you want to manage your direct payment.

Who can help me manage my direct payment?

You may decide that you want a family member or friend to help in which case you can nominate someone to help you. You will need to tell us who this person is. Some people are not able to manage the direct payment but would still like to benefit from them. In these cases we can help to find appropriate support and authorise someone to manage the money on their behalf. This could still be a friend or family member.

What to do in an emergency

You should agree and write down a backup plan (sometimes called a contingency) with your care manager and record this in your care and support plan. For example: if you employ a personal assistant and they are sick you may need to arrange replacement care quickly. Your back-up plan might include saving some money to buy care from an agency in an emergency.

If you are likely to be in hospital for a long time, please let us know.

What if I run out of money?

If you run out of money and you don't have enough to pay for the help you need you must call us. We will make sure that your care needs are met. At a later date we may need to review how you are spending the direct payment and discuss how best to meet your care and support needs.

Left over money

You can save some money from your direct payment for emergencies and to meet any outstanding costs that you haven't paid for yet. If you have a large amount saved then we will contact you to discuss this. If you don't need it we will ask for this to be returned to us. Money returned to us is used to support other people living in your community.

Please contact us if you need advice on money you have left over, or if you are finding that you do not need to spend all of the money you receive.



Changes to your direct payment

Reviewing your direct payment

Once your direct payment has been set up we will review it with you within the first eight weeks. We do this to make sure you are getting the support you need and you are happy using the direct payment. If you have any questions or concerns before or after this review speak to your care manager or call us on 0300 1234 042

Changing your direct payment amount

If you find you need more help then you must call us so we can arrange to come and see you. We will first look to see if there are local community or voluntary services that can meet your needs and we may need to adjust your direct payment. Sometimes people find other ways to meet their needs and don't need as much help as before and don't need as much money. If we are going to reduce your direct payment we will always write to you and you will have a chance to appeal if you don't agree with the change.

Cancelling your direct payment

Hertfordshire County Council reserves the right to suspend or remove your direct payment and take back any left over money if you are not using it properly or if you do not follow the requirements set out in your direct payment agreement and the 'Terms and conditions'. We will provide you with as much help as possible before we do this. We will still provide services to meet your needs instead of a direct payment. For example, if you use a direct payment to buy care from a care agency we will make these arrangements for you but it may be from a different care agency.

Please refer to the 'Terms and conditions' for more information.

Employing a personal assistant

A personal assistant is someone that you employ directly to give you the care and support you need. If you decide to do this there are some things that you will be responsible for which we will help you with.

You will be expected to:

- provide a safe working environment with information on any potential health and safety risks in your home and when going out into the community
- make sure your personal assistant has relevant training, such as moving and handling or first aid
- provide a written contract setting out the conditions such as pay, hours, holidays and notice periods etc.
- take out Employer and Public Liability insurance and renew this every year. This is essential to protect you in the event of your personal assistant having an accident
- to employ lawfully, i.e. to make sure you are recruiting someone who is legally allowed to work in the UK
- make sure that you do not discriminate against a worker on the grounds of race, sex, sexual orientation, disability, age or religion
- pay staff correctly, including registering with the Inland Revenue, paying tax, pensions and National Insurance for staff. Payroll companies can do this on your behalf and can help you set this up
- ensure that you deal with any staffing issues in a reasonable manner

Disclosure and Barring Service (DBS)

Hertfordshire County Council strongly advise that you ask your personal assistant to complete a DBS check, so that you are sure that they are safe to work for you and have no criminal convictions that may impact on their ability to support you. We will do the DBS check for you for FREE.

Recruitment and wages

To have a personal assistant, you will need to provide a job application form, a job description and employment contract. You will need to make sure that you have calculated their wages correctly including holiday and sick pay, pensions and insurance. We will help you do this. Leonard Cheshire is a charity who provides free information and advice on employing a Personal Assistant. If you wish to speak to them about employing a Personal Assistant you can call them on **01462 439000** or email **direct.payment@lcdisability.org**

Please be aware that even if your personal assistant states that they are self-employed, you may still be treated as their employer in the eyes of the law.

Direct payment account card

If you choose to have a direct payment we will open and issue a direct payment account card for you. We pay the direct payment into this account so you can pay for the support you need. You will be able to view and manage your account online and use telephone banking if you need help. You can set up direct debits and standing orders, and buy goods and services you need in-store and online and take cash out. You won't need to send us in regular bank statements for monitoring as this is done automatically.

How does the direct payment account card work?

