



Derbyshire County Council
Direct Payments Agreement for children with assessed needs

To be read in conjunction with "Responsibilities and Information EHC Personal Budgets via Direct Payment Processes" booklet

This Direct Payment Agreement is made on (date)..... and is

Between

The person with parental responsibility or person nominated in writing by the child's parents on behalf of (child's name)

.....

Address of child (if different to that of the person with parental responsibility.)

.....

Name of person with Parental responsibility	
Address	

And

Derbyshire County Council (*Name of CCG for Health*)

Name of Worker	
Position	
Work Base	

1. (a) Derbyshire County Council (DCC)/Health has carried out an assessment of your child's needs for services and has determined that the services set out in your child's Education, Health and Care Plan (EHCP) could be part provided via a Personal Budget (Personal Health Budget). Where the direct payment is given as a Personal Budget via direct payment processes this is to secure qualifying goods and services as laid out as Outcomes within the EHCP. Your child is under the age of 16 years.

(b) or an assessment has determined that services set out in your child's Assessment or Social Care Child's Support Plan should be provided. Where the Personal Budget via direct payment process is given under section 17 of the Children Act 1989, the aim of the Personal Budget is to safeguard and promote the child's welfare. Your child is under the age of 16 years.
2. You are the person with parental responsibility or have been nominated for the child and have requested to receive some or all of DCC contribution to the cost of meeting the child's assessed needs as a Personal Budget via direct payment processes and you are willing and able to secure the services outlined as Outcomes within an Education Health and Care Plan or Social Care Child's Support Plan as accessible via the use of a Personal Budget Direct Payment.
3. When the young person reaches 16 years of age, they become eligible to receive a personal Budget Direct Payment in their own right. An assessment will be completed by DCC or your Health worker to determine
 - i. If the young person (aged 16-18) has capacity to receive and manage Direct Payments and if it appropriate for personal budgets to be met by Direct Payments.
 - ii. If the young person is assessed has having capacity whether they wish to directly receive payments or to nominate a third party to receive and manage them on their behalf.
 - iii. If the young person is assessed as lacking capacity to manage and receive direct payments who will be appointed as the "nominee" to receive and manage payments on their behalf.
 - iv. Adult care services and Health will conduct an assessment approaching a young person's 18th birthday to determine eligibility for direct payments post-18 as part of transition planning.

Derbyshire County Council Agree to:

1. Give you a sum of money four times per year or every four weeks in advance to enable you to buy support for your child. This money is provided to meet your child's assessed support needs as outlined as Outcomes within their Education Health and Care Plan or Child's Plan and agreed with your DCC/Health Worker. It is your choice and responsibility how you use the Personal Budget to meet your child's assessed needs.
2. Make payments into a Pre-Payment bank account in your name (In some cases into a managed bank account). You will receive notification of these payments via a payment summary.

The Account which will include a prepaid card with access through internet or telephone banking.

Child's Support Plan only - Where the amount of the Personal Budget is less than £20 per week arrangements may be made to pay this into your own private account rather than opening a new pre-payment account.

3. Send you out a four weekly payment summary detailing what has been paid to you. This summary will also inform you of any changes to your payments.
4. DCC may provide you with additional funds, when agreed by the DCC worker.
5. Arrange for the DBS enhanced check to be carried out on the Personal Assistant. This is paid for by DCC.
6. Work with you in reviewing the Outcomes named within your child's Education Health and Care Plan at agreed times. Any changes to the Education Health and Care Plan and the money you receive will be discussed with you and you will receive 4 weeks' notice of this in writing.
7. There will be an initial 3-month review. A further review will take place when conducting a review or a re-assessment of the EHC plan which will not exceed a 12 months interval. More frequent reviews may occur as the needs of the child change as the child gets older, or either your child's or your circumstances change - This may result in payments being decreased or increased.
8. Provide you with adequate support and/or information about where you can obtain help that DCC is unable to provide. This will ensure you have the necessary support in order to spend your Personal Budget appropriately.
9. Provide you with a Starter Pack of information "*Responsibilities and information EHC Personal Budgets via Direct Payments processes*" in an appropriate format, to help you manage the direct payment. DCC recommends that you seek independent advice if you need help to manage your Personal Budget. The "Derbyshire Local Offer" will sign post you to appropriate services.
10. Provide extra help if you are struggling with managing your Personal Budget direct payment. You must contact your DCC Worker if you need extra support, who will be able to direct you.
11. Provide you information in a format that enables you to access the information given.
12. Deal with your Personal Budget direct payment enquiries and complaints in a timely manner.
13. Work with you to try and resolve issues which arise before terminating this Agreement.

