

# Direct Payments Policy 2018

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## **INTRODUCTION**

Coventry City Council is committed to promoting wellbeing of Coventry children and adults and to supporting independence through preventing, reducing or delaying the need for care and support.

Direct payments are monetary payments to enable adults, carers, young carers and parents of disabled children to make their own arrangements to meet eligible care and support needs. Direct payments are the government's preferred mechanism for personalised care and support as they promote independence, choice, control and flexibility over how needs are met.

Direct payments may also be used as a way of arranging aftercare services provided under s117 of the Mental Health Act 1983. This Policy has been created to provide guidance in line with the following legislation relating to direct payments:

Care Act 2014: [www.legislation.gov.uk/ukpga/2014/23/contents](http://www.legislation.gov.uk/ukpga/2014/23/contents)

Care and Support Statutory Guidance: [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance)

Care and Support Direct Payment Regulations:  
[www.legislation.gov.uk/uksi/2014/2871/pdfs/uksi\\_20142871\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/2871/pdfs/uksi_20142871_en.pdf)

Mental Health Act 1983: [www.legislation.gov.uk/ukpga/1983/20/section/117](http://www.legislation.gov.uk/ukpga/1983/20/section/117)

Children and Families Act 2014: [www.legislation.gov.uk/ukpga/2014/6/contents/enacted](http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted)

The Special Educational Needs (Personal Budgets) Regulations 2014:  
[www.legislation.gov.uk/ukdsi/2014/9780111114056](http://www.legislation.gov.uk/ukdsi/2014/9780111114056)

Children Act 1989: [www.legislation.gov.uk/ukpga/1989/41/section/17A](http://www.legislation.gov.uk/ukpga/1989/41/section/17A)

Equality Act 2010: [www.legislation.gov.uk/ukdsi/2017/9780111153277](http://www.legislation.gov.uk/ukdsi/2017/9780111153277)

This Policy will be implemented on 1 August 2018.

This Policy replaces Coventry City Council's Direct Payment Policy and Guidance 2013 in the light of subsequent changes in legislation and guidance. Coventry City Council must provide direct payments in accordance with legislation as highlighted above.

Separate practice guidance for staff working in adults and children's social care services is available on the Coventry City Council's Beacon intranet pages in relation to direct payments, the legislation governing the rules of direct payments and how the legislation should be applied.

When a request for a direct payment is made by an adult, carer or parent of a disabled child who is assessed eligible for social care, Coventry City Council shall:

- Provide information and advice about direct payments, including the terms and conditions that apply to their use and refer to the local Direct Payment Support Service;
- Seek to identify a third party or organisation to manage the direct payment if the person lacks the mental capacity or capability of an adult or a parent to consent to or manage a direct payment themselves (called a 'nominated authorised person or organisation');
- Decide whether the direct payment is appropriate and agree the level of funding;
- Require the adult, carer, young carer, parent of a disabled child, or the nominated authorised person or organisation to set up a direct payment bank or building society account.
- Make arrangements to pay the direct payment to the adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation to manage the direct payment, including setting up of a bank account to receive the payment (if required);
- Make a starter pack available which includes "frequently asked questions" about direct payments to all new recipients, or a continuation pack to people continuing to receive direct payments following a review.

For the duration of the direct payment, Coventry City Council shall:

- Ensure the person is using the direct payment to make the necessary care arrangements to meet their eligible needs at each stage of review;
- Provide more information, advice and support if someone requires more help in managing a direct payment;
- Monitor how the direct payment is spent to meet the assessed eligible care needs;
- Require any unspent direct payment that has not been used to meet eligible needs or overpaid funding to be paid back to Coventry City Council upon request;
- Continue to review the appropriateness of a direct payment, assess the risks involved (e.g. if needs change or if the person managing the payment is unable or unwilling to continue to manage the payment) and if appropriate, formally notify the individual of a suspension or cessation of the arrangement;
- Support the person nominated to manage a direct payment to close the direct payment account and the associated arrangements should the direct payment need to end;
- End the direct payment if Coventry City Council determines the carer, adult or child is no longer eligible for care and support;
- Arrange care and support directly if the adult, carer or parent does not wish to continue to receive direct payments or if the direct payment is suspended or terminated.

## **SECTION 1 – RECEIVING A DIRECT PAYMENT**

### **1.1 Who can receive a direct payment?**

1.1.1 Legislation states that the following groups of people (who are assessed by the Coventry City Council as needing a service) are eligible for a direct payment:

- People with disabilities aged 16 and over (including those with physical and learning disabilities and sensory impairments);
- Adults who meet the eligibility criteria in accordance with the Care Act 2014;
- Adults (including people who are entitled to after care in accordance with section 117 of the Mental Health Act) if they are not subject to certain exemptions;
- Adults with parental responsibility for disabled children in order to meet the disabled child's needs;
- Young carers and adult carers providing regular and substantial care.

