

**Direct Payments Policy**

|  |  |
| --- | --- |
| Version  | V3 |
| Lead Author/s  | Alistair Egginton |
| Designation  | Direct Payment Lead  |
| Head of Service  | Andrew Errington Head of Practice Development & Safeguarding (Adults Principal Social Worker)  |
| Target Audience  | All staff members responsible for direct payments   |
| Approved By  | Adult Social Care Management Team, Children’s Strategic Leadership Team, Cabinet Member (Adult Services) Cabinet Member (Children and Young People)  |
| Approval Date  | 8th November 2023 |
| Review Date  | November 2025 |

If printed, copied or otherwise transferred from the Intranet, Coventry City Council Business Records will be considered ‘uncontrolled copies’. Staff must always consult the most up to date PDF version which is on the Intranet

Version Control Sheet

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Version** | **Date** | **Author** | **Status** | **Comment / changes** |
| V3 | 08.11.23 | Alistair Egginton | Final | Policy reviewed and updated  |

**Contents**

[Introduction 4](#_Toc153870488)

[Section 1 Receiving a Direct Payment 7](#_Toc153870489)

[**Who can receive a direct payment?** 7](#_Toc153870490)

[**Mental Capacity to receive a Direct Payment** 8](#_Toc153870491)

[**Receiving a Direct Payment** 9](#_Toc153870492)

[**Person’s contributions** 10](#_Toc153870493)

[**Frequency of payments** 11](#_Toc153870494)

[**Payment method** 11](#_Toc153870495)

[**Bank accounts** 12](#_Toc153870496)

[**Contingency and reserves** 12](#_Toc153870497)

[Section 2 How to spend Direct Payments 13](#_Toc153870498)

[**What can Direct Payments be used for?** 13](#_Toc153870499)

[**Employing close relatives** 18](#_Toc153870500)

[**Legal rewards** 19](#_Toc153870501)

[**Employment Duties** 19](#_Toc153870502)

[**Safeguarding** 23](#_Toc153870503)

[Section 3 Direct Payment Rates 24](#_Toc153870504)

[Section 4 Review of Direct Payments 25](#_Toc153870505)

[**Monitoring and review of Direct Payments** 25](#_Toc153870506)

[**Recovery of Direct Payments** 28](#_Toc153870507)

[**Unspent Direct Payments** 28](#_Toc153870508)

[**Fraudulent Use** 29](#_Toc153870509)

[**Direct Payments and hospital stays.** 29](#_Toc153870510)

[**Direct Payments – periods away from home** 30](#_Toc153870511)

[Section 5 Ending Direct Payments 31](#_Toc153870512)

[**Suspending/terminating Direct Payments** 31](#_Toc153870513)

[**Discontinuing Direct Payments in the case of persons lacking capacity to consent to the Direct Payment** 34](#_Toc153870514)

[Section 6 Other Direct Payments 34](#_Toc153870515)

[**Carers Direct Payments in adult social care** 34](#_Toc153870516)

[**Direct Payments for replacement care** 35](#_Toc153870517)

[**Direct Payments for residential respite care** 35](#_Toc153870518)

[**Direct Payments for parent carers, foster carers and young carers.** 35](#_Toc153870519)

[Section 7 Direct Payment Letter of Agreement 36](#_Toc153870520)

[Section 8 Transition from Children’s Services 37](#_Toc153870521)

[Section 9 Direct Payment Policy Review 38](#_Toc153870522)

[Section 10 Equality and Human Rights 38](#_Toc153870523)

[Appendix 1 - Equality Impact Assessment (EIA) 39](#_Toc153870524)

**Introduction**

A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf.

Direct Payments are the government’s preferred mechanism for personalised care and support as they promote independence, choice, and control over how needs are met.To be eligible for a Direct Payment you must be resident in the United Kingdom.

When commissioning services for people, Coventry City Council will place greater emphasis on the achievements of outcomes and value for money over the level of choice available. We will always aim to maximise people’s independence and take their preferences into account, but the funding made available to support an individual will be determined by the most cost-effective care package, based on the local care market, the availability of local care providers and the cost of community-based care. All situations will have to be assessed and considered on an individual basis.

The legislative context for Direct Payments is set out in the Care Act 2014, Section 117(2c) of the Mental Health Act 1983 and the Care and Support (Direct Payments) Regulations 2014. Care and Support Statutory Guidance 2014 sets out how the Council should go about performing its care and support responsibilities.

The challenge for Coventry City Council is to balance the principles of individual choice and control which are reflected in various ways in the requirements set out in the Care Act, with the need to use resources effectively and efficiently and to be accountable for the use of public funds.

This policy sets out how Coventry City Council interprets its duties and responsibilities in relation to Direct Payments where the Care Act allows scope to do so, in line with the [One Coventry Plan](https://www.coventry.gov.uk/onecoventryplan) to identify financial plans that can meet the needs of residents and communities.

This Policy replaces Coventry City Council’s Direct Payment Policy and Guidance 2018 in the light of subsequent changes in legislation and guidance.

Coventry City Council must provide direct payments in accordance with legislation as highlighted below:

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

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

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

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

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

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

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

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

Separate practice guidance for staff working in adults’ and children’s social care services is available [here](https://coventrycc.sharepoint.com/Info/Pages/Direct-Payments.aspx) 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 that a Direct Payment prepaid card account is set up for the adult, carer, young carer, parent of a disabled child, or the nominated authorised person or organisation, 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).

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 a Direct Payment or if the Direct Payment is suspended or terminated.

# **Receiving a Direct Payment**

**Who can receive a direct payment?**

* 1. Legislation states that the following groups of people (who are assessed by 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).
* Adult 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. The following conditions must be met to receive a direct payment:
* The person agrees to receive a Direct Payment.
* Coventry City Council is not prohibited from making a Direct Payment as set out in legislation.
* Coventry City Council is satisfied the making of a Direct Payment is an appropriate way to meet eligible needs.
	1. 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.
	2. A Direct Payment must be an appropriate way to meet the eligible unmet needs set out in the Support Plan, Child in Need Plan or the Early Help Plan. Everyone who is eligible must consent to receiving the Direct Payment and be able to manage it, with support if required.

