

HAVERING DIRECT PAYMENTS

FREQUENTLY ASKED QUESTIONS (FAQS)

This FAQ's has been put together to enable service users, staff and residents to be able to get answers to frequently asked questions about direct payments.

Understanding Direct Payments

What are Direct Payments?

- Direct Payments are a way of delivering community care.
- Their purpose is to increase choice and independence for users by giving more control over support arrangements.
- The person receiving the Direct Payment is responsible for accounting for how the money is spent.
- A Direct Payment cannot replace: NHS Services, Housing Services (e.g. Disabled Facilities Grants) or DSS benefit payments
- A Direct Payment cannot affect social security benefits nor be classed as taxable income.
- Direct Payments in Havering are subject to the same financial assessment by Havering Council as for community care services.
- There is no maximum or minimum level to a Direct Payment.
- It must be cost-effective and sufficient to pay for support of a quality acceptable to the authority.
- A Direct Payment must be sufficient to enable the recipient to meet their legal obligations.
- People receiving Direct Payments can choose to mix the services they buy or receive i.e. whilst using a direct payment to employ carers, they could also have the Council provide day centre opportunities. Those combining direct payment with Council provided services can opt to cease using Direct Payments at any time.

Who can receive Direct Payments?

- Older and disabled people aged 16 and over who are assessed as needing services. All impairments are included (physical, sensory, learning) but people subject to certain mental health after care or criminal justice legislation may not be able to receive Direct Payments.
- A person with parental responsibility for a disabled child

- Carers aged 16 and over who are caring for a disabled adult
- People must be willing and able to manage Direct Payments, alone or with assistance.

What can a Direct Payment be used for?

- It can be used to employ personal assistants or purchase support that Havering Council is satisfied will meet that person's assessed needs.
- Unlike services arranged by Havering Council, with a direct payment, the user is responsible for ensuring the quality of the services received.
- A direct payment cannot be used to purchase permanent residential care or services provided directly by Havering Council unless they were buying the services of a neighbouring local authority.

Recruiting a Personal Assistant

You can recruit a carer (known as Personal Assistant) in direct payments circle to provide your care if this is your wish.

Can I get help with recruitment?

Havering Council has a Personal Assistant (PA) Coordinator who accredits and produce a Personal Assistants List. The workers on the list have been checked out to ensure that they do not have criminal record that can prevent them from working with vulnerable persons. However, if you prefer to recruit your own personal assistant, the PA Coordinator can give you advice and assistance with recruitment, including the drafting and placement of advertisements and the arrangement of interviews.

Who pays for the recruitment advertisement?

The reasonable cost of advertising is covered by your direct payments in the form of an initial set up payment.

Do I have to have an Equal Opportunities policy?

Although you do not have to have an Equal Opportunities policy you must not (by law) discriminate on the grounds of race, sex, disability, age, religious belief or sexual orientation.

Do I need to take up references for someone I wish to employ?

If you are employing a personal assistant from the Havering Council List, references will already have been received for the workers. However, if you are recruiting an individual yourself, it is your responsibility to obtain references from two people who know the applicant well. The PA Coordinator can help you with this.

How can I check if the person I want to recruit has a criminal record?

Our PA Coordinator can help you obtain a Disclosure and Barring services Check on any prospective employee. You can contact the Direct Payments team for advice.

Employing a Personal Assistant

Can I employ someone from outside the UK?

You can employ someone from any country in the 'European Economic Area' without the need for a work permit but you must ensure that anyone you employ is legally entitled to work in the United Kingdom. You should ask to see relevant documentation and keep copies of it. Direct Payments team can help you with this.

Can I employ my partner or one of my relatives?

You cannot employ any close relative or partner who lives with you without prior permission from Havering Council, and then only in exceptional circumstances. Exceptional circumstances are only usually agreed where there is no other way of providing the required care.

When and how should I offer someone a job?

Any offer of employment should be made in writing and subject to satisfactory references. Direct Payments team can provide you with a Contract Template.

Can I employ someone for a trial period to see how they get on?

It's a good idea to include a probation period in any offer of employment. We recommend a trial period of 13 weeks.

Do I need to provide a job description?

Yes. It's best to draw up the job description before you offer someone the job – we can help you with this

Is there anything else I should give my new recruit?