1.1.2 The following conditions must be met to receive a direct payment:

- The person agrees a direct payment;
- Coventry City Council is not prohibited from making a direct payment as set out in legislation;
- Coventry City Council is satisfied that the person is able to consent to and capable of managing a direct payment with or without support;
- Coventry City Council is satisfied the making of a direct payment is an appropriate way to meet eligible needs.

1.1.3 There are cases where a direct payment will not be appropriate to meet eligible needs. For example, direct payments cannot be made to people subject to a court order for a drug or alcohol treatment programme or similar scheme.

1.1.4 A direct payment must be an appropriate way to meet the eligible unmet needs set out in the Care and Support Plan, Child in Need plan or the Early Help plan. Everyone who is eligible has to consent to receiving the direct payment and be able to manage it, with support if required.

1.1.5 The decision about whether a direct payment is appropriate rests with the service manager (or equivalent level) of the relevant social care team. They will take into account the best interests of the person, any evidence which indicates that the direct payment is not appropriate and the views of all relevant parties including formal and informal support networks. In the event that the request for a direct payment is refused, the person or person making the request shall be provided with written reasons that explain the decision, and be made aware of how to appeal against the decision through Coventry City Council's [Complaints Procedure](#). The written reasons will set out which of the conditions contained in legislation have not been met, the reasons as to why they have not been met, and what if anything the person may need to do in the future to obtain a positive decision. The appeal process should be completed as quickly as is reasonably practicable, and Coventry City Council will provide interim arrangements to meet eligible care and support needs during this period.

1.1.6 It should be made clear to all potential direct payment recipients early on in the support planning process that they are under no obligation to continue to receive a direct payment should they not wish to do so and that their eligible needs could then be met by means of a Coventry City Council arranged service.

## **1.2 Assessing mental capacity and capability to receive direct payments**

- 1.2.1 Before a direct payment can be arranged an assessment of capacity may need to be undertaken where there are questions about a person's ability to consent to or manage this. Under the 2005 Mental Capacity Act, a person lacks capacity in relation to a matter if at the time they are unable to make a decision in relation to a specific issue because of an impairment or a disturbance in the functioning of the mind or brain.
- 1.2.2 Where there is any doubt about the capability or capacity of an adult, carer, young carer or parent (of disabled child or adult) to consent to or to manage a direct payment, Coventry City Council will assess whether or not the person has capacity to consent before making a direct payment available.
- 1.2.3 Inability to consent to receiving a direct payment or capability to manage does not mean an adult, child, carers or young carers with eligible needs cannot receive a direct payment. The intention is for adults, carers or parents of disabled children to consent and manage the direct payment themselves or with the help of family and friends (if appropriate). Further guidance on the different options available to manage a direct payment will be made available by the allocated worker.

## **1.3 Receiving a direct payment**

- 1.3.1 A request for a direct payment can be made directly to Coventry City Council at any time by requesting an assessment or review through the relevant social care team.
- 1.3.2 For adults, carers, young carers and parents of disabled children who are receiving a direct payment and require support, they could be referred to the Direct Payments Support Service funded through the Coventry City Council. This is currently Penderels Trust [www.penderelstrust.org.uk/](http://www.penderelstrust.org.uk/) or telephone 024 7651 1611. Potential direct payment recipients can also gain advice and support from any or all of the following:
- Other advice and information services;
  - Family/friends/a circle of support;
  - An advocate.
- 1.3.3 Coventry City Council will require an agreement to be signed between the necessary persons arranging and agreeing to the conditions of the direct payment referred to as a "Letter of Agreement". Such agreement shall be prepared on a case by case basis and will cover terms and conditions that are reasonable and proportionate in relation to the management of the direct payment.
- 1.3.4 It is the responsibility of adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation to ensure that the necessary registration requirements for care agencies and personal assistants are complied with, e.g. registration with the Care Quality Commission, HM Revenue and Customs (HMRC), etc.

- 1.3.5 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation managing a direct payment, personal assistants and care agencies will co-operate with any investigation or serious issues resolution by Coventry City Council or any of its partners concerned with quality and compliance. This will apply to all providers regardless of whether or not they hold a current contract to deliver services on behalf of Coventry City Council.
- 1.3.6 Any agreement will be monitored by Coventry City Council to ensure compliance and shall be reviewed accordingly. Any non-compliance with the terms and conditions could result in the direct payment being terminated and alternative arrangements being made e.g. care and support being arranged by Coventry City Council, where it is assessed as necessary to meet eligible care and support needs.