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 consider the best interests of the person, any evidence which indicates that the Direct Payment may not be appropriate and the views of all relevant parties including formal and informal support networks. If the request for a Direct Payment is refused, the person, or the person making the request will be provided with written reasons to explain the decision and be made aware of how to appeal against the decision through the [Coventry City Council’s Complaints Procedure](https://www.coventry.gov.uk/contact-council/comments-compliments-complaints) The decision will set out which of the conditions contained in the legislation have not been met, the reasons 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 in line with [Coventry City Council’s Complaints Procedure](https://www.coventry.gov.uk/contact-council/comments-compliments-complaints)and Coventry City Council will provide interim arrangements to meet eligible care and support needs during this period.

1.6 It should be made clear to all potential Direct Payment recipients early 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 alternative means via a Coventry City Council commissioned service.

**Mental Capacity to receive a Direct Payment**

* 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 a Direct Payment. Under the Mental Capacity Act 2005, 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 disturbance of the mind or brain.
	2. Where there is any doubt about the capability or capacity of an adult, carer, young carer or parent (of a disabled child or adult) to consent to or manage a Direct Payment, Coventry City Council will assess whether or not the person has capacity to consent before making a Direct Payment available.
	3. Inability to consent to receiving a Direct Payment or capability to manage does not mean an adult, child, carer 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 families and friends (if appropriate). Further guidance on the different options available to manage a Direct Payment will be made available by the allocated worker.

**Receiving a Direct Payment**

1.10 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.

1.11 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 services funded through the Coventry City Council. Details of Penderels Trust can be found at [www.penderelstrust.org.uk/](http://www.penderelstrust.org.uk/) or by calling on 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 / circle of support
* An Advocate

* 1. In exceptional circumstances if an individual lacks capacity and they do not have a family member or friend that can provide support to manage the Direct Payment and they have a Personal Assistant, supporting them, a referral can be made to SOLO by the allocated worker and the Independent Living Team. Information regarding the support they can offer can be found at [Solo Support Services](https://www.solosupportservices.co.uk/) or by calling on 0345 241 5565 or by email at: info@solosupportservices.co.uk
	2. 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”. See Section 7 below.
	3. 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, for example, registration with the Care Quality Commission, HM Revenue and Customs (HMRC), DBS etc. See para 2.40 below.
	4. 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 safeguarding 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. See para 2.50 below.
	5. Any agreement will be monitored by Coventry City Council to ensure compliance.  Any non-compliance with the terms and conditions set out in the letter of agreement 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. See Section 5 below.

**Person’s contributions**

* 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 [here](http://www.coventry.gov.uk/directpayments) and can also be made available by an allocated worker on request.
	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. See Section 5 below.

**Frequency of payments**

* 1. Coventry City Council will pay ongoing Direct Payments in advance at four-weekly intervals.

* 1. The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation will be allowed to retain a maximum 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. 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.
	2. Direct Payments may be back dated to the date that the package was approved and or the date the support was required to start, subject to approval by the Coventry City Council’s funding panel.

**Payment method**

* 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 “Prepaid Card Account” set up by the Independent Living Team. Some people may have an existing ‘Direct Payment Account’ which was put in place prior to Prepaid Card Accounts. Adults must pay their assessed contribution into these accounts, unless a third party is managing the Direct Payment. In this instance, you will receive an invoice for your assessed contribution towards your care and support from Coventry City Council.

* 1. If requested and agreed Coventry City Council will pay a one-off Direct Payment amount for adults, carers, young carers and children into either a Prepaid Card Account or a Direct Payment Account

**Bank accounts**

* 1. Coventry City Council will pay Direct Payments directly into a Prepaid Card Account or into a bank account set up for care and support only. These accounts must be opened in the name of the person(s) receiving the Direct Payment or in the name of the person who has been nominated to manage the Direct Payment.

**Contingency and reserves**

* 1. The 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. When writing the support plan, the Allocated Worker or Community Support Worker, will talk to you about a back-up plan for times when planned care and support may not happen for different reasons, for example, a Personal Assistant may be ill or be going on holiday. Or there may be times when there is a need for more support because the person has come out of hospital, had an accident or are ill. The use of a 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 the plan.

* 1. Sufficient funds should be held in Direct Payment Prepaid Card Account or the Direct Payment bank 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-week float should be recovered by Coventry City Council. See paras 4.15 - 4.17 below.

# **How to spend Direct Payments**

**What can Direct Payments be used for?**

* 1. Direct Payments are intended to be used flexibly and innovatively, and no unreasonable restrictions should be placed on the use of the payment, if it is used to meet the eligible care and support needs detailed in the Support Plan, the Child in Need Plan and the Early Help Plan and managed in accordance with the terms and conditions outlined in the “Letter of Agreement”.

2.2 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 any plan. This needs to be evidenced by providing bank statements, timesheets, invoices and or receipts when requested by Coventry City Council. All evidence should clearly demonstrate how a Direct Payment has been spent.