No later than eight weeks after starting work, the new recruit is entitled to receive a statement of main employment particulars in other words an employment contract. Direct Payments team can help you with this.

Is there a limit on the number of hours I can ask my Personal Assistant to work?

Yes. You cannot ask someone to work more than the national working time regulations limit of 48 hours per week, unless they agree in writing to do so. Your employer liability insurance provider can give you advice about this.

How much should I pay my Personal Assistant?

You must pay at least the national minimum wage per hour, before tax. The pay rates that Havering Council recommends are much higher than this and will be covered by your direct payments for the number of hours specified. Direct Payments team can give you advice about this.

Do I need to take out any insurance before employing someone?

You need to take out employers' liability insurance. Havering Council will meet the cost of an appropriate policy at the start of your direct payment. Subsequent yearly renewal is included in your direct payment and application forms are available from the Direct Payments Team if you need it.

Do I have to pay my Personal Assistants holiday pay?

All employees are entitled to the pro rata equivalent of 5.6 weeks (28) days paid holiday a year. The cost of holiday pay, and of employing another PA to cover for holidays, is included in your direct payment. Your payroll provider if you have one can help you to calculate how much holiday each of your employees is entitled to. You can also contact Direct Payments team for help.

Do I have to pay my Personal Assistant when they are sick or on maternity leave?

Your employees may be entitled to statutory sick pay or statutory maternity pay in the relevant circumstances. You should seek advice from your payroll provider if you have one or contact Direct Payments team.

What happens when I need to pay for cover for my Personal Assistant?

An amount of money for contingency cover is included in your direct payment to cover this expense.

What happens if my Personal Assistant becomes pregnant?

Pregnant employees have special legal rights. You cannot refuse someone a job or dismiss her just because she is pregnant. If one of your employees is or becomes pregnant, contact your payroll provider or HMRC for advice. Your employer liability insurance provider will be able to provide legal and employment advice.

What happens if my Personal Assistant has a disability or becomes disabled?

Disabled employees have special rights. As you probably know, the term "disabled" covers a wide variety of physical and mental impairments. If you have reason to believe that one of your employees is or has become disabled, you should seek advice.

What happens if I want or need to sack a worker?

All employees have legal rights relating to grievance and disciplinary procedures (including dismissal and redundancy procedures). If you fail to follow the correct procedure you could be taken to an employment tribunal and have to pay compensation. If you are faced with a potential grievance, disciplinary or redundancy situation you should contact your employer liability insurance provider for legal / employment advice before taking any action.

What do I have to do about Health and Safety?

You have all the legal obligations of any employer, except that you are not strictly bound by the Health and Safety at Work Act when employing someone in your own home, however, you remain bound by a general duty of care and should take advice on this.

Can my Personal Assistant be self-employed?

It is extremely unlikely that the Inland Revenue will regard people working regular hours for you as being self-employed. Any person wishing to be regarded as self-employed should be asked to produce written authority from the Inland Revenue that it is prepared to regard them as self-employed. Otherwise they must be treated as being directly employed by you. HMRC tool is available on their website to help you confirm your worker's employment status.

Paying your Personal Assistant

Can I pay in cash?

No. You should not pay any worker in cash and it is against Havering Council's policy for you to do so. If this presents any problems, contact Direct Payments Team for advice.

Should my Personal Assistant fill in time sheets?

Yes. Ask your Personal Assistant to complete a time sheet for all the hours they work (preferably on a daily basis) and get them to sign it. You should keep a copy of these so that you can avoid disputes about hours worked.

Do I have to sort out Income Tax and National Insurance?

You are liable to Her Majesty Revenue and Customs (HMRC) for deductions of any income tax and employee national insurance and for any employer's national insurance contributions due. These deductions need to be held back from gross pay and paid to HMRC as required. The cost of tax and National Insurance contributions are included in your Direct Payments and your payroll provider or the Direct Payments Team can help you do the sums.

Can I use a payroll service to pay my workers?

Yes. The Council has a list which they will provide to you to enable you choose a payroll provider. The cost of a payroll provider can be met out of your direct payment as allowance has been made for this cost. The payroll service will calculate the necessary deductions and print a pay slip for you to give to your employees as is legally required. You must provide details of hours worked and pay rates, and of the employee's tax details by way of a P45 or a P46 when they start working for you.