#### **1.4 Person's contributions**

- 1.4.1 A financial assessment will be undertaken to determine whether an adult needs to make a financial contribution towards their care and support needs. Coventry City Council will deduct the assessed contribution from the total amount of direct payment payable. If the direct payment is managed by a third party who has no legal authority to manage the individual's income or is a third party organisation, the direct payment should be paid in full and the adult will be sent an invoice to pay their assessed contribution directly to Coventry City Council. This will apply to both one off and ongoing direct payments. The guidelines about applying the adult's assessed charge can be found at [www.coventry.gov.uk/directpayments](http://www.coventry.gov.uk/directpayments) and can also be made available by an allocated worker on request.
- 1.4.2 Any non-payment of the assessed charge could result in the direct payment being terminated and where appropriate, care and support being arranged by Coventry City Council. Non-payment could result in a review of the adult's assessed eligible needs if they are managing to meet their eligible needs within a smaller budget and/or Coventry City Council initiating debt recovery processes or legal action to recover payments owed.

#### **1.5 Frequency of payments**

- 1.5.1 Coventry City Council will pay ongoing direct payments in advance at four-weekly intervals.
- 1.5.2 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation will be allowed to retain a sum up to the value of four weeks worth of their direct payment in their Direct Payment Account for any additional costs incurred as a result of managing the direct payment.
- 1.5.3 Coventry City Council may only provide retrospective payments upon receipt of evidence confirming that services, support or goods were purchased to meet unmet eligible needs

For any new or existing direct payment this would be dependent on when the adult, carer, young carer or parent of a disabled child contacted the relevant social care



team, the outcome of the assessment and is subject to approval by Coventry City Council's funding panel.

- 1.5.4 Direct payments may be backdated to the date that the package was approved and/or the date the support was required to start, subject to approval by Coventry City Council's funding panel.

## **1.6 Payment method**

- 1.6.1 Coventry City Council will pay the direct payment amount agreed in the Care and Support Plan, the Child in Need plan or the Early Help plan. When making the payment to an adult this amount will be net of the person's contribution (unless a nil contribution applies) into a specific 'Direct Payment Account'. Adults have to pay their assessed contribution into this account, unless a third party is managing the direct payment. In this instance, they will receive an invoice for their assessed contribution towards their care and support.
- 1.6.2 Coventry City Council will pay a one off direct payment amount for adults, carers, young carers and children into either a personal bank account unless there is a separate 'Direct Payment Account' already set up for the purposes of an regular, ongoing direct payment.

## **1.7 Bank accounts**

- 1.7.1 Coventry City Council will pay direct payments directly into bank accounts set up for care and support only. These accounts are called 'Direct Payment Accounts'. This bank account must be opened in the name of the person(s) who has been nominated to manage the direct payment.

## **1.8 Contingency and reserves**

- 1.8.1 The Care and Support Plan, the Child in Need Plan and the Early Help plan may include a contingency element that can be used to cover fluctuating needs. The use of the contingency will be monitored by Coventry City Council to ensure that it is being spent to meet the adult, child, young carer or carers assessed needs as detailed in their plan.
- 1.8.2 Sufficient funds should be held in a Direct Payment Account to cover all planned expenditure. Any funds held or banked that has not been agreed as part of the person's care and support plan over the four weeks allowance will be recovered by Coventry City Council in line with section 4.2 – 4.4.

## **SECTION 2 – HOW TO SPEND DIRECT PAYMENTS**

### **2.1 What can direct payments be used for?**

- 2.1.1 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation shall only use sums paid by means of a direct payment for the sole purpose of meeting the identified eligible needs and outcomes of the Care and Support Plan, the Child in Need Plan and the Early Help plan. This needs to be

evidenced by providing bank statements, timesheets, invoices and/or receipts. All evidence should clearly demonstrate how the direct payment has been spent.

- 2.1.2 A direct payment can be used to pay personal assistants to provide care and support to children in their own home. There are requirements for personal assistants to register to be a childcare provider in certain circumstances. For guidance on this refer to:

[Become a registered early years or childcare provider in England - GOV.UK](#)

- 2.1.3 Direct payments cannot be used for property adaptations or equipment that are funded through the Disabled Facilities Grant (DFG). However, Coventry City Council can commission arrangements for an eligible adult or a parent of a disabled child who wishes to choose their own property adaptation or equipment funded by a DFG and/or would like to contribute from their own resources.