* 1. 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, please click [here](https://www.gov.uk/government/collections/providing-childcare-services-in-england).
	2. 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.
	3. Direct Payments funded by social care **cannot** be used for the following:
* Anything illegal such as drugs or prostitution.
* Employing someone without a Disclosure and Barring Service check if there are children in the home, or someone subject to a drug or alcohol treatment requirement, youth rehabilitation order or released on license.
* Purchasing of alcohol, tobacco, or gambling.
* Household expenses e.g., utilities, mobile phones, internet, magazine subscriptions, motoring expenses, home insurance, groceries, food and drink.
* Home improvements/adaptions.
* Expenses for your Personal Assistant to travel to your home.
* Long term residential care longer than four consecutive weeks in a 12-month period.
* 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 para 2.19 below.
* Promoting Independence/enablement.
* Funeral Expenses.
* Parental responsibilities related to a child’s upbringing such as payments for clothes, educational activities, medical treatment.
* Services provided directly by Coventry City Council. If a Direct Payment recipient is in receipt of a service directly from the Council that is included in the Support Plan, the Child in Need Plan or the Early Help Plan, this will be arranged by Coventry City Council and the Direct Payment will be reduced accordingly.
* To fund any support that does not meet an assessed eligible need.

* 1. 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.

* 1. 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, such as paying Tax, National Insurance, minimum wage requirements and ensuring that any person employed has the right to work in the UK. See para 2.40 below.

* 1. If for any reason a person is considering making changes to how they use their Direct Payments to meet their eligible needs as outlined in their Support Plan, the Child in Need Plan or the Early Help Plan they must contact their relevant Adult Social Care or Children’s Services team prior to paying for changes, as this may require a review of the adult’s, child’s, or carers’ needs.
	2. Direct Payments can be used to pay for short term stays in residential care. The amount of respite care, a cared for person may be offered will depend on their individually assessed needs and circumstances but should not exceed four consecutive weeks or less in any one period or a combination of different periods in a twelve-month period.
	3. Adults and children who are living in residential care homes may receive Direct Payments in relation to non-residential services and daytime 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.
	4. Adults in receipt of a Direct Payment can employ Personal Assistants who used to be their foster carers when they were 18 years of age, as long as the person satisfies the criteria to have a Direct Payment.
	5. 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 float allowance. If the hours being banked are not used within a twelve-month period Coventry City Council will require the funding to be returned.
	6. 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 as part of a pooled budget. There may be a number of people who have similar support needs and would be interested in pooling some of their Direct Payments to organise joint activities or services.  Pooling funding means taking some of the Direct Payments and adding it to funding from one or more people to purchase a service together. That way they can get more for their money by sharing the cost of an activity and have the opportunity to spend more time with other people.
	7. 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 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.
	8. Coventry City Council will not pay for all transport costs but may agree to this on an individual basis, where not providing this support would mean that the person cannot get to a service or activity included in your support plan.

* 1. Direct Payments may be used towards the costs of covering Personal Assistant/agency worker expenses e.g., paying for bus ticket if a Personal Assistant is supporting the Direct Payment recipient to use public transport These will need to be considered on a case-by-case basis.
	2. Expenses incurred that are part of ‘everyday living’ for the Personal Assistant 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.
	3. Direct Payments can be provided in conjunction with other social care services provided by Coventry City Council. This is known as a mixed packaged of care and support.
	4. Sometimes when a person’s needs become more complex, they may be assessed as being entitled to NHS Continuing Health Care (CHC) funding. CHC is where the persons primary needs are health related. In these circumstances the NHS will take the lead in supporting their needs. If a person is eligible for CHC, the NHS is responsible for funding all the individual’s health and associated social care needs including accommodation, if that is part of the overall needs.
	5. Personal Health Budgets (PHBs) are offered by the NHS. If health funding is available to an adult or child, requests should be made via the Integrated Health Board (ICB). To find out more information about PHBs email cwicb.capt-finance@nhs.net or telephone 02477 710970.
	6. 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. [Access To Work](https://www.gov.uk/access-to-work)
	7. 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 requests should be through the Special Educational Needs Team within Coventry City Council.

2.23 To find out more about personal budgets for Education email sen@coventry.gov.uk or telephone 024 7683 1614

**Employing close relatives**

* 1. The Care and Support (Direct Payment) Regulations 2014 exclude the Direct Payment from being used to employ a close family member who lives in the same household as the cared for person except where the Council agree that this is necessary, and it will be recorded in the Support Plan, Child in Need Plan or the Early Help Plan.
	2. If a Direct Payment recipient wants to employ a close family member who lives in the same household, this will be discussed with you when your Support Plan, Child in Need Plan or the Early Help Plan is completed. The Council will assess whether employing a close family member who lives in the same household is necessary, suitable, and safe way of meeting eligible needs.
	3. A decision to agree for a family member living in the same household to be employed will need to be made by a Service Manager within Coventry City Council. Issues that will be considered could include:
* The persons care needs are intermittent and unpredictable to an extent that recruiting someone else to meet their needs is not possible.
* The person is unable to cope with unfamiliar people and there is professional evidence to support this.
* Significant efforts have been made to find alternative means to meet their eligible needs which has been unsuccessful, and this is the only way for them to receive support.
	1. Consideration needs to be given to the impact of employing a family member on entitlement to benefits such as Carer’s Allowance. Allocated workers may also need to consider the impact that a change of relationship may have on household dynamics, where a family member goes from offering informal support to being a formal, paid worker.
	2. The Council will only agree to a family member being employed if it is satisfied that to do so is necessary to meet the person’s need for that service. Where a family member is being employed the Council will expect that as part of the agreement, the Direct Payment must be managed by a third-party organisation such as Penderels Trust to avoid any conflict of interest, and that all employees are registered to pay Tax and National Insurance where applicable.
	3. Anyone over 16 years of age can become a Personal Assistant if it is agreed that they are the best person to provide the support. There are different rules about the hours of work and pay for people aged 16 to 18.

**Legal rewards**

* 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.

**Employment Duties**

* 1. The adult, carer, young carer, parent of a disabled child or a nominated authorised person or organisation are responsible for the day-to-day management of Direct Payments including 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.