Can I do my own payroll?

Yes. You can operate your own payroll. You will need to contact HMRC to register as an employer. HMRC can be contacted by telephone on **0300 200 3211**. You can register online by searching HMRC New Employer registration.

Buying services from an agency or a provider

Can I buy services from any provider I choose?

You can buy the support you need from any provider who is able to meet your needs. All care agencies and providers of residential respite care must be registered with the Care Quality Commission (CQC) and should be able to produce a Certificate of Registration. Direct Payments team can help you check this and print out a copy of the provider's latest inspection report.

How will I pay for the support I buy?

The provider you use will produce an invoice in return for which you pay for services from the prepaid card portal. You can also call prepaid financial services to request a transfer from your prepaid account. You need to keep a copy of all invoices you receive for your records as the Council can ask for this at any time.

What is a pre-paid account?

Having a pre-paid account is very similar to having a normal bank account and it will come with a card. The pre-paid account is loaded with your direct payment money from the council every four weeks, and you can use the card to pay for your care and support and items that meet your needs, as identified in your support plan.

The card works just like any other debit card. This means that it can be used for payments in person, over the phone or online. It also means you can set



up direct debits or standing orders from your pre-paid account to pay for the care and support you need on a regular basis.

What are the benefits of the pre-paid account?

By having a pre-paid account, this means that card holders will no longer need to submit quarterly spend forms, receipts or invoices to the council, as long as cash is not withdrawn from the pre-paid account. The Council will be able to see expenditure online, making it easier to monitor the direct payment spend, reducing paper submission.



Having a pre-paid account will also make it easier for the card holder to track their spending and manage their direct payments more easily since they will be able to view their spend online.

Do I have to have a pre-paid account in order to receive my direct payment?

Yes, everyone who receives a direct payment will have a pre-paid account and support will be offered to make it work. You can manage the account yourself or you can have a payroll agency or someone you trust manage your direct payment for you if you chose to.

How can I use the pre-paid account?

You can use the pre-paid account to make online payments, telephone payments and payments in person using a card reader like you would with any normal bank card.

Are there any fees for using my pre-paid account?

There is no charge from the council for you to have a direct payment pre-paid account. You can check your balance for free online at any time or by calling the direct payments team at the council during work hours. You will be charged a fee for a replacement card if your card is lost or stolen.

What if I try to spend more than what's in my pre-paid account?

If you try to spend more money than you have in your pre-paid account, your card will be declined and the transaction will fail.

Will my pre-paid account have a credit limit?

No, there is no credit limit on your pre-paid account. You will only be able to spend the amount of money that is in your pre-paid account. You will not be able to spend any more money than is allocated to you.

If I pay a financial contribution, can I pay this into my pre-paid account?

Yes – if you contribute towards the cost of your care, you will be able to transfer payments directly into your pre-paid account online. You can do this online, over the phone, by setting up a standing order or by contacting your own bank.

Can I withdraw cash from an ATM using my card?

No, you cannot automatically withdraw cash from an ATM using your card. If you think you will need to use cash in order to pay for your care and support, you will need to discuss your circumstance with the direct payments team at the council.

Will I have to keep my receipts?

Yes. Although you won't need to send in your paperwork to the Council, we advise that you **keep hold of your invoices and receipts for up to six years** as this is part of our duties from HM Revenue and Customs. We may request evidence to transactions that aren't compliant with what's in your care and support plan or during a council audit.

When will I get my new card and pre-paid account details?

If an account is opened for you, you will receive your new card and account details in the post days after the opening of the account. You will receive instructions on how to activate your pin number when you receive your new card and pre-paid account details.

Will my card ever expire?

Yes, the card will expire every three years from the issue date. Your expiry date will show on your card. If your account is still being used, a new card will automatically be issued to you before your current card expires. There is no charge for getting a new card once your current card has expired. If your card is about to expire and you have not yet received a new card, you can call your prepaid card provider on **0207 127 6804** to enquire about your account.

What should I do if my card is lost or stolen?

If your card is lost or stolen, you should contact your card provider on **0207 127 6804** straight away or as soon as you notice the card is missing. You will have to pay a fee for a replacement card.

What should I do if I forget my pin number?

If you forget your pin number, you can contact your card provider on 0207 127 6804 so a new pin number can be issued to you.