- 2.1.4 Direct Payments funded by social care cannot be used for the following:

- a) Anything illegal
- b) Purchase of alcohol, tobacco or gambling
- c) Long term residential care longer than 4 consecutive weeks
- d) A health need that should be provided by the National Health Service (NHS) unless under certain circumstances where individuals can request a Personal Health Budget (see section 2.1.19)
- e) Promoting independence/Enablement
- f) Funeral expenses
- g) Parental responsibilities
- h) Services provided directly by Coventry City Council. If a direct payment recipient wishes to receive a service directly from Coventry City Council that is included in their Care and Support Plan the Child in Need Plan or the Early Help plan, it is likely that this will be arranged by Coventry City Council and the direct payment will be reduced accordingly.

- 2.1.5 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation can purchase care and support from a different Council if they require a particular service included in their Care and Support Plan, the Child in Need Plan or the Early Help plan that Coventry City Council does not provide.

- 2.1.6 Where an adult, carer, young carer, parent of a disabled child, nominated person or organisation has made a decision to employ a personal assistant this must be recorded in the Care and Support Plan, the Child in Need Plan and the Early Help plan, the direct payment will include funds to employ a personal assistant. The costs involved with employing a personal assistant include recruitment costs (where required), employers national insurance contributions, income tax, employers' liability insurance, pension and other associated costs. Coventry City Council will provide information and support on how to begin employing a personal assistant and will provide regular monitoring to ensure payments are being made correctly, however Coventry City Council is not responsible for the services secured by the recipient of a direct payment. Becoming an employer carries with it certain responsibilities and obligations, in particular in relation to paying Tax, National Insurance, minimum wage

requirements and ensuring that any person employed has the right to work in the UK.

- 2.1.7 If for any reason a person would like to spend their direct payment on anything other than care or items that would not meet their eligible needs as outlined in their Care and Support Plan, the Child in Need Plan or the Early Help plan they will need to contact their relevant Adult Social Care or Children's Services team prior to purchase. Any change in spend may require a review of the adult's, child's or carers' needs.
- 2.1.8 Direct payments can be used to pay for short term stays in residential care which amount to four consecutive weeks or less in any one period or a combination of different periods in a twelve month period.
- 2.1.9 Adults and children who are living in residential care homes may receive direct payments in relation to non-residential services and day time activities where these are assessed as being necessary to meet their eligible care and support needs. This will be considered on a case by case basis.
- 2.1.10 Adults in receipt of direct payments can employ personal assistants who used to be their foster carers when they were under 18 years of age as long as the person satisfies the criteria to have a direct payment.
- 2.1.11 An adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation managing a direct payment can adjust their hours in any week and 'bank' hours as long as their eligible needs are being met. The direct payment recipient will need to inform Coventry City Council's Independent Living Team if they are planning on banking hours and saving up funding if the amount is above the four week allowance. If the hours being banked are not used within a twelve month period Coventry City Council will require the funding to be returned.
- 2.1.12 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation managing a direct payment can pay towards care and support that they receive at the same time or towards a joint intervention that meets their eligible care and support needs. This is called a 'pooled direct payment'.
- 2.1.13 Coventry City Council will not allow for a direct payment to be used for everyday living expenses for the adult, carer, young carer or child. This includes paying for the costs of transport, meals and domestic bills. This does not include supporting an adult or child with everyday tasks they cannot undertake because of a physical or mental illness or impairment. For adults, these expenses can be taken into consideration by the financial assessment officer when assessing the adult's ability to contribute towards the costs of their care and support.
- 2.1.14 Coventry City Council will allow a direct payment to be used towards the management costs and expenses of using volunteers, unless these costs are related to everyday living expenses for the adult or child.

- 2.1.15 Direct payments can be used towards the costs of covering personal assistant/agency worker expenses. However, additional funding is not provided for their expenses.
- 2.1.16 Expenses incurred that are part of 'everyday living' for the personal assistants and/or agency staff such as paying for food; paying for household bills for live-in staff, purchasing toiletries, travel to and from work should be covered by the staff themselves.
- 2.1.17 Direct Payments can be provided in conjunction with other social care services provided by Coventry City Council. This is known as a mixed package of care and support.
- 2.1.18 Direct payments are available to disabled adults accessing work or training through Access to Work funding from the Department of Works and Pensions (DWP). These payments are usually made to the adult in arrears to employ a personal assistant to support them to access training and employment.
- 2.1.19 Personal Health Budgets (PHBs) are now available and offered by the NHS. If health funding is available to the adult or child with care and support needs, requests for PHBs should be through the Clinical Commissioning Group (CCG).