* 1. Coventry City Council will refer adults, carers, young carers and parents of disabled children to Direct Payment support services to assist them in their role as employer.  See: SOLO: [Solo Support Services](https://www.solosupportservices.co.uk/) and Penderels Trust [www.penderelstrust.org.uk/](http://www.penderelstrust.org.uk/)
	2. 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. See para 2.40 below.
	3. The adult, carer, young carer and parent of a disabled child or the nominated authorised person or organisation employing Personal Assistants must ensure there is Employers’ Liability Insurance in place. Coventry City Council have an agreement with Mark Bates Insurance Ltd and will pay for the Employers’ Liability Insurance with this company. The annual cost is currently £75.00. If the Direct Payment recipient or their representative wishes to use an alternative provider, Coventry City will fund the cost of the policy up to the cost of £75.00 (Proof of purchase of Liability Insurance will be required). The policy 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.
	4. 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. See para 2.40 below.
	5. The adult, carer, young carer, parent of the disabled child or the nominated authorised person or the 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 Support Plan, the Child in Need Plan or the Early Help Plan.
	6. 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.
	7. Coventry City Council will only advise on health and safety implications for the authority, employees of the Council and for Direct Payment recipients. Direct Payment employers must take responsible steps to minimise 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.
	8. 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.

**Employment Status and Self-Employed Personal Assistants**

* 1. Most people who decide to use a Personal Assistant directly employ them. However, if they decide to use a self-employed person, they should ask them for:
* A contract that sets out the work to be undertaken that makes it clear that they are not an employee.
* The Unique Tax Reference (UTR) from HMRC.
* Evidence that they have professional indemnity and public liability insurance.
* Disclosure & Barring Service checks.
* Self-employed workers are not paid through PAYE (Payroll) and they do not have employment rights.
* A self-employed Personal Assistant may work for more than one person.
* They declare their own income to HMRC, so payroll is not required.
* A self-employed Personal Assistant is not entitled to any holiday pay, sick pay redundancy or other employment related payments.
* Self-employed Personal Assistants must have their own public liability insurance which they should show to the person, on request before they commence work.
* Coventry City Council’s Independent Living Team must be provided with the Personal Assistant’s Unique Tax Reference (UTR)
	1. If the person uses a self-employed Personal Assistant (either Sole Trader or Limited Company) the Personal Assistant is liable for all the costs including Income Tax, National Insurance, sick pay, holiday pay, training and any equipment or consumable supplies they need to perform their duties.
	2. Coventry City Council will not make Direct Payments available in cases where the prospective recipient proposes to employ an individual who claims to be self-employed without evidence being supplied to demonstrate that the self-employed status is authentic in relation to the job role in question.
	3. Coventry City Council does not recommend that individual’s use a self-employed Personal Assistant as Her Majesty’s Revenue and Customs (HMRC) have advised they would consider almost all Personal Assistants to be registered as employed rather than self-employed for tax purposes.
	4. To demonstrate the employment status for tax purposes of the proposed working relationship, the Direct Payment recipient or Personal Assistant must complete the HMRC Employment Status Indicator (ESI) tool. The answers given must accurately reflect the job description and the terms and conditions under which it is proposed the services are to be provided at the relevant time of the contract. HMRC will be bound by the ESI outcome where the employer or their managing agent provides copies of the printer-friendly version of ESI results screen. The ESI tool only determines an individual’s employment status for Tax purposes only.

**Modern Day Slavery awareness**

2.45 To minimise the risk of Modern Day Slavery occurring it is the Council’s Policy that, where a Personal Assistant is employed using a Direct Payment, the Direct Payment recipient checks that the bank details they are paying the wages into matches that of the Personal Assistant providing support. The Council would recommend that where a Direct Payment recipient employs multiple Personal Assistant’s that each individual’s wages are paid into separate bank accounts. This would only apply where the Direct Payment recipient is employing their own staff and not in relation to any agency staff or self-employed Personal Assistants they may use. It is advised that the Direct Payment recipients ask to see a bank statement for each Personal Assistant they are employing to ensure that the bank account they are paying into is that of their Personal Assistant. The Council strongly recommends that where Personal Assistants are employed by a Direct Payment recipient that they are not paid in cash.

**Safeguarding**

* 1. The Direct Payment recipient or the nominated authorised person managing the Direct Payment shall ensure that when employing anyone who will provide unsupervised support to children or a vulnerable adult, that 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 plan to employ their own Personal Assistants. To know more about safeguarding see: [Safeguarding](http://www.coventry.gov.uk/safeguarding)
	2. The adult, carer, young carer, parent of a disabled child, nominated person, 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 as risk to the adult or child by contacting the Allocated Worker or relevant Intake Duty Team.

* 1. Where there are concerns about Personal Assistants, carers, or agencies a decision will be made to determine if the care and support arrangements that are in place should continue. This will be dependent on what the concerns are, and the level of risk identified.
	2. Agencies, carers or personal assistants should not be employed using a DP if they are subject to any safeguarding investigations which may include alleged fraudulent or criminal activity and Coventry City Council must be notified of any ongoing investigations to enable an assessment of risk to be undertaken to determine whether it is appropriate for the DP to continue and if so, whether any conditions are required.
	3. Any concerns about the registration status or the practices of care agencies should be reported by the Allocated Worker to Coventry City Council’s Commissioning Team and Care Quality Commission (CQC). CQC will advise Coventry City Council on the information that can be shared with the managing agent/nominated person of the Direct Payment and Coventry City Council shall make decisions about whether the Direct Payment should continue.

**Whistleblowing**

2.51 Whistleblowing is the making of a protected disclosure i.e., ‘blowing the whistle’ on actual or potential wrongdoing. It is a way to raise a concern over such wrongdoing. Examples of whistle blowing are:

* a criminal offence, for example fraud
* someone’s health and safety is in danger
* risk or actual damage to the environment
* a miscarriage of justice

2.52 If there are concerns regarding any potential wrongdoing contact Coventry City Council on 02476 833003.

# **Direct Payment Rates**

3.1 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 [Direct Payment Rates](https://www.coventry.gov.uk/money-legal-matters/direct-payments/5) 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.