DCC agree to commence payments once:

- a personal assistant has been identified and following the successful process of the personal assistant’s recruitment. This includes satisfactory references, a satisfactory DBS (Disclosure and Barring Service) certificate check.

DCC reserve the right to:

- Impose a requirement that you do not secure a service from a particular service provider, in circumstances where (following a Review, in accordance with Regulation 11(5) (c) (i) of the SEND (Personal Budgets) Regulations 2014), the LA is of the opinion that the service provider is not able to provide an adequate service or has been deemed to be unfit in providing that service.
- Terminate Personal Budget Direct Payments if a safeguarding conference considers your child is at risk of abuse or has suffered abuse and if the Personal Budget direct payment is not safeguarding or promoting the child’s welfare where the payment relates to services under section 17 of the 1989 Act.
- Terminate the Personal Budget Direct payments if there is evidence that payments are not used to meet the assessed needs of the child named within the Education Health and Care Plan.

I..... **being the Person having parental responsibility or person nominated in writing by the child’s parents**

on behalf of (child’s name)

Agree to:

Financial and Monitoring Requirements

1. Spend the money on meeting the agreed Outcomes outlined within the Education Health and Care Plan for Personal Budget use.
2. Have a Pre-Payment bank account set up by DCC for Personal Budget Direct Payments or organise a managed bank account specifically for direct payments. I agree not to use this account for any other purpose
3. In the case where my direct payment relates to a Child’s Support Plan and is less than 2 hours or £20.00 in value the direct payment may be made into an existing bank account. Ensure that the bank account approved by Derbyshire County Council is accessible by me by me or any other person approved by Derbyshire County Council.
4. Keep all records (timesheets and/or invoices, receipts for items or cash expenditure, etc.) about the Personal Budget direct payment and financial transactions for a period of six years. If I have a Pre-Payment account or chose to

use a managed bank account for my Personal Budget direct payment any paperwork or transactions in connection with the use of the direct payment should be available to DCC/Health as and when required for audit purposes.

5. To take responsibility for any bank charges and/or HMRC charges

Be a Good Employer – Please refer to Responsibility and Information EHC Personal Budgets via Direct Payment processes

1. I understand that the arrangements for employment between me and those people I employ to provide a service, is a private arrangement and DCC is not involved in that arrangement and bears no responsibility to me or the staff that I employ with regard to the employment relationship.
2. Ensure that the personal assistant's details are not on the DBS barred list. I understand it will be illegal for any barred individual to undertake, or attempt to undertake, this kind of activity. They will be informed of this when they are barred. I understand that if I employ someone who is barred that I could be fined. Derbyshire County Council will not pay the fine.
3. I will check with any personal assistant I employ or propose to employ whether they have any traces on their DBS certificate. I understand that it is my responsibility to do so as DCC will not have this information to help make a judgement about the suitability of the Personal Assistant and potential risks involved in employing the Personal Assistant concerned.
4. I will request that DCC carry out a DBS check on new personal assistants and thereafter three yearly where children reside in my house. I understand that the Personal Budget Direct Payments may be suspended if DBS checks are not carried out as required.
5. I understand that it will be illegal for any barred individual to undertake, or attempt to undertake, this kind of activity and they will be informed of this when they are barred. I understand that if I employ someone who is barred then I could be fined. Derbyshire County Council will not pay the fine.