To find out more about PHBs email [contactus@coventryrugbyccg.nhs.uk](mailto:contactus@coventryrugbyccg.nhs.uk) or telephone 024 7655 3344.

- 2.1.20 Personal Budgets are now available and offered by Coventry City Council's education department. If education funding is available to the child or young adult with additional needs to achieve their educational outcomes through their Educational Health and Care Plan, families can request a personal budget and elements of the plan could be taken as a direct payment. These request should be through the Special Educational Needs team within Coventry City Council.

To find out more about personal budgets for Education email [SEN@coventry.gcsx.gov.uk](mailto:SEN@coventry.gcsx.gov.uk) or telephone 024 7683 1614.

## **2.2 Paying family members**

- 2.2.1 A direct payment cannot be used to arrange care and support to be provided by a spouse, a family member or a partner who lives in the same household as the person except in circumstances where it has been assessed as necessary. Any such arrangement will need to be approved by the relevant Head of Service or Service Manager.

## **2.3 Legal rewards**

- 2.3.1 Coventry City Council allows direct payments to be used to pay family and friends a 'legal reward' towards meeting an adult or child's eligible unmet social care needs. This can be up to £250 to comply with taxation law. The person who receives this reward will need to clarify whether this will affect their welfare benefits. In these

instances, the direct payment recipient does not need to legally employ this person receiving the reward.

## **2.4 Employment Duties**

- 2.4.1 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation are responsible for the day to day management of the direct payments including that of employing suitable workers (i.e. personal assistants) where necessary to provide the support identified within their Care and Support Plan, the Child in Need Plan or the Early Help plan.
- 2.4.2 Coventry City Council will refer adults, carers, young carers and parents of disabled children to direct payment support service to assist them in their role as employer.
- 2.4.3 When an adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation employs personal assistants the person shall comply with their legal duties and obligations as an employer in the United Kingdom including that which is required by HMRC and the UK Border Agency. The nominated authorised person shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to its workers, register as an employer with HMRC and ensure all checks are made of their potential employees including DBS checks and the right to work in the UK.
- 2.4.4 The adult, carer, young carer and parent of a disabled child or the nominated authorised person or organisation employing personal assistants will need to ensure there is Employers Liabilities Insurance in place. The policy and premium receipts must be produced on demand when requested by Coventry City Council. If this not adhered to then the direct payment may be suspended or terminated. See section 5 for ending a direct payment.
- 2.4.5 Coventry City Council will not be liable for any employment responsibilities. This is the responsibility of the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation who agrees to manage the direct payment. It must be clearly stated in the employee's contract of employment or written statement of work that they are employed solely by the person or the nominated authorised person.
- 2.4.6 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation will be expected by Coventry City Council to ensure that there are provisions for cover in emergency situations or when their personal assistants are not able or not due to attend to support them, such as in cases of holiday or sickness. This will be included in the Care and Support Plan, the Child in Need Plan or the Early Help plan.
- 2.4.7 In the event that normal contingency arrangements for the provision of services paid for with a direct payment breaks down, Coventry City Council will ensure that the person receives appropriate services to meet their eligible needs for that period. Any monies paid by Coventry City Council shall be recovered accordingly.

2.4.8 Coventry City Council will only advise on the health and safety implications for the authority, employees of the Council and for direct payment recipients. Therefore, direct payment employers must take reasonable steps to minimise risks to the health and safety of the staff they employ and develop a Risk Management Plan. This plan should include any training to be arranged for staff.

2.4.9 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation can use their direct payment funding to pay for the costs of training personal assistants if the training will enable their staff to meet their assessed eligible care and support needs. This needs to be evidenced through receipts, invoices or through bank statements.

## **2.5 Safeguarding**

2.5.1 The nominated authorised person managing the direct payment shall ensure that, when employing anyone who will provide unsupervised support to young children or a vulnerable adult, they conduct an enhanced DBS (Disclosure and Barring Service) check, or use the DBS update service, to ensure that the person has no relevant criminal convictions that would preclude them from working with children or vulnerable people. Direct payments can be used to cover the costs of the DBS check if an adult, carer, young carer, parent of a disabled child, nominated person or organisation who receives a direct payment plans to employ their own personal assistants. To find out more about children's and adults safeguarding visit:

<http://www.coventry.gov.uk/safeguarding>

2.5.2 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation must share information with Coventry City Council when there are concerns about information on the DBS check which could result in a risk to the adult or child by contacting their allocated worker or the relevant intake (duty) team.

2.5.3 During periods where there are concerns about personal assistants, carers or agencies whether the arrangements continue will depend on the outcome of a risk assessment.