3.2 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.

3.3 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](http://www.coventry.gov.uk/info/194/health_and_social_care_-_having_your_say_and_getting_involved/562/adult_social_care_-_comments_compliments_and_complaints/3).

# **Review of Direct Payments**

**Monitoring and review of Direct Payments**

* 1. Direct Payments are public funds, so it is necessary that the funds are spent appropriately. Monitoring and reviewing means that expenditure will be checked to make sure that all the Direct Payments are used to meet the agreed outcomes in the Support Plan, Child in Need Plan, or the Early Help Plan. Monitoring of the accounts will also alert us if people are not spending all their Direct Payments.

4.2 Coventry City Council expect Direct Payment recipients to retain their records as they may need to be requested at any time. The individual may wish to check with HMRC (Her Majesty’s Revenue and Customs) who can provide further guidance on employer records. The Independent Living Team or Penderel’s Trust can also advise Direct Payment recipients or their nominated person about the information they should keep and how the monitoring process works.

4.4 When a new Direct Payment is set up, the allocated worker will remain allocated for the first three months and complete a review, to ensure the recipient of the Direct Payment is comfortable using the Direct Payment and is not experiencing any initial issues. This review will include elements such as managing and using the Direct Payment and discussion of any long-term support arrangements that may be necessary, such as payroll, insurance cover and third-party support. This review is not a full review of the Support Plan, Child in Need Plan, or the Early Help Plan. However, if this review raises concerns or requires actions that affect the detail recorded in the plan, then a full review of the plan would need to be carried out.

* 1. Thereafter, the Direct Payment will be reviewed by the Independent Living Team on a scheduled date every six months.
	2. If the Direct Payment recipient is contracting with an agency, staff will ask to see payment of invoices, hourly rates, payment of the individual's contribution into the Direct Payment account. If the person is employing people, the Council will, as part of the review discuss the employees and their hourly rates, Liability Insurance and payroll arrangements to ensure the individual is fulfilling their responsibilities as an employer, for example, that they are submitting PAYE returns to HMRC, as well as paying Tax and National Insurance deductions to HMRC, paying assessed contributions, and that DBS checks have been completed where appropriate.

**Pre-payment card**

4.7 Individuals who receive their Direct Payment onto a pre-paid card will not have to submit bank statements as the Council will monitor the pre-paid account. Individuals will need to submit receipts/invoices/payslips and timesheets when the Council requests them to do so. Failure to do so will affect the Direct Payment.

**Nominated bank account**

4.8 Individuals who receive their Direct Payment into a nominated bank account will need to submit bank statements every six months so that the account can be monitored. If requested, they will also need to provide receipts, invoices, payslips and timesheets.

* 1. The adult, carer, young carer or parent of a disabled child or the person managing the Direct Payment bank account is expected to submit paper copies or electronic copies of their bank statements and/or returns when requested by Coventry City Council. All evidence should clearly demonstrate how the Direct Payment has been spent. If the Direct Payment recipient is managing the bank account well, e.g., submitting returns on time, returning unspent funding, and spending the Direct Payment in line with the Support Plan, Child in Need Plan, or the Early Help Plan then the agreed schedule to send in documentation may reduce to once per annum. If this not adhered to then the Direct Payment may be suspended or terminated. See Section 5 below.
	2. If a third-party organisation is nominated to manage the Direct Payment, they are expected to provide evidence of expenditure via accounting reports, invoices, timesheets, and wage slips on a quarterly basis. This is to demonstrate how the Direct Payment is being spent to meet the eligible needs as defined in the Support Plan, Child in Need Plan or the Early Help Plan.
	3. 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 at least seven years from the date the Direct Payment commenced.
	4. 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.
	5. Reviews should determine whether Direct Payments remain an appropriate way of meeting a person’s needs. If any of the following are identified during a review, the Council will exercise its discretion regarding the continuation of the Direct Payment.

* There has been a change in capacity.
* There is a change in need.
* Direct Payments have not been used as intended.
* Making Direct Payments to the individual, the nominated person or authorised person is no longer an appropriate way to meet the needs.
* There has been a breach of a condition including non-payment of assessed financial contributions.

**Recovery of Direct Payments**

4.15 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 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.

**Unspent Direct Payments**

4.16 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 para 4.15 above.

4.17 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 fourweeks 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 para 4.15 above. 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.

**Wrongful use of Direct Payments**

4.18 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 Support Plan, the Child in Need Plan or the Early Help Plan.  If 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.

**Fraudulent Use**

4.19 Coventry City Council has a duty to protect the public funds it administers and to this end the Independent Living Team and/or allocated workers will monitor the transactions and any additional information provided for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes such the Council’s Internal Audit Team, HMRC and the Department for Work and Pensions.

4.20 Any individual in receipt of a Direct Payment who tries to make any unauthorised transactions from their pre-paid card or direct payment bank account may have committed an offence under the Fraud Act 2006. Where it is suspected that such a fraud may have occurred, the matter will be investigated as appropriate, and this may lead to criminal proceedings being instigated.

4.21 Coventry City Council will terminate the Direct Payment with immediate effect if, after investigation, it is found that the direct payment is being used illegally or fraudulently or being used in a way which is not supporting the persons assessed outcomes.

**Direct Payments and hospital stays.**

4.22 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, consideration will be given to whether a review of their care needs is necessary. The review shall consider whether the Direct Payment needs to continue, depending upon the circumstances of the individual.

4.23 If an adult, carer, young carer or child who is a recipient of support from a Personal Assistant funded by a Direct Payment is admitted into hospital, consideration must be given as to whether the Personal Assistant is required to continue to provide care and support to the direct payment recipient whilst they are an inpatient. Confirmation will be required to ensure that the Personal Assistant has appropriate insurance protection whilst carrying out support tasks within a hospital setting.

