



Direct Payment Agreement

with the Direct Payment Recipient

Form DP1

(Updated November 2021)

This Agreement should only be used if the Direct Payment Recipient is aged 16 or over and has capacity to consent to the Direct Payment. If the Recipient has been assessed as lacking capacity to consent, Form DP2 - Direct Payment Agreement with an Authorised Person should be signed.

A. About this Agreement

This Direct Payment Agreement includes the rules about using the Direct Payment. The back page includes an explanation of some of the words and phrases that have been used.

If there is anything that you do not understand, please ask your health, social care, or education worker.

This Agreement should be read alongside the Plan. The Plan is the document that includes information about your care and support needs and how they will be met. The Plan also explains how much of the Personal Budget will be paid as a Direct Payment and details the goods and services that you can pay for with the Direct Payment.

You are advised to take independent legal advice before signing this Agreement.

THIS AGREEMENT is made on (date) _____ between

1. Redcar & Cleveland Borough Council of Redcar and Cleveland House, Kirkleatham Street, Redcar, Yorkshire, TS10 1RT (referred to as "The Council" in this agreement)

And

2. (name) _____ Of (address) _____

(referred to as "You," or "The Recipient" in this agreement)

Part B: What You (the Recipient) agree to do

Using the Direct Payment to buy goods and services

1. The Direct Payment must only be used to pay for services, goods or minor works that are agreed with the Council and written down in the Plan.
2. A Direct Payment for a Carer must only be used to buy goods and services that meet the Carer's needs and are recorded in the Carer's Plan.
3. When buying a service from an individual or organisation, you are responsible for negotiating the terms of the contract. This includes but is not limited to the price you will pay, the days and times that care will be provided, charges if the service is not provided (for example because of a holiday or a hospital stay), and the process/penalties for

terminating the contract.

4. You must keep a record of any contracts, service agreement and/or terms and conditions for any goods, services or works that are paid for with the Direct Payment.
5. In all but exceptional circumstances, goods and services will be paid for using the Direct Payment Card.
6. You must make appropriate contingency arrangements if your care and support services are temporarily disrupted. The Council will help you with this.
7. If the arrangements made using the Direct Payment break down, you will inform the Council immediately so that we can ensure your needs continue to be met.
8. If you use your Direct Payment to pay a self-employed personal assistant to provide you with care and support, you are responsible for making the necessary checks to confirm they are self-employed and registered with HM Revenue and Customs (HMRC), and that they have adequate liability insurance.
9. If the Council believes that an individual or organisation is not able to provide an appropriate service or is unfit to provide the service that is needed, you will be required to find an alternative service. The Council will help you with this.
10. Any one-off payments of more than £500 must be approved in advance by the Council (unless it has already been agreed and written down in the Plan).
11. If the Direct Payment is used to buy equipment or pay for minor works, the equipment must be bought, or the works commenced within 8 weeks of receiving the Direct Payment. If this does not happen, the money may be reclaimed by the Council, unless it is agreed otherwise in writing or in the Plan.
12. If the Direct Payment is used to buy goods or equipment, you (the Recipient) will own the item(s). You are responsible for paying any on-going maintenance and/or insurance costs out of your personal funds unless it has been agreed otherwise in the Plan.
13. You (the Recipient) acknowledge that the Council is providing the Direct Payment only. Any goods or equipment bought with it is not the responsibility of the Council. The Council excludes liability for any damage or injury caused by any goods or equipment bought with the Direct Payment to the fullest extent permitted by law. For the avoidance of doubt nothing in this agreement is intended to exclude liability on behalf of the Council for death or personal injury caused by the Council's negligence or that of its Employees.
14. In the event of damage to any goods or equipment bought with the Direct Payment, the Council does not warrant or guarantee to provide any further monies for repair or replacement of such goods or equipment. If the terms of any contract entered into in purchase of such goods or equipment detail provision for replacement of any faulty goods or equipment, the Council may assist you in liaising with any contractors, but this is not an obligation on the Council.
15. You can use some of the Direct Payment to pay an individual or a third-party support organisation to administer the Direct Payment on your behalf. This must be agreed with the Council and written down in your Plan.