2.5.4 Any concerns about the registration status or practices of care agencies should be reported by the allocated worker to the Care Quality Commission (CQC). CQC will advise Coventry City Council on the information that can be shared with the managing agent of the direct payment and Coventry City Council shall make decisions about whether the Direct Payment should continue.

## **SECTION 3 – DIRECT PAYMENT RATES**

3.1.1 The value of the direct payment will be an amount which is a reasonable cost of securing the provision of the service concerned in the local social care market to meet the eligible needs of adults, carers, young carers or disabled children. There is no limit on the maximum or minimum amount of the direct payment rate however guideline rates have been agreed by Coventry City Council and shall be applied accordingly on a case by case basis. These guideline rates can be found at

[www.coventry.gov.uk/directpayments](http://www.coventry.gov.uk/directpayments) and will be made available by an allocated worker on request. Where the guideline rates have been applied, adults, carers and parents will be asked to make additional contributions to the costs of their care and support, if their chosen provider is more expensive than other providers who are available locally who could meet their eligible care needs.

- 3.1.2 Direct payments can include associated costs that are necessarily incurred in securing the provision of services. The costs involved may vary and include recruitment costs, National Insurance, statutory holiday pay, statutory sick pay, maternity pay, employer liability insurance, public liability insurance and VAT.
- 3.1.3 In the event that an adult, carer, young carer or parent of a disabled child wishes to challenge the proposed direct payment amount, they can do so through Coventry City Council's [Complaints Procedure](#).

## **SECTION 4 – REVIEW OF DIRECT PAYMENTS**

### **4.1 Monitoring and review of direct payments**

- 4.1.1 The adult, carer, young carer or parent of a disabled child or the nominated authorised person to manage the direct payment bank account is expected to submit paper copies or electronic copies of their bank statements and/or returns to the Independent Living Team on a scheduled date every six months. This is to provide evidence of how they are spending the direct payment provided to meet the eligible needs agreed in the Care and Support plan, the Child in Need Plan or the Early Help plan. This needs to be evidenced by providing bank statements, timesheets, invoices and/or receipts. All evidence should clearly demonstrate how the direct payment has been spent. If the direct payment recipient is managing the direct payment well, for example, submitting returns on time, returning unspent funding and spending the direct payment in line with the support plan and direct payment letter of agreement then the agreed schedule to send in this documentation might reduce to once per annum. If this not adhered to then the direct payment may be suspended or terminated. See section 5 for ending a direct payment.
- 4.1.2 The third party organisation nominated to manage the direct payment is expected to provide evidence of expenditure via accounting reports, invoices, timesheets and wage slips on a quarterly basis. This is to provide evidence of how they are spending the direct payment provided to meet the eligible needs agreed in the Care and Support plan, the Child in Need Plan or the Early Help plan. This needs to be evidenced by providing bank statements, timesheets, wage slips invoices and/or receipts. All evidence should clearly demonstrate how the direct payment has been spent.
- 4.1.3 New direct payments will be reviewed at least once within the first six months or more frequently depending on how well the direct payment is being managed. Subsequently, the direct payment will be reviewed annually in adults, every six months in children's, or as required in conjunction with the social care assessment of need by an allocated worker. This review will include how a direct payment is being managed, whether the eligible needs or circumstances have changed and how the eligible needs are being met. A risk analysis will also be undertaken as part of the

review to determine whether any additional reviews are required in the future and whether bank statements and/or returns need to be sent to Coventry City Council every six months or annually.

4.1.4 Coventry City Council requires the adult, carer, young carer, parent of a disabled child, or their nominated authorised person or organisation nominated to manage the direct payment to retain evidence of their expenditure (e.g. invoices, receipts, timesheets and bank statements) for seven years from the date the direct payment commenced. This means evidence can only be destroyed when it is older than seven years.

4.1.5 Coventry City Council has the right to increase, decrease, suspend or terminate the direct payment in line with a review or reassessment of the person's assessed eligible care needs.

## **4.2 Recovery of direct payments**

4.2.1 Coventry City Council reserves the right, after consultation with the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation, to adjust future payments to recover any overpayments or under spends after taking into consideration banked hours as agreed in the Care and Support plan, the Child in Need Plan or the Early Help plan, or any other expenses the person is required to meet in relation to their direct payments such as statutory holidays and payments due to the HMRC.

## **4.3 Unspent direct payments**

4.3.1 The adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation managing the direct payment should return any unspent money exceeding the value of four weeks of their agreed weekly payment at least every six months in consultation with Coventry City Council, unless it has been agreed that they could keep some or all of this funding as specified in 4.2.1.

