

A guide to Direct Payments



This guide explains how Direct Payments can be used to pay for care and support services in Oxfordshire.

www.oxfordshire.gov.uk

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This booklet was produced in April 2018 and the information in it is based on current national guidance and policies and on Oxfordshire County Council's policies and procedures.

www.oxfordshire.gov.uk/adultsocialcarepolicies

If you choose to receive a Direct Payment, you can still come to us if you are worried about:

- **your care or safety;**
- **the services you are receiving;**
- **the way your Direct Payment funds are being used or managed;**
- **the way a family member, carer or someone else is treating you.**

Call us on 0345 050 7666 or email SocialAndHealthCare@Oxfordshire.gov.uk

What are Direct Payments?

If you choose to receive a Direct Payment, you will be paid a sum of money to allow you to organise care services yourself, rather than the council arranging them for you.

Some people decide to combine the two options – they arrange some services themselves and ask the council to arrange the rest.

Getting your care and support needs assessed

Eligible care needs

To determine if you are entitled to receive a Direct Payment, we must complete an assessment to confirm whether you have eligible needs (whether you are entitled to help from the council). You have the right to an assessment no matter what your ability is to pay for the care you may need.

You can request an assessment through our Social and Health Care Team online www.oxfordshire.gov.uk/requestassessment or by calling **0345 050 7666**.

Personal Budgets

If you have eligible needs you will be entitled to a Personal Budget; this is the amount of money that we believe that you require to meet your needs.

In some circumstances, we may assess that your eligible needs can be met in other ways, for example by providing you with information and advice or other services, or by you attending a club run by a voluntary organisation.

Support Plan

If you have eligible needs, we will draw up a Support Plan with you. It covers what you want to achieve, outlines the ways in which you want your needs to be met and how your Direct Payment will be spent.

Financial Assessment

If you have an eligible care need, we will assess your finances to determine what you will have to contribute towards the cost of your Direct Payment. The amount you have to contribute will depend on a number of factors but most people have to pay something. You can find out more by asking for a copy of our 'Paying for Care' booklet or by visiting www.oxfordshire.gov.uk/payingcare

Why choose a Direct Payment?

A Direct Payment gives you more choice, flexibility and control over the care you receive.

Some people use the money to buy care from an agency and others, to directly employ their own staff. The contract will be between you and the agency/person providing your care. This means you will be responsible for dealing directly with them and resolving any issues or disputes that arise.

You can opt in and out of using a Direct Payment at any time.

You cannot currently use a Direct Payment to pay for a permanent placement in a care home.

Using your Direct Payment

You **must** only use your Direct Payment for services and support that are safe and appropriate and that help you meet the outcomes set out in your Support Plan.

You **cannot** use the money you receive as part of your Direct Payment to:

- Pay for general living costs such as food, housing costs, household bills or other day-to-day expenses;
- buy alcohol, anything illegal or, to gamble;
- buy food, drinks, or gifts for you or anyone else;
- pay for services provided by the County Council;
- pay your mortgage or loan repayments;
- buy disability adaptations for your home or services directly provided by the NHS.

You must only spend your Direct Payment money on services that meet the specific needs agreed in your Support Plan. Please seek advice from your allocated worker if you are unsure.

The council has a duty to ensure that whatever you spend your Direct Payment on offers value for money. This means that we may not be prepared to pay the full cost of something you choose to buy if a cheaper alternative is available.

Signing the Direct Payment agreement

If you choose to receive a Direct Payment, you will be expected to sign a Direct Payment agreement form. This is a legal document which sets out the terms and conditions you will need to agree to when receiving a Direct Payment.

Reviews of your Direct Payment

Your Direct Payment will be reviewed after the first 6 months and then annually thereafter. This is to ensure that you have enough within your budget to pay for your care and for the council to redeem any surplus funds.

Your responsibilities when using a Direct Payment

You will be required to keep a record to show how you have spent your Direct Payment. If you have a Direct Payment Online Account this record of your spending will be available online. If you can't account for everything you spend, or you use the money for items that are not in your agreed Support Plan, you will be asked to reimburse the council.

Oxfordshire County Council has a zero tolerance approach to fraud and corruption. We know that the vast majority of people use their Direct Payment appropriately; however, we will take action against any attempted or actual fraudulent acts relating to Direct Payments.