I specifically agree to:

1. Abide by the Equal Opportunities Legislation when recruiting and employing staff as far as is consistent with meeting the needs of my child.
2. Ensure that I comply with employment legislation and I understand that Derbyshire County Council has recommended that I seek independent advice to achieve this.
3. Not employ a spouse/civil partner or a member of my family directly living in the same household unless DCC/Health agree that it is necessary.

When Contracting with a Service Provider

When I contract with a service provider to meet my child's assessed needs I understand that the contract is a private arrangement and DCC is not involved in that arrangement and bears no responsibility to me or the organisation with regard to the contract.

I specifically agree:

1. That when I contract with an organisation on behalf of my child, I will ensure that the staff have current and satisfactory DBS and are registered to undertake a regulated activity and are not on the DBS barred list.

Repayment of Funds

1. To notify DCC immediately of any changes to my child's circumstances that may affect their Outcomes within the Education Health and Care Plan, child's plan or their entitlement to a Personal Budget direct payment.
2. To repay any unauthorised use of the Personal Budget direct payment.
3. To repay the Personal Budget payment where there is an excessive surplus at annual review, and it is not needed to secure the relevant services set out in my child's Education Health and Care Plan or child's plan. With prior agreement with my child's DCC worker, I can retain up to 10% of the Personal Budget direct payment as a contingency.
4. Not to use the Personal Budget direct payment for any other purpose than meeting my child's assessed needs and outlined as Outcomes within the Education Health and Care Plan or child's plan.
5. In the event of the child/young person's death, DCC will carefully consider what contractual responsibilities were in place when determining what balance of the Personal Budget Direct Payment is to be repaid to DCC.

Suspending the Agreement

DCC may temporarily suspend this Agreement if:

- My circumstances or those of my child's circumstances change.
- If I or my child are at risk of abuse pending the outcome of a safeguarding conference.
- If I or my child goes into hospital.
- If my child goes on holiday or on a short break where it does not meet the outcomes within EHCP.

Termination of the Agreement

Before terminating this agreement DCC shall endeavour to provide any appropriate support for you to continue to receive a Personal Budget direct payment.

Either party may terminate this agreement by giving the other party 4 weeks' notice in writing. When the Agreement terminates, DCC will provide and/or arrange the services directly to the child, should the child continue to be eligible for services provided by DCC. Both parties will take account of the employment responsibilities of the direct payment recipient when serving notice of termination.

Despite the usual 4 weeks' notice and after discussions, I understand that DCC may terminate this Agreement if any of the following situations occur and then DCC does not have to give 4 weeks' notice:

For example:

- A breach of the conditions of this agreement.
- The Personal Budget direct payment is used for fraudulent purposes
- The Personal Budget direct payment is used for purposes which do not meet my child's needs or promote my child's welfare.
- I become incapable of managing the direct payment (even with support).
- As a result of a change in circumstances, my child falls outside the eligibility criteria
- My child goes into a foster placement (excluding short break care as agreed in the plan)
- Social Care Personal Budget - My child goes into a residential educational school or college (*It is possible to have a Personal budget/Direct Payment during school or college holidays where the placement is term-time only*)
- My child has a child protection plan
- A safeguarding conference considers that my child is at risk of abuse or has suffered abuse
- The Personal Budget direct payment is not/no longer safeguarding or promoting my child's welfare when the payment relates to services under section 17 of the Children Act 1989.

I understand that DCC will review this agreement once my child reaches 16 years of age. However, if as a young person they have been assessed by an Adult Care Worker in respect of a Personal Budget Direct Payment in their own right once they reach the age of 18 years, then a new agreement within adult services will be drawn up and signed.

Comments, Complaints and Compliments

You have the right to complain under DCC Complaints Procedure about any issue in this Agreement

I have read and understood the contents of this Agreement

Person with Parental Responsibility on behalf of (name of child)

Date.....

Signed.....

Print name

Derbyshire County Council/Health Worker

Signed

Print name

Position.....

Date.....