4.3.2 Coventry City Council reserves the right after consultation with the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation, to recover any unspent money exceeding the value of four weeks of their agreed weekly amount. Bank accounts will be monitored at least every six months to ensure the level of unspent monies does not accumulate unless as specified in 4.2.1. Coventry City Council will recover any direct payment funding that been banked for more than a year unless it is explicitly agreed that the funding could be used towards meeting needs in the future.

## **4.4 Wrongful use of direct payments**

4.4.1 Coventry City Council is required to ensure that the nominated authorised person is using the direct payment to achieve the eligible needs and outcomes agreed in the Care and Support Plan, the Child in Need Plan or the Early Help plan. In the event that fraud, abuse or misuse of the direct payment is suspected Coventry City Council shall investigate and terminate/suspend the direct payment as appropriate. Any potential criminal activity shall be referred to the Police for further investigation.



Coventry City Council will provide the care and support in the interim or in the long-term if the direct payment has been terminated.

4.4.2 Coventry City Council is not responsible for any losses incurred by the person

#### **4.5 Direct payments and hospital stays**

4.5.1 If an adult, carer, young carer or child who is a recipient of support from a care agency funded by a direct payment is admitted into hospital, a review of their care needs will take place. The review shall consider whether the direct payment needs to continue, depending upon the circumstances of the individual.

4.5.2 If an adult, carer, young carer or child who is a recipient of support from personal assistants funded by a direct payment is admitted into hospital, they should continue to be paid for four weeks. This is to enable them to pay their personal assistants a full retainer payment for four weeks whilst a direct payment recipient is in hospital. If an adult or a child is in hospital for longer than four weeks a review will need to take place. Any additional payments after the four weeks may be made on a case by case basis.

4.5.3 During the review consideration will be given to how the direct payment may be used in hospital to meet non-health needs or to ensure employment arrangements are maintained.

4.5.4 In some cases, the nominated authorised person managing the direct payment may require a hospital stay. In these cases Coventry City Council must be notified and an urgent review will be conducted to ensure that the person continues to receive care and support to meet their needs.

#### **4.6 Direct payments – periods away from home**

4.6.1 Personal assistants, but not care agencies, should continue to be paid in full for up to four weeks for the period whilst a direct payment recipient is away for short periods. Any additional payments after the four weeks may be made on a case by case basis.

4.6.2 If an adult, carer, young carer or child is away from their home for four weeks or more a review will take place and payments may be reduced or stopped should the person be assessed as permanently residing in a different area.

4.6.3 The adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation retains responsibility of ensuring that arrangements are in place to pay the wages of their employee/s in the UK if they wish to retain them while they are away from home.

4.6.4 Coventry City Council will allow direct payments to be used to purchase care and support to meet the eligible needs of adults, carers, young carers and children when they are temporarily staying in another location for up to four weeks and any additional payments after the four weeks may be made on a case by case basis. This includes whilst on holiday both in the United Kingdom and abroad, as long as

the individual undertakes the necessary safety checks and ensure that the care provider is appropriately registered.

## **SECTION 5 – ENDING DIRECT PAYMENTS**

### **5.1 Terminating direct payments**

- 5.1.1 Direct payments will only be terminated as a last resort. Coventry City Council will take all reasonable steps to address any situations to avoid the termination of the payment. Pending decisions, Coventry City Council will seek to ensure that there is no gap in the provision of care and support.
- 5.1.2 Direct payments may need to end for a number of different reasons. Where it has been identified there is evidence of abuse or neglect related specifically to the direct payment, where direct payment conditions are not being met or where fraud has been detected, the direct payment should be ended immediately.
- 5.1.3 The adult, carer, young carer, parent of a disabled child or their nominated authorised person will be given additional support, advice and guidance if they have not been complying with the conditions of a direct payment. Following this, if direct payment recipients continue to not comply with the conditions of the direct payment Coventry City Council will suspend or end the direct payment by letter giving the recipient four weeks' notice. If there is no response to the notice of suspension the direct payment will be ended and Coventry City Council will arrange the care and support. Any non-compliance by the nominated third party organisation will be managed through Coventry City Council's contract compliance process.
- 5.1.4 When the direct payment has ended because the adult, carer, young carer, parent of a disabled child or their nominated authorised person decides they would prefer Coventry City Council to arrange their support directly, the recipient of the direct payment should finalise any outstanding payments including returning any unspent money to Coventry City Council and close the direct payment account within six months.
- 5.1.5 When the direct payment has ended because the adult, carer, young carer or child has died, the direct payment recipient and/or executor of the estate should be contacted by Coventry City Council within six weeks to finalise the payments and close the direct payment account.
- 5.1.6 Direct payments will end when an adult, carer, young carer or child has permanently moved out of Coventry unless there has been an agreement by Coventry City Council to continue to fund this adult or child's eligible needs. This could happen when the Council has arranged for the adult, carer, young carer or child to be placed out of city for non-residential placements. This does not apply when someone temporarily moves out of Coventry and still retains their permanent address in Coventry, for example, young people who live away for school, college or university.
- 5.1.7 When a direct payment has ended, the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation should pay any outstanding invoices and payments to personal assistants, return any unspent and