If you have any questions about using your Direct Payment, please contact our Direct Payments Team – their details are at the end of this booklet.

You may decide that a Direct Payment is not appropriate for you. If this is the case, we will arrange for you to receive care from one of our approved care agencies – we call this a council managed service.

Spending your Direct Payment

Direct Payments provide you with the flexibility to decide how you want to meet your eligible needs. In this section we look at some of the common ways people choose to do this.

Care agency services

You or someone who is representing you may choose to use your Direct Payment to buy care from an agency. The care agency has responsibility for the staff who provide your care.

If the agency is providing you with personal care (for example, assistance with feeding, toileting, dressing and washing or bathing) it must be registered with the Care Quality Commission, which is the independent regulator of health and social care in England.

You can find out if your agency is registered either by confirming with them or by contacting the Care Quality Commission on 03000 616161 or by visiting their website www.cqc.org.uk

Personal Assistants

Your Direct Payment can be used to pay for a Personal Assistant – this is someone who can provide you with support and can help you to live independently.

Personal Assistants carry out a wide range of tasks, for example, they can help you to get dressed, cook, or support you in other ways as agreed in your Support Plan.

There are certain rules and regulations that you must comply with if you decide to employ a Personal Assistant. You can find out more on page 10.

Respite and short breaks

You may be able to use your Direct Payment to arrange short breaks or respite care, as long as this is agreed as part of your Support Plan.

You might choose to use a combination of the above options but it's important to remember that whichever option you choose, you must be able to demonstrate how it meets your eligible needs and the outcomes set out in your Support Plan.

Employing family members

Sometimes people find that employing a family member can work well for them.

Only in exceptional circumstances will you be allowed to use your Direct Payment to employ a family member who lives with you. A senior manager within the council will need to authorise this.

Ending the arrangement

It's important to consider what will happen if you want to terminate your arrangement with the care provider, including the potential timeframes that are involved. The agency or person providing your care will normally expect to be given a notice period unless you can justify ending the arrangement immediately. This is something you'll need to put in your contract of employment with them.

You should also discuss with the care provider what will happen if they choose to stop providing your care for any reason and if this happens whether you are able to appeal their decision.

Who can manage your Direct Payment?

You have a choice to either manage your Direct Payment yourself or you can choose someone to do it on your behalf.

Below are some of the terms often used to describe a person, or people, who can manage a Direct Payment on your behalf.

A Nominated Person is someone who you have agreed can manage the Direct Payment on your behalf. This can be a family member, friend, other individual or an organisation.

An Authorised Representative is someone who agrees to manage your Direct Payment if you have been assessed by a professional as lacking mental capacity to do this yourself.

Either you or your Nominated Person or Authorised Representative will be responsible for your Direct Payment. This includes:

- managing the Direct Payment account;
- making sure the Direct Payment is spent in a way which meets your eligible needs and the outcomes set out in your Support Plan;
- ensuring that spending is within your budget;
- arranging care and support;
- managing invoices and timesheets;
- and sending statements and receipts to the council as necessary.

*You may like the flexibility that Direct Payments bring, but find the idea of becoming an employer or managing the payment quite daunting. If this is the case, we recommend that you use an organisation called **Purple** to help and support you with this. You can find more information at <http://www.wearepurple.org.uk/>*

*You can get support from **Purple** whether you are managing your own Direct Payment or whether you are managing it for someone else. You can get further advice about whether or not a managed account is right for you by contacting Direct Payment and Employment Information and Advice Service (contact details on p15).*

Receiving your Direct Payment

You can receive your Direct Payment funds in different ways.

Direct Payment Online Account

A Direct Payment Online Account (DPOA) is a simple way for the Council to pay you the Direct Payment you receive to meet your care needs.

The account provides a safe way to handle funds, and in an emergency funds can be added almost instantly.

Oxfordshire County Council will set up the account for you and you will be issued with a payments card that you can use to purchase your care.

Self-Managed Account

Your Direct Payment will be paid into a dedicated bank account which must only be used to pay bills relating to your care and support. This account can be a standard current account with online banking facilities and a debit card. You or your representative can access this account.

If a nominated person manages your funds, they can open a bank account in their name.

You, or the person representing you, will need to account for every payment made and send bank statements and receipts to show how you have spent the money.

Managed Account Service

An organisation can hold your Direct Payment for you and pay care bills on your behalf.