4.24 If the individual remains in hospital and/or receives reablement services for more than 28 days a review must take place. Payments may be reduced or cease depending on the outcome of the review.

4.25 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.

4.26 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.

4.27 Prior to discharge from hospital, a review of the individuals care and support needs will be undertaken. Coventry City Council will ensure that an appropriate support plan is in place before their return home. The Direct Payment may be reinstated if it was temporarily ceased or reduced, provided they continue to meet the eligibility criteria.

**Direct Payments – periods away from home**

4.28 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.

4.29 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.

4.30 The adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation retains responsibility for 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.

4.31 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. This includes whilst on holiday both in the United Kingdom and abroad. Direct Payments while abroad will not be paid for more than four weeks and it is the individual’s responsibility to notify Coventry City Council if they are planning to travel abroad.

4.32 Failure to return home on the expected date will generally result in the suspension and possible termination of the Direct Payment, requiring a reassessment of need. Any overpaid Direct Payment funds will be reclaimed. If you believe there are exceptional circumstances which may justify a departure from this policy, you must inform Coventry City Council to explain why.

# **Ending Direct Payments**

**Suspending/terminating Direct Payments**

5.1 Direct Payments will only be suspended or terminated as a last resort.  Coventry City Council will take all reasonable steps to address any situations to avoid the suspension or termination of the payment. Prior to any decision to suspend or end a Direct Payment, Coventry City Council will ensure that there is no gap in the provision of care and support.

5.2 A temporary suspension may be placed on the account where:

* it appears that there has been a breach of the Direct Payment Letter of Agreement.
* it is suspected the Direct Payment has been used for fraudulent purposes.
* if the individual receiving support is at risk of abuse or is being abused.
* if the individual receiving support is admitted to hospital or short-term care.
* Coventry City Council assesses the person responsible no longer has the ability to manage a Direct Payment.

5.3 In order to reinstate a temporarily suspended Direct Payment the Allocated Worker or the Independent Living Team will need to request that the suspension is lifted by the Service Provision Team. For Childrens Service the suspension will need to be lifted by the Fostering & Finance Team.

5.4 As an alternative to suspension or termination, Coventry City Council will consider providing the Direct Payment via a third-party managed account provider where it is appropriate. Where suspension is required, the individual will be offered the option of a managed bank account as an alternative to suspension.

5.5 Coventry City Council or the individual, can terminate the Direct Payment by providing four-weeks' written notice.

5.6 Direct Payments will only be terminated by Coventry City Council, after there has been opportunity for the adult, carer, young carer, parent of a disabled child or their nominated authorised person to be given additional support, advice and guidance if they have not been complying with the conditions of a Direct Payment as set out within the Letter of Agreement.

5.7 As part of this process the Independent Living Team will send out three letters requesting information relating to any unpaid client contributions and/or evidence of how the Direct Payment has been used to meet an assessed need. If Direct Payment recipients do not provide a response to the Independent Living Team, then Coventry City Council will give the recipient four weeks’ notice of its intention to suspend or end the Direct Payment. If there is no further response to this notice, the Direct Payment will be ended by Coventry City Council. Any non-compliance by the nominated third-party organisation will be managed through Coventry City Council’s contract compliance process.

5.8 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 three months. 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.

5.9 Where the Direct Payment recipient employed Personal Assistants, they will need to take appropriate action in relation to their employment rights. Individuals should take advice from their Employer’s Liability insurance provider, or other employment specialist. Support with this can be provided by Penderel's Trust.

5.10 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 a Direct Payment recipient to be placed out of the city for a non-residential placement. 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. Where a person has moved out of the city permanently Direct Payment funding will continue for a period of four weeks to allow time for a re-assessment to be completed under the Care Act 2014 by the Council in the area they have moved to.

5.11 When the Direct Payment has ended because the adult, carer, young carer or child has died, contact should be made with Coventry City Council by the executor and/or a representative dealing with the deceased’s estate within six weeks to finalise the payments and close the Direct Payment account.

**Discontinuing Direct Payments in the case of persons lacking capacity to consent to the Direct Payment**

5.12 Where an adult or young person aged 16 or 17 in receipt of a Direct Payment loses capacity to manage the Direct Payment, Coventry City Council will discontinue Direct Payments to that person and consider making payments to a nominated authorised person instead.  In the interim, Coventry City Council shall make alternative arrangements to ensure continuity of support for the person concerned.

5.13 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.

5.14 Where there are concerns that an individual no longer has capacity to request the Direct Payment, the allocated worker must carry out or arrange for a decision-specific capacity assessment to be completed. Where it is determined that the Direct Payment recipient lacks capacity to request the Direct Payment, the payment to them directly must be terminated.

5.15 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).

# **Other Direct Payments**

**Carers Direct Payments in adult social care**

6.1 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.

6.2 A Carers Direct Payment cannot be used to meet the needs of the cared for person.

**Direct Payments for replacement care**

6.3 A Direct Payment may be made for 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 number of hours required, and the appropriateness of the support should be assessed and determined by the Allocated Worker who is assessing the cared for person.

6.4 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.

6.5 Replacement care cannot be utilised in instances where a carer is unwilling or unable to provide care.

**Direct Payments for residential respite care**

6.6 A Direct Payment can be utilised to purchase residential respite care.  As part of the assessment the allocated worker would need to determine the number of weeks required and outline this within the Direct Payment recipient’s support plan. The Direct Payment cannot be used to fund more than six consecutive weeks in any twelve-month period see para 2.9 above.

6.7 If there is a necessity for more long-term provision which exceeds six consecutive weeks a practitioner would need to consider directly commissioning this support.