overpaid money to Coventry City Council and close the direct payment account within three months, following the direct payment having ended. If the managing agent has not returned unspent money or repaid the overpaid funding to Coventry City Council and closed the account within three months, Coventry City Council may instruct debtor proceedings to recover the monies from the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation.

## **5.2 Discontinuing direct payments in the case of persons with capacity to consent to the direct payment**

- 5.2.1 Where an adult or young person aged 16 or 17 with capacity is in receipt of a direct payment but loses capacity to manage the direct payment, Coventry City Council will discontinue direct payments to that person and consider making payments to an nominated authorised person instead. In the interim, Coventry City Council shall make alternative arrangements to ensure continuity of support for the person concerned.
- 5.2.2 In the event that the loss of capacity to consent is temporary, Coventry City Council may continue to make payments if there is someone else who is willing to manage the payment. This will be a temporary measure until the person has regained capacity.

## **5.3 Discontinuing direct payments in the case of persons lacking capacity to consent**

- 5.3.1 Coventry City Council shall discontinue direct payments if the nominated authorised person or organisation is not acting in the best interests of the person within the meaning of the Mental Capacity Act 2005.

## **5.4 How to discontinue direct payments**

- 5.4.1 Coventry City Council will discuss as soon as possible with the relevant person the reasons why consideration is being given to discontinuing direct payments to afford them the opportunity to explore all available alternative options.
- 5.4.2 Should Coventry City Council decide to withdraw direct payments, it will need to conduct a review of the care plan and agree alternative care and support provision with the appropriate persons.
- 5.4.3 A four-week notice period will normally be given before any direct payment is terminated, however Coventry City Council reserves the right to terminate direct payments on an emergency basis.
- 5.4.4 Coventry City Council reserves the right to recover direct payments in full or in part if it is satisfied that the money has been used inappropriately.

## **SECTION 6 – CARERS DIRECT PAYMENTS**

### **6.1 Carers direct payments in adult social care**

- 6.1.1 Any Carer that receives a direct payment in their own right will require a support plan which will detail how the Direct Payment will be utilised and how this will meet eligible needs and identify a date in which this plan will be reviewed.
- 6.1.2 A Carers Direct Payment cannot be used to meet the needs of the cared for person.

### **6.2 Direct Payments for replacement care**

- 6.2.1 The person with support needs can be assessed for the use of replacement care hours of support to help their carer plan flexibly for any breaks. A direct payment can be made for the replacement care hours to be organised in a flexible way giving the carer and the person they care for choice and control over their support. The amount of hours required and appropriateness of the support should be assessed and determined by the allocated worker who is assessing the cared for person.
- 6.2.2 Replacement care is provided to the person being cared for and therefore, this is a chargeable service. Any charge incurred will be the responsibility of the cared for person so it is important that they are in agreement with the support plan.
- 6.2.3 Replacement care cannot be utilised in instances where a carer is unwilling or unable to provide care.

### **6.3 Direct Payments for residential respite care**

- 6.3.1 A Direct Payment can be utilised to purchase residential respite care. As part of the assessment a practitioner would need to determine the amount of weeks required and outline this within the recipient's support plan. The direct payment cannot be used to fund more than four consecutive weeks in any twelve month period (see section 2.1.8).
- 6.3.2 If there is a necessity for more long term provision which exceeds the four week rule a practitioner would need to consider directly commissioning this support.

### **6.4 Direct Payments for parent carers, foster carers and young carers**

- 6.4.1 Young carers, carers over the age of 18 and foster carers who provide care to a disabled child under the age of 18 can be assessed as needing short breaks and can decide to receive a direct payment to organise these breaks flexibly giving them choice and control over the support.

## **SECTION 7 - Direct payments policy review**

- 7.1.1 The direct payments policy will be reviewed two years following ratification or if required before this date if the necessity arises.
- 7.1.2 Each request for a direct payment shall be dealt with on its own merits and this policy is not intended to be exhaustive and should be used as guidance only.