Our approved Managed Account service is provided by a company called Purple. As part of their service they will provide you with a monthly statement of your funds.

If you would like to find out more or discuss which option might be best for you, then please contact our Direct Payments Team using the details at the end of this booklet.

Employing your own Personal Assistant

Your Direct Payment can be used to pay for a Personal Assistant - this is someone who can provide you with support and can help you to live independently. Personal Assistants carry out a wide range of tasks, for example, they can help you to get dressed, cook, or can support you to go out and about. The tasks they carry out must be part of your Support Plan.

There are many benefits of employing a Personal Assistant including:

- more choice and control in arranging your own care;
- greater flexibility – you can plan your support to fit around the way you choose to live your life;

Your responsibilities

If you or the person representing you decides to employ a Personal Assistant, you are responsible for:

- drawing up a contract of employment;
- checking and signing their time sheets;
- making sure they work to their job description and the hours agreed in their contract;
- putting alternative support arrangements in place when your employees take their holidays or are off work due to sickness;
- ensuring up to date Employers' Liability Insurance is in place;
- ensuring you administrate all payments to your employee through a PAYE system. You can do this yourself or through a Payroll service on your behalf.
- ensuring your assistant has the correct employment status and, if self employed, have written status-confirmation from HMRC (see below).

Getting support with your responsibilities

Some people find these responsibilities quite daunting, if this is the case, the council have commissioned an organisation called Purple that can help you. As part of their service they will:

- Process payroll and pay your employee(s).
- Issue payslips for your employee(s).
- Liaise with Her Majesty's Revenue and Customs (HMRC) to make sure you have paid the appropriate tax.
- Submit all HMRC monthly and annual returns.
- Act as your agent and register you and your employee's with HMRC and make payments via a PAYE system.
- Administrate any pension scheme contributions and communicate as your agent with the Pension Regulator.

If you or the person representing you is unable to understand employment contracts and the responsibilities of managing staff, someone else will need to act as the employer on your behalf.

Your Personal Assistant's meals

It is not your responsibility to provide your Personal Assistant with meals but some people choose to do so. If you do, you cannot use your Direct Payment to cover the costs of their meals.

Deciding how much to pay your Personal Assistant

You must pay them at least the National Minimum Wage or National Living Wage. These are the minimum amounts you must pay before any tax, National Insurance or similar deductions have been taken off. You can find out more information about the National Minimum/Living Wage and the rates you must pay at <https://www.gov.uk/national-minimum-wage-rates> or by calling the National Minimum Wage Helpline on **0845 6000 678**.

On average the typical hourly rate for a Personal Assistant is around £8.50 per hour, which is above the national minimum wage.

You will need to pay them mileage expenses for journeys you make (only incurred during working hours) and should not include the costs of Personal Assistant's daily commute. You must ensure they have commercial car insurance in place if they are using a car while working for you.

You need to make sure that the hourly rate you choose is affordable, based on your Direct Payment amount, and can be maintained in the long term. You will also need to factor in the additional costs listed below.

Additional costs to consider

When you are deciding how much to pay your Personal Assistant you need to factor in additional costs such as:

- tax and National Insurance;
- sick leave;
- holiday pay;
- insurance (required by law);
- training costs;
- contributions towards a work pension – you can find more information about pension auto enrolment on the government's National Employment Savings Trust website (NEST);
- and redundancy or maternity payments (if applicable).

You will typically need to set aside 27-30% of your Direct Payment to cover these costs.

You cannot pay your Personal Assistant cash in hand or use your Direct Payment to pay their travel costs to get to work, or anything beyond what is stated as their entitlement in their contract of employment.

Self-employed Personal Assistants

It is your responsibility to make sure your Personal Assistant's employment status is correct and you should think carefully before treating them as self-employed. If Her Majesty's Revenue and Customs (HMRC) disagree with you, and decide that your Personal Assistant is actually your employee, you may be at risk of penalties and fines from HMRC if they view the PA as your employee.

The council cannot accept liability in the event of penalties or fines being imposed by HMRC.

It is very important to contact HMRC to check if your PA is classed as employed or self-employed. You can find out more about determining whether or not your Personal Assistant's employment status is correct phoning 0300 123 2326. Please be sure to ask HMRC for written confirmation of your Personal Assistant's employment status. You can also visit www.gov.uk and enter 'employment status' in the search field to read more.