Employing someone to provide care and support

16. The Direct Payment must not be used to pay a close family member who lives with you to provide care and support, unless there are exceptional circumstances, and it has been agreed with the Council and recorded in the Plan.
17. When employing someone to provide care and support, you are agreeing to take on all the responsibilities of an employer. This includes, but is not limited to:
 - a) Making relevant identity and criminal record checks before employing someone (the Council can advise on this).
 - b) Providing them with a formal contract of employment.
 - c) Paying their wages on time and giving them a pay slip.
 - d) Paying sick, holiday, maternity, and paternity pay.
 - e) Arranging for tax and national insurance to be deducted from their wages.
 - f) Enrolling them in a workplace pension scheme.
 - g) Maintaining timesheets to show the hours that they have worked.
 - h) Ensuring that you have the correct employer's insurance.
 - i) Paying all costs associated with employing someone. This includes tax, national insurance, employer insurance and redundancy cost.
18. If you choose to employ a Personal Assistant to provide care and support, the Direct Payment hourly rate is sufficient to cover the following:
 - a) Wage.
 - b) Statutory holiday pay.
 - c) Potential redundancy costs.
 - d) Contingencies in case of emergencies or unexpected circumstances.
 - e) Any other associated employment costs, such as national insurance, tax, liability insurance, pension (where applicable).
19. If you wish to pay a higher rate for a service than has been used as a basis for calculating the Direct Payment, this must be paid from your personal funds. Any additional payments made from personal funds can be loaded onto your pre-payment card, but this must be in addition to the amount that you have been assessed as having to contribute towards your care.
20. Personal Assistant's wages must be paid directly from the Direct Payment Card Account.
21. You can use a third-party organisation to provide you with employment support services to help you to meet your responsibilities as an employer. The Direct Payment can be used to pay for this support if it has been agreed and written down in the Plan.

Safeguarding

22. Personal Assistants must have a satisfactory enhanced Disclosure and Barring Service (DBS) certificate if:
 - a) The person receiving care and support is under 18 years old.
 - b) The person receiving care and support lacks capacity to make decisions about their care and support.
 - c) Children and young people aged under 18 (other than the person receiving care) will be present when the Personal Assistant is providing care and support.
23. The Council will direct you to an organisation that can assist you with making DBS checks on potential employees if these checks are necessary.
24. Personal Assistants must have relevant safeguarding training. The Council can help with this.
25. The personal assistant job description must clearly set out the extent of the relationship with, and the degree of responsibility for the person that they are supporting.

Changes in circumstances

26. You agree to tell the Council if there is any change in circumstances that may affect your care and support needs, or if the care and support is not improving outcomes.
27. In the event of a planned or unexpected stay in hospital, the Council must be notified as soon as possible. The Direct Payment will continue to be paid for up to six weeks so that any contractual obligations can be met (for example to pay a Personal Assistant or to keep a place open in a day service). If the hospital stay is likely to be longer than six weeks, the Council will help to ensure the right care and support is in place when you are discharged.

Help with managing the Direct Payment

28. You can nominate a person or organisation to receive and manage the Direct Payment on your behalf. This must be agreed by the Council and written down in the Plan. The Nominated Person must agree to this arrangement. If you use a third-party organisation to help you manage the Direct Payment, there may be a charge for this service. The person or organisation that helps you with your Direct Payment is called your 'Nominated Person'.
29. You consent to the nominated person sharing the Recipient's personal information with the Council. This will include information about the Direct Payment Account, and the Recipient's care and support. Information will be shared for the purpose of routine monitoring and review and ensuring that your needs continue to be met.
30. If you enter into an agreement with an organisation that does not have a contract with the Council, it will be your responsibility to ensure that the organisation undertakes their responsibilities as Nominated Person in accordance with this Direct Payment Agreement and any other service agreement that you have with them.

31. If the Council believes that your Nominated Person is not able to provide an appropriate service or is unfit to provide the service that is needed, you will be required to find an alternative. The Council will help you with this.