The account card works in a similar way to a normal debit card. It has its own unique account number and sort code and can be used anywhere the MasterCard logo is displayed. We pay your direct payment into the account every 4 weeks. There is no cheque book or overdraft facility so you can't spend over your budget and get into debt. If you pay a contribution towards your care you will need to pay this into the account to make sure you have enough money to pay for your care and support. The easiest way to do this is by standing order.

The money on the card must never be used for any other purpose than buying goods and services that you need to meet your eligible care and support needs.

How do I get a direct payment account card?

We will open and send the direct payment account card to you in the post. When it arrives you will need to activate it which can be done easily over the phone. Details on how to do this come with the card. There is no cost to you for using a direct payment account card.

There is some more information in our Frequently Asked Questions factsheet available online at www.hertfordshire.gov.uk/directpayments or you can call us on 0300 1234 042.

Keeping records for my direct payment

You do not need to send us your bank statements or keep detailed records of your spending because the direct payment account card does this automatically. If you have taken out cash to buy something then you must keep the receipt for our records.

Please keep a copy of the following:

- your direct payment agreement form
- your Care and Support Plan
- any letters from Hertfordshire County Council
- receipts for cash withdrawals and payments
- payroll details (if you employ a personal assistant)

But I already have a direct payment?

If you have had a direct payment for a long time you might still have an old bank account which the direct payment is paid into. If you do then you must continue to send bank statements to us, four times a year. We will send you a list of dates when your bank statements are due.

Please keep a copy of the following:

- your direct payment agreement form
- your Care and Support Plan
- all invoices and receipts
- receipts for cash payments
- copies of your bank statements
- cheque books and paying in books
- payroll details (if you employ a personal assistant)
- letters from Hertfordshire County Council.

We will be supporting everyone with existing direct payments to open a direct payment account card. If you want to move to a direct payment account card to make things easier please call us and we will be happy to help you. More information about the direct payment account card and some frequently asked questions are available online at www.hertfordshire.gov.uk/directpayments or you can call us on 0300 1234 042



Terms and conditions for the provision of a direct payment

Please note that if you agree to have a direct payment, the following provisions will form part of the conditions of your direct payment.

This Agreement is governed by the Law of England and Wales. This Agreement is intended to reflect current legislation. Should a conflict arise between the terms of this Agreement and the current legislation, the legislation will override the terms of this Agreement.

Monitoring of financial arrangements

In order to enable the County Council to monitor the use by you of the direct payment you will:

- use a direct payment account card for all transactions in respect of the Services that you purchase with your direct payment and for your own contribution to the cost of meeting your care needs
- keep copies of all receipts when spending cash, in respect of the Services that you purchase with your direct payment
- in exceptional circumstances, and with prior written agreement, set up a dedicated personal direct payment bank account instead of a direct payment account card, for all transactions in respect of the Services that you purchase with your direct payment and for your own contribution to the cost of meeting your care needs
- if using a dedicated personal bank account, provide to the County Council copies of all bank statements, on a quarterly basis. We will send you a list of dates when your bank statements are due.

- provide to the County Council (when requested to do so) all documentation held by you that sets out the care that you receive. This will include any bank statements; cheque books, invoices, receipts, PAYE information, national insurance information and other payroll records. This list is not exhaustive and the County Council reserves the right to request additional information that it reasonably considers necessary for the proper administration of the direct payment.
- keep the records outlined above for a minimum period of two years or for a minimum period of 6 years if the records have tax implications.

If you have money you have not spent you should contact us to discuss its return. If we are aware you have money you have not spent we will contact you and may ask for it to be paid back to us.

Overpayment of the direct payment

Where the County Council considers that it will be necessary to make an adjustment in your payment to correct an overpayment it will inform you of its decision in writing, providing reasons, and give you 4 weeks notice of when the adjustment will take place. On receipt of the notice from the County Council you will have 14 days in which to respond if you wish to challenge the decision.

Reviewing the direct payment

The County Council will review your care needs and the operation of your direct payment within first 8 weeks of setting it up. Reviews will then be undertaken on a yearly basis unless an earlier review is needed. If you think that your needs have changed, and you have informed us of this, the review can be done sooner.

A review will determine if your care needs have changed, whether the services you have arranged are meeting the outcomes in your Care and Support Plan, how you are coping with the arrangements for ensuring the provision of the Services and whether the amount of the direct payment needs to be changed. If your needs have decreased

the County Council may reduce or cease the direct payment.