**Direct Payments for parent carers, foster carers and young carers.**

6.8 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 Payment Letter of Agreement**

7.1 To receive a Direct Payment, individuals or their managing agent must sign a letter of agreement with Coventry City Council. This agreement sets out the conditions under which the Direct Payments can be made by Coventry City Council and include details of what the Direct Payment recipients and the Council must do. The agreement reflects Coventry City Council’s policy and requires that, although Direct Payment recipients will use the Direct Payment to purchase and contract for services in their own right, they will do so within the parameters set by the Council to ensure that arrangements are legal and safe, and that public money is properly accounted for.

7.2 In circumstances where the terms and conditions of the agreement are not met, Coventry City Council will take reasonable steps to address the situation. If the situation remains unresolved Coventry City Council will consider whether the Direct Payment is still the appropriate way to meet an individual’s assessment needs. If necessary, and subject to appropriate alternative services being put in place, the Council will discontinue the Direct Payment and recover any monies not used from the Pre-Paid Card account, or Direct Payment Bank Account or raise an invoice for any unused monies, or where misuse has been confirmed in line with the Direct Payment Letter of Agreement. It is also a requirement that where an individual has been financially assessed to pay a contribution towards the cost of their support, this needs to be paid by them or the managing agent into the Pre-Paid Card account or the Direct Payment bank account. See para 1.17 above.

7.3 If there is a failure to provide copies of bank statements receipts/invoices/payslips and timesheets when requested by Coventry City Council to evidence how funds have been spent or there is evidence to show that the contributions are not being made into the Pre-Paid Card account or the Direct Payment bank account, an initial letter will be sent out by the independent Living Team or Allocated Worker to request the information required. A follow up letter will be sent four weeks later. When the second letter is sent, the social work team budget manager will be advised, and a final letter sent advising that failure to respond may result in the Direct Payment being ended.

7.4 Where deliberate misuse of the Direct Payment is suspected this may trigger a fraud investigation by the Council, and or a criminal investigation by the Police if there is sufficient evidence to suggest that a crime is being committed.

7.5 Direct Payments will not commence until the Direct Payment recipient, or the nominated person have signed the Direct Payment Agreement Letter containing the conditions the Council consider necessary for the payment and proof of identify has been confirmed. The Letter of Agreement explains the role and responsibilities of Direct Payment recipients, their nominated person, and the role and responsibilities of the Council. It is important the contents of the Agreement are understood before it is signed. If support is needed the Independent Living Team can help. A copy of the signed letter of agreement needs to be added to the Direct Payment recipients records before payments can begin.

# **Section 8 Transition from Children’s Services**

8.1 Coventry City Council will start planning for a young person’s transition to adult care from the age of 16 years. A Social Worker will contact the family to start this process so that there is a smooth transition and no gap in the support provided.

8.2 Where a Direct Payment has been used by families, consideration will need to be given to who will manage the budget going forward. Adult Social Care will complete an assessment of the needs of the person, and this may result in a different level of support or conclude that there are no ongoing eligible needs.

8.3 The purpose of the transition is to ensure that any changes to existing arrangements are in place to ensure continuity. Support from Children’s Services will continue until support from Adult Services is in place, or it is clear after the assessment that the person no longer has eligible needs. The individual will also need to have a financial assessment because there are charges for Adult Social Care services, but they will only have to pay a contribution towards the care and support if the financial assessment identifies that they can afford to pay towards the cost of this.

# **Section 9 Direct Payment Policy Review**

9.1 The Direct Payment policy document will be reviewed and amended as the need arises because of any change in legislation regarding the use of Direct Payments.

9.2 This policy document is not intended to be exhaustive and should be used as guidance only.

# **Section 10 Equality and Human Rights**

10.1 This policy has been the subject of an Equality Impact Assessment (EIA) in line with the Council’s commitment to meeting its requirements under the Public Sector Equality Duty.  As part of this duty, the Council must have ‘due regard’ to the need to:

* eliminate unlawful discrimination, harassment and victimisation;
* advance equality of opportunity between different groups; and
* foster good relations between different groups.

10.2 The EIA carried out on this policy has used equality information and data to understand the potential impact of the policy on people with protected characteristics and evidences how we are meeting our statutory equality duties’. See [Appendix 1](#_Appendix_1_-).

# **Appendix 1 - Equality Impact Assessment (EIA)**

|  |  |
| --- | --- |
| **Title of EIA** | **Direct Payments Policy**  |
| **EIA Author** | Name  | **Alistair Egginton** |
|  | Position  | **Direct Payment Lead** |
|  | Date of completion | **08/11/2023** |
| **Head of Service** | Name | **Andrew Errington** |
|  | Position | **Head of Practice Development & Safeguarding (Adults PSW)** |
| **Cabinet Member** | Name | **Councillor Linda Bigham** |
|  | Portfolio | **Adult Services**  |

**PLEASE REFER TO** [**EIA GUIDANCE**](https://coventrycc-my.sharepoint.com/personal/cvjma120_coventry_gov_uk/Documents/EIAs/New%20folder/FINAL%20EIA%20Guidance%20May%2021.pdf) **FOR ADVICE ON COMPLETING THIS FORM**

|  |
| --- |
| **SECTION 1 – Context & Background** |
| 1.1 | Please tick one of the following options:  |
| This EIA is being carried out on:[ ] New policy / strategy[ ] New service[x] Review of policy / strategy[ ] Review of service[ ] Commissioning [ ] Other project *(please give details)* |

|  |  |
| --- | --- |
| 1.2 | In summary, what is the background to this EIA?  |
| The Direct Payment Policy has been subject to review. A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |

|  |  |
| --- | --- |
| 1.3 | Who are the main stakeholders involved? Who will be affected?  |
| People accessing Adult Social Care support and choosing to receive this support in the form of a Direct Payment  |

1.4 Who will be responsible for implementing the findings of this EIA?

|  |
| --- |
| Policy author  |

|  |
| --- |
| **SECTION 2 – Consideration of Impact** |

*Refer to guidance note for more detailed advice on completing this section.*

In order to ensure that we do not discriminate in the way our activities are designed, developed and delivered, we must look at our duty to:

* Eliminate discrimination, harassment, victimisation and any other conflict that is prohibited by the Equality Act 2010
* Advance equality of opportunity between two persons who share a relevant protected characteristic and those who do not
* Foster good relations between persons who share a relevant protected characteristic and those who do not

2.1 Baseline data and information

Please include a summary of data analysis below, using both your own service level management information and also drawing comparisons with local data where necessary (go to <https://www.coventry.gov.uk/factsaboutcoventry>)

|  |
| --- |
| Information regarding the profile of people (by age, sex and ethnicity) currently accessing a Direct Payment is available via a performance dashboard. This compares uptake against the city population profile using recent census data. This identifies favourable uptake from those from an Asian ethnic background.<http://cvsw90755/reports/powerbi/Adult%20Social%20Care/Demographics> |

2.2 On the basis of evidence, complete the table below to show what the potential impact is for each of the protected groups.

* Positive impact (P),
* Negative impact (N)
* Both positive and negative impacts (PN)
* No impact (NI)
* Insufficient data (ID)

*\*Any impact on the Council workforce should be included under question 2.6 –* ***not below***

|  |  |  |
| --- | --- | --- |
| **Protected** **Characteristic** | **Impact type**P, N, PN, NI or ID | **Nature of impact and any mitigations required** |
| Age 0-18 | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Age 19-64 | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Age 65+ | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Disability | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Gender reassignment | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Marriage and Civil Partnership | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Pregnancy and maternity | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Race (Including: colour, nationality, citizenship ethnic or national origins) | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Religion and belief  | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Sex | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |
| Sexual orientation | **P** | A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. This enables people to choose how and when they receive services instead of the Council arranging services on their behalf. This arrangement is positive and accessible to all groups of people and promotes independence, choice, and control over how needs are met. |

**HEALTH INEQUALITIES**

|  |  |
| --- | --- |
| **2.3** | Health inequalities (HI) are unjust differences in health and wellbeing between different groups of people which arise because of the conditions in which we are born, grow, live, work and age. These conditions influence our opportunities for good health, and result in stark differences in how long we live and how many years we live in good health. Many issues can have an impact: income, unemployment, work conditions, education and skills, our living situation, individual characteristics and experiences, such as age, gender, disability and ethnicityA wide range of services can make a difference to reducing health inequalities. Whether you work with children and young people, design roads or infrastructure, support people into employment or deal with welfare benefits – policy decisions and strategies can help to reduce health inequalities**Please answer the questions below to help identify if the area of work will have any impact on health inequalities, positive or negative.****If you need assistance in completing this section please contact: Hannah Watts**  (hannah.watts@coventry.gov.uk) **in Public Health for more information. More details and worked examples can be found at** [https://coventrycc.sharepoint.com/Info/Pages/What-is-an-Equality-Impact-Assessment-(EIA).aspx](https://coventrycc.sharepoint.com/Info/Pages/What-is-an-Equality-Impact-Assessment-%28EIA%29.aspx)  |
| Question | Issues to consider |  |
| 2.3a What HIs exist in relation to your work / plan / strategy | * Explore existing data sources on the distribution of health across different population groups *(examples of where to find data to be included in support materials)*
* Consider protected characteristics and different dimensions of HI such as socio-economic status or geographical deprivation
 |
| Response:This a Direct Payment Policy. A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. Person accessing adult social care will experience health inequalities and receiving support can as a result improve health and wellbeing.  |
| 2.3b How might your work affect HI (positively or negatively).How might your work address the needs of different groups that share protected characteristics | **Consider and answer below:*** Think about whether outcomes vary across groups and who benefits the most and least, for example, the outcome for a woman on a low income may be different to the outcome for a woman a high income
* Consider what the unintended consequences of your work might be
 |
| Response:1. Potential outcomes including impact based on socio-economic status or geographical deprivation

This a Direct Payment Policy. A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. Person accessing adult social care will experience health inequalities and receiving support can as a result improve health and wellbeing. |
| 1. Potential outcomes impact on specific socially excluded or vulnerable groups eg. people experiencing homelessness, prison leavers, young people leaving care, members of the armed forces community.

This a Direct Payment Policy. A Direct Payment is a monetary payment given to an individual or their representative from their Personal Budget to be spent on the care and support needs outlined in their agreed Support Plan, Child in Need Plan or the Early Help Plan. Person accessing adult social care will experience health inequalities and receiving support can as a result improve health and wellbeing. |

|  |  |
| --- | --- |
| 2.4  | Next steps - What specific actions will you take to address the potential equality impacts and health inequalities identified above? |
| None identified.  |

|  |  |
| --- | --- |
| 2.5 | How will you monitor and evaluate the effect of this work? |
| The Policy will be subject to training for front line staff and monitoring of uptake and benefits of the use of Direct Payment. Positive stories of difference have and will continue to be highlighted in the Adult Social Care Annual Report. |

2.6 Will there be any potential impacts on Council staff from protected groups?

|  |
| --- |
| No negative impacts identified  |

You should only include the following data if this area of work will potentially have an impact on Council staff. This can be obtained from: lucille.buckley@coventry.gov.uk

3.0 Completion Statement

|  |
| --- |
| **As the appropriate Head of Service for this area, I confirm that the potential equality impact is as follows:**No impact has been identified for one or more protected groups [ ] Positive impact has been identified for one or more protected groups [x] Negative impact has been identified for one or more protected groups [ ] Both positive and negative impact has been identified for one or more protected groups ☐  |

4.0 Approval

|  |  |
| --- | --- |
| **Signed: Head of Service:****Andrew Errington**  | **Date:** **08/11/23** |
| **Name of Director:****Pete Fahy**  | **Date sent to Director:** |
| **Name of Lead Elected Member:****Mal Mutton**  | **Date sent to Councillor:** |

**Email completed EIA to** equality@coventry.gov.uk