Payments, Contributions and Monitoring

If you are managing the Direct Payment yourself, or with help from a Nominated Person

32. You and/or your Nominated Person will be provided with a Direct Payment Pre-Paid Card that will be loaded with Direct Payment funds. You can use this Card to purchase goods and set up one off and regular payment arrangements. The Card can only be used to pay for goods and services that have been agreed and written down in your plan.
33. You must pay your assessed social care contribution into the Direct Payment Card account until either
 - a) The Direct Payment is stopped.
 - b) You have been informed by the Council, in writing, that the contribution has reduced or stopped.
34. You and/or your Nominated Person must not share your PIN number or Card Account log in details with anyone.
35. You will check the Direct Payment Card account regularly to make sure that payments have been received and that there are sufficient funds in the account to pay any expected bills, direct debits or standing orders.
36. You may keep up to a 4-week surplus in the Direct Payment Card Account as a contingency unless it has been agreed otherwise in your Plan.
37. You and/or your Nominated Person must keep a record of everything that is paid for with the Direct Payment, including invoices, receipts, timesheets, copies of payslips and other relevant evidence.
38. You agree to your nominated person sharing information about the Direct Payment account with the Council for the purpose of monitoring. This will include bank statements, transaction details, receipts, invoices, details of carers and other information that is relevant to the management of the Direct Payment.
39. You/your Nominated Person will respond to all queries about the Direct Payment, and requests for monitoring information within 28 calendar days. You will be responsible for forwarding the Council's queries to the Nominated Person where appropriate and informing the Council of the Nominated Person's responses.
40. You agree to your nominated person requesting additional funds on your behalf when appropriate.
41. You will ensure that records about how the Direct Payment has been spent are kept for at least three years. This includes invoices and receipts for goods and services.

If you are using a Direct Payment Support service that the Council has a contract with:

42. The Council will pay the total amount of the Direct Payment to the Direct Payment Support Service provider.
43. If you are required to pay a contribution towards your care, you will be sent an invoice for your contribution every six months. The agreed amount must be paid to the Council, from your own personal monies on a monthly basis (or as agreed with the Council's finance team).
44. You and/or your Direct Payment Support Service must keep a record of everything that is paid for with the Direct Payment, including invoices, receipts, timesheets, copies of payslips and other relevant evidence. You must provide this information to your Direct Payment Support Service upon request.
45. The Direct Payment Support Service is responsible for providing the Council with your monitoring information.
46. You agree to the Direct Payment Support Service sharing information about the Direct Payment account with the Council for the purpose of monitoring. This will include bank statements, transaction details, receipts, invoices, details of carers and other information that is relevant to the management of the Direct Payment. Copies of these documents can be saved and uploaded to the Direct Payment Account.
47. Your Direct Payment Support Service will refund surplus monies within the Account to the Council or request additional funds on your behalf when appropriate.
48. You must provide records about how the Direct Payment has been spent to the third-party organisation.

Other

49. If you are required to repay some or all of the Direct Payment for any other reason, the Council will provide you with at least 3 working days' notice before debiting the money from the Direct Payment Account.
50. The Council reserves the right to debit monies from the Direct Payment Account without notice if:
 - a) There are immediate and serious concerns about the management of the Direct Payment.
 - b) There are serious financial safeguarding concerns.
 - c) The Council has made an overpayment to the Direct Payment Account.
51. If there is insufficient money in the Account to cover the amount that you owe, you will be sent an invoice for the outstanding amount. Failure to pay this invoice on time may result in the Direct Payment being stopped and the Council may take steps to recover the debt from you. The Council will ensure that alternative support is made available to meet your needs.

52. If any charges or fines are incurred because the Direct Payment has not been managed properly, or for failure to comply with relevant legislation, you will be liable to pay these costs.
53. You have the right to request a review of the Direct Payment and/or the Plan at any time.
54. If the Council makes a decision to stop or reduce the Direct Payment, you can appeal against this decision. The Council will only reconsider a decision once unless there are exceptional circumstances.