Recruiting a Personal Assistant

If you decide you want to employ a Personal Assistant it's worth making a list of the things you need them to help you with. This can be used to form a good job description.

Make your recruitment safer

We advise that you carry out a Disclosure and Barring Service (DBS) check on any Personal Assistants you employ. A DBS check helps to ensure that the person you are employing does not have previous convictions which may make them unsuitable for the role. You can find out more by going to www.gov.uk and typing DBS into the search box.

If you have children under the age of 18 in the house, you must ensure your Personal Assistant undergoes a Disclosure and Barring check before they can start working for you. You are responsible for making sure that the check takes place and following up on the outcome.

This will be required whether the Personal Assistant supports just you, or helps you to look after your children.

Further information about employing a Personal Assistant

The organisation, Skills for Care, have produced a toolkit which provides more detailed information for people employing Personal Assistants. You can find it on their website www.skillsforcare.org within the 'Employing your own care and support' pages.

Useful contacts

Worried that someone is at risk of abuse?

*If you or someone you know is being abused or mistreated or is at risk of being abused or mistreated, please let us know immediately by calling us on **0345 050 7666**.*

We will act very quickly to protect you or the person at risk and ensure that you can be kept safe from abuse. We will decide what other help you can be given to continue to keep safe.

Oxfordshire County Council's Direct Payments Team

If you have any questions or would like some advice about your Direct Payment, please contact the Direct Payments Team by calling 0330 024 1787 or by emailing direct.payments@oxfordshire.gov.uk

Comments, Compliments and Complaints Service

If at any point in time you have a comment, complaint or compliment to make about your Direct Payment, please contact our Comments, Compliments and Complaints Service:

Call: [01865 323589](tel:01865323589)

Email: commentsandcomplaints@oxfordshire.gov.uk

Alternatively you can write to:

Comments, Compliments and Complaints Service

Oxfordshire County Council
Freepost RRYR-XTBE-GBTZ
County Hall
New Road
Oxford OX1 1ND

If you have arranged your own care, and have any complaints, comments or compliments to make about it, please contact the agency providing your care. Usually by talking to someone in the agency they can put it right. If you are unable to resolve your concerns with the agency directly, please contact our Comments, Compliments and Complaints Service for advice.

Oxfordshire County Council's Social and Health Care Team

If you want to arrange an assessment to find out if you are eligible for a Direct Payment or have any questions about social and health care, you can contact this team:

Call: *0345 050 7666*

Email: *socialandhealthcare@oxfordshire.gov.uk*

Direct Payment & Employment Support Helpline

Information and advice on your Direct Payment and employing personal assistants.

Call: *01865 410307 Tuesdays & Thursdays 10am – 1pm*
answer phone facility available

Email: *Helplineoxon@connectionsupport.org.uk*

Connect-Up Direct Payment Networking Group – People do not need to be referred by their Social Care or Health Care Practitioner and can contact our Helpline directly if interested in participating in this group.

Connect-Up Direct Payment Network Group

This organisation provides Managed Account and Payroll services.

Payroll Service Enquiries

For enquiries from Employer's with existing payroll service.

Call: *01245 392300*

Email: *payments@wearepurple.org.uk*

Managed Account Service Enquiries

For enquiries for existing Managed Account users

Call: *01245 392300*

Email: *finance@wearepurple.org.uk*

Community Information Network

The Community Information Network is there to provide you with information about local support services and activities, money matters and social care.

Call: *0345 450 1276*

Email: *network@ageukoxfordshire.org.uk*

www.ageuk.org.uk/oxfordshire/community-information-network

Carers Oxfordshire

Carers Oxfordshire is a free service that offers information, advice and support to carers.

Call: *0345 050 7666*

Email: *carersoxfordshire@oxfordshire.gov.uk*

The Oxfordshire Young Carers Service

The Oxfordshire Young Carers Service supports young carers and their families across the county.

Call: *07919 298263*

Email: *young.carers@oxfordshire.gov.uk*

If you would like this publication in an alternative format, for example large print, or if you need help communicating with us, for example because you use British Sign Language, or if you need help understanding information, please let us know.

You can call us on

0345 050 7666

or email

socialandhealthcare@oxfordshire.gov.uk

or write to

The Social and Healthcare Team

Oxfordshire County Council

County Hall, New Road, OX1 1ND

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