If you disagree with the amount of your direct payment

Before changing the amount of the direct payment the County Council will let you know in writing why the amount is changing. If you disagree with the change you will be able to respond to any proposed change in our letter within 14 days:

- if you do not respond you will be given 4 weeks notice of the date when the change will start
- if you do respond within 14 days, the head of service (who is responsible for your local area) will consider your wishes and feelings and will provide a decision to you, with written reasons, within 28 days of your response
- if the head of service does decide that a change will take place, they will confirm the date when the change will start, giving you not less than 14 days notice

Providing support to you by using a direct payment is not working

In the event that using a direct payment to purchase Services to meet your needs is not working, whether in an emergency or not, the County Council agrees to ensure that you receive the Services required to meet your eligible needs need and will arrange these directly for you.

Repayment of direct payments to the County Council

The County Council require you to repay some or all of your direct payment if the County Council is satisfied that:

- you have saved more than four weeks direct payments money. This does not apply where the money is to cover a future contingency or payment for a necessary Service.

- the payment or any part of it has not been used to secure the provision of Services or some part of the Services necessary to meet you eligible social care needs
- you have received payment from a third party for the Services or some part of the Services

Complaints

If you would like to comment, compliment or complain about any of our services please contact us online at

www.hertfordshire.gov.uk/haveyoursay or call us on **0300 1234 042**

What happens to my direct payment account if I die?

The money provided to you through your direct payment does not form part of your estate. It will be the responsibility of your Personal representatives to ensure that your estate is correctly administered and any balance of a direct payment account is refunded to the County Council promptly.

The County Council will carefully consider subject to evidence being provided what, if any, contractual responsibilities you had outstanding at the time of your death when determining what balance of the direct payment will need to be repaid to the County Council

Ending the direct payment agreement

In addition the County Council is able to end the direct payment by giving you written notice in the following situations:

- the County Council is not satisfied that the arrangements made by you are adequate for securing the Services you need
- any of the terms of the agreement for the provision of a direct payment are not being met by you or any person or organisation managing the direct payment on your behalf, including a failure to comply with the monitoring of financial arrangements

- you are spending the direct payment or any part of it on something illegal or Services that are not necessary to meet your eligible needs and identified outcomes in your Care and Support Plan
- you are using the direct payment in any way which the County Council views as inappropriate or unsatisfactory

In the event that the County Council decides that it has to end your direct payment it will provide written reasons why this is being considered.

You will be given 14 days from the date of the County Council's letter to respond to the County Council with your wishes and feelings

If you have not responded within the 14 day time period the County Council will give 4 weeks' notice of an end date, in writing.

If, following consideration of your wishes and feelings, the Head of Service decides that the direct payment agreement is still to be ended, the County Council will give 4 weeks written notice of an end date, along with the reasons for the rejection of your wishes and feelings.

Where required, once a direct payment has been ended a direct service will be arranged if this is needed to meet your eligible social care needs.

Where a direct payment agreement is ended by either party, the County Council will carefully consider what contractual responsibilities (if any) you had when determining what balance of the payment is to be repaid to the County Council. The balance must be repaid to the County Council within 14 days of the County Council notifying you of the amount to be repaid.

There may be certain circumstances when a responsible Head of Service may need to end the direct payment agreement in an emergency.



Contact Us

Our website

Information about adult social care – find about care services, day centres and apply online for meals on wheels or a Blue Badge. You can also comment, compliment and complain. www.hertfordshire.gov.uk/adults

Hertfordshire Directory

Find national and local community groups, charities, services and activities www.hertfordshire.gov.uk/directory

Call us

For information on how to get care and support

Email: contact@hertfordshire.gov.uk

Telephone: **0300 123 4042**

Textphone: **0300 123 4041**

www.hertfordshire.gov.uk/contactus

HertsHelp

Independent information and advice on local community services and care funding

Telephone: **0300 123 4044**

Textphone: **0300 456 2364**

Email: info@hertshelp.net

www.hertshelp.net



British Sign Language (BSL) remote video interpreting available via a free link on both the HCC and HertsHelp websites.

Drop in

To your local library – see www.hertfordshire.gov.uk/libraries

If you are worried that you or someone you know is at risk of abuse or neglect Call us on **0300 123 4042** (24 hours a day)

If you need help to understand

Call **0300 123 4042** if you would like help to understand this information or need it in a different format. You can also ask to speak to someone in your own language.

Calls to **0300** cost no more than a national rate call to a **01** or **02** number