Part C: What Redcar and Cleveland Borough Council agrees to do

1. The Council will provide or direct you to information, advice and guidance that enables you to manage and spend the Direct Payment, meet your responsibilities as an employer and deal with an unforeseen or emergency situation.
2. When a young person with capacity turns 16, the Council will ask for their consent to continue receiving direct payments. If they consent, direct payments will continue to be made in line with their wishes. If the young person informs the Council in writing that they no longer wish to receive direct payments, payments will be stopped as soon as is reasonably practical and their Plan will be reviewed to identify alternative ways of meeting their needs.
3. The Council will review the Plan within the first six months to make sure that you are comfortable with using the Direct Payment, that care and support needs are being met and that Outcomes are being improved. After that, the Plan will be reviewed at least annually. This will include a discussion about the Direct Payment.

Payments

4. If you are managing the Direct Payment yourself, or with help from a Nominated Person, the Council will provide you and/or your Nominated Person with a Direct Payment Card and Log in details for the online Card Account. We will also help you to set up the Card and Account. The Council will pay the agreed Direct Payment amount (less your contribution) into the Direct Payment Card Account every 4 weeks (or as required for one off or additional payments). You are responsible for paying your contribution into the Card Account.
5. **If the Council has arranged a Direct Payment Support Service** for you, the Council will pay the full amount of the Direct Payment directly to the service provider. We will invoice you separately for your assessed contribution. You must ensure your monthly contribution is paid in full and on time. Failure to pay your contribution may result in debt recovery action being taken against you.

Monitoring

6. The Council has full access to the Direct Payment Card Account to:
 - a) View the balance of the account.
 - b) View any payments made from the account (as they occur).
 - c) View any payments into the account (including your social care contributions).
 - d) Reclaim unspent funds.

- e) Make additional payments to the account.
 - f) Make payments from the account on your behalf.
 - g) Cancel or suspend the card.
7. The Council will view the Direct Payment Card Account at least once a month for monitoring purposes.
8. We will make reasonable attempts to contact you to discuss the account if:
- a) We intend to reclaim unspent funds from the account.
 - b) There are any transactions that are unaccounted for, or do not appear to be related to the goods or services that have been agreed and written down in your Plan.
 - c) You do not pay your assessed social care contributions into the Direct Payment Card Account or other direct payment bank account.
 - d) There are concerns about the use or management of the Direct Payment. These concerns may be raised with the Council's Counter Fraud Team.
 - e) We intend to temporarily suspend your card while any the above issues or concerns are resolved.
9. If you use the Direct Payment to pay for goods and services that are not agreed and written down in your plan, you will be asked to pay the money back into the Direct Payment Card Account. If you do not repay this money within 10 working days, we may stop the Direct Payment and take steps to recover the debt from you and Legal Action may also be taken against you.
10. If there are concerns about the management of the Direct Payment, the Council will provide or direct you to support that could enable you to continue to receive a Direct Payment.
11. If the Council makes an overpayment, we will debit the full amount of the overpayment from the Direct Payment Account. We will take reasonable attempts to contact you beforehand.
12. If you incur any charges through the fault of the Council, you will be reimbursed, upon receipt of evidence of those charges acceptable to the Council.

Support with Employing a Personal Assistant

- 13. As per clause B16, the Council will not take on any employment responsibilities: these will fall directly on you.
- 14. The Council will provide or direct you to information, advice and guidance that enables you to meet your responsibilities as an employer.
- 15. The Council will ensure you have support to make Disclosure and Barring Service (DBS) checks on potential employees. – checking with Legal Team if we can make it policy that enhanced DBS required for both children and adults – moving forward not in retrospect
- 16. The Council will provide help to make sure that arrangements are in place if the Personal

Assistant is not able to come to work, for example because of illness, holiday, or parental leave.

Changes in Circumstances, Reviews and Appeals

17. The Council will consider a request for a review of the Plan and/or Direct Payment at any time. If the request is declined, the Council will inform you of the reason(s) why.
18. If following a review, or a re-assessment, there is a change to the Plan, the Council may increase or decrease the amount of Direct Payment. You will be given reasonable notice to cancel or change any existing arrangements.
19. If the Council believes you to be permanently or temporarily incapable of managing the Direct Payment, we will review the suitability of the direct payment arrangement continuing.
20. If care and support arrangements break down, the Council will act promptly once it has been notified to ensure that needs continue to be met.
21. If the Council receives an appeal or a request to reconsider a decision to stop, reduce or repay the Direct Payment, we will reconsider the decision, taking into account the views of yourself and any other relevant individual. Once the decision has been reconsidered, you will receive a letter explaining the final decision. The Council will only reconsider a decision once unless there are exceptional circumstances.
22. If the Council receives a request to reconsider a decision, the Direct Payment may be stopped or reduced while the decision is reconsidered (providing you have been given sufficient notice).

Part D: Ending the Agreement

1. You can end this Agreement at any time, by giving four weeks' notice. You should speak to the Council about this, and then confirm in writing that you no longer wish to receive the Direct Payment and the date that you want this to take effect. The Council will require at least four weeks' notice in order to make any changes.
2. If a Nominated Person no longer wishes to receive and/or manage the Direct Payment on your behalf, you must inform the Council. We will stop their access to the Direct Payment Account and will review your Plan to ensure your care and support needs are still met.
3. If a Direct Payment is stopped, you must ensure that any contractual responsibilities are fulfilled. You will be responsible for using Direct Payment monies (including your Contributions) to pay outstanding invoices or redundancy costs. If you do not have enough money left in the Direct Payment Account to pay for this, the Council will pay any shortfall, providing that the Direct Payment has been managed appropriately in accordance with this Agreement and all of your Contributions have been paid.
4. The Council may stop or suspend the Direct Payment Card and Account, or terminate this Agreement without notice if:
 - a) You are temporarily unable to receive services (for example because of a holiday or a stay in hospital).

- b) After a review or reassessment, we agree there is a reduced level of need or no further requirement for care and support.
 - c) The Direct Payment is for short term support.
 - d) A long term or permanent residential placement is required.
 - e) The Council believes that you are not capable of managing the Direct Payment, either with or without support.
 - f) The Council believes that a Nominated Person is not acting in the best interest of the person with care and support needs.
 - g) The Council believes that a Nominated Person or service provider is not able or fit to provide the service that is needed, and a suitable alternative is not found.
 - h) The Direct Payment has been used to pay for items or services that are not written down in the Plan.
 - i) There is evidence of deliberate misuse of funds.
 - j) There is a failure to provide monitoring information upon request.
 - k) There is a failure to tell us about other funding that should have been taken into account when calculating the Direct Payment.
 - l) Any of the terms of this Agreement are broken.
5. If the Council intends to stop or suspend the Direct Payment, reasonable steps will be taken to contact you in order to explore all options before making a final decision.
 6. If the Council decides to stop the Direct Payment, your Pre-Paid Card and Account will be closed, and your Plan will be reviewed in order to agree alternative care and support (unless care and support is no longer required).
 7. In most circumstances the Council will give at least four weeks' notice in writing before ending this Agreement and stopping the Direct Payment. There are exceptions to this, for example if a Nominated Person is not acting in your best interests, or if there is reason to suspect deliberate misuse of funds or criminal activity.
 8. If the Council suspects that criminal activity has taken place, the matter may be referred to the Council's Counter Fraud Team and/or the Police for further investigation and payments recovered as necessary (in line with the Council's debt recovery process). Any identified instances of fraud may result in legal action.

Part E: Nominated Persons

Please complete this section if you would like to nominate a person or organisation to manage the Direct Payment on your behalf. This must be agreed with your social care worker and written down in your Plan.

By Nominating the person named below, you are agreeing to them acting on your behalf to:

- a) Use the Card to purchase goods and services
- b) Contact the Council or the Card Provider customer services to discuss the Direct Payment Card Account

c) Log into the on-line Customer Portal to:

- View account details
- View transactions history
- Load funds
- Make payments
- Manage direct debits
- Block/unblock/report lost and stolen cards
- Contact customer services

It has been agreed that the following persons/organisation will act as Nominated Person to support you to manage the Direct Payment

Full name (this person will be named on the Direct Payment Card)

Organisation (please give full legal name)

Address

Please tick this box if you would like a second Direct Payment Card for yourself

The Nominated Person must sign Part F on the next page.

Part F: Signing the Agreement

You agree to receive Direct Payments and confirm that you will fully comply with the conditions in the Agreement.

You confirm you understand that repayments of the Direct Payments may have to be made to the Council if you spend any of the money on services or items outside those permitted by your Plan.

Signed by the Direct Payment Recipient (You)

Print name

Date

Signed by the parent of the Direct Payment Recipient (if the Recipient is aged 16 or 17 years old)

Print name

Date

Signed on behalf of Redcar & Cleveland Borough Council

Print name

Position

Date

Signed by the Nominated Person

Date

Position (if signed on behalf of an organisation)

Second signature (if required by the organisation)

Date

Position (if signed on behalf of an organisation)

Social care worker to copy the agreement and return the original to the direct payment recipient.

Words and phrases used in this agreement

Assessment:	This is the assessment that the Council carries out to help understand your needs and work out whether or not the individual is eligible for support. This could either be an Adult's Needs Assessment, Carer's Assessment, Children and Families Assessment, or an Education, Health and Care Plan Assessment.
Care and support	Goods and services that meet assessed Eligible Needs.
Carer	An adult who provides unpaid care for a family member or friend.
Contribution	<p>The amount that you must contribute towards your care and support. This is determined by a financial assessment.</p> <p>(This does not apply to children with disabilities, services to meet special educational needs that are identified in an Education, Health and Care Plan, or adults receiving services after being detained in hospital under the mental health act)</p>
Direct Payment:	A sum of money that the Council pays to you so that you can organise your own care and support to meet your Eligible Needs. A Direct Payment is one way of receiving your Personal Budget.
Direct Payment Card	A payment card that is loaded with Direct Payment monies. The card can be used to pay for goods and service, much like a debit card.
Direct Payment Card Account (also referred to as the Card Account)	On on-line account that is linked to the Direct Payment Card. It can be used to make payments, view your balance and load funds to the account. The Council can also access this account so that we can monitor the Direct Payment.
Direct Payment Support Service	Organisations that have a contract with the Council to support people who are receiving Direct Payments. They can help you to manage the Direct Payment and/or meeting your responsibility as an employer.
Eligible Needs	Care, support or special educational needs that that have been identified during the Assessment and that the Council has a legal duty or power to meet.
Nominated Person	A trusted family member, friend, or organisation who you have nominated to help manage the Direct Payment.
Outcomes:	What you hope to achieve with your care and support. These will be written down in the Plan.
Personal Assistant	A personal assistant (sometimes called a PA or a support worker) is employed by a person who needs care and support to enable them to live as independently as possible.

Personal Budget:	The amount of money that it will cost to meet your Eligible Needs and improve the Outcomes that are written down in the Plan.
Personal Funds	Your own personal money, excluding your Direct Payment or your contribution towards your care.
Recipient	The young person or adult whose needs will be met through a Direct Payment, or the parent of a child with a special educational need or disability. You are the recipient.
Review	The regular review of a Plan where the Council talks to you, and any other relevant individuals to make sure that the care and support that is in place is continuing to meet your Eligible Needs. A review usually takes place within the first few months, and then at least once a year. The Council will also carry out a review if your needs change, or if your care and support arrangements break down.
Surplus	Any money that is left over once everything has been paid out of the Direct Payment. The Council will allow a maximum surplus of four weeks' worth of Direct Payment monies to build up in a Direct Payment Account. This is to pay for unexpected situations, or employment related costs such as redundancy, or cover when a Personal Assistant goes on holiday. Anything above the 4 weeks' surplus will usually need to be repaid to the Council.
The Council:	Redcar and Cleveland Borough Council and its employees. This includes the Council employee who provides you with support, for example your Social Worker, SEN Link Officer or SEN Careers Advisor.
The Plan:	The document where your needs and outcomes are written down. The Plan also includes information about care and support, their personal budget, and their direct payment. The Plan could be either an Adult's Support Plan, a Carer's Support Plan, an Education, Health and Care Plan, or a Child in Need Plan.
Third Party Organisation	A specialist organisation that can provide you with support to manage the Direct Payment Account, or meet your responsibilities as an employer

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