

Direct Payment Agreement

Between

Derby City Council (“we”/“us”)

and

XXXXX (“you”)

for the provision of a Direct Payment for

XXXXX

This Agreement is legally binding on both Derby City Council and XXXXX and states what you must do in agreeing to receive a direct payment and what we will do when agreeing to make the payments to you.

You have informed us that you wish to receive a direct payment as part of the agreed support outlined in the child or young person’s Single Assessment/Education, Health and Care Plan (EHCP) and we have agreed to give you a direct payment subject to the conditions contained within this Agreement. You have agreed that you can manage a direct payment without our assistance.

We have carried out an appropriate assessment and calculated the direct payment that XXXXX is entitled to for the purpose(s) set out in the Single Assessment/EHCP. You will find details of this calculation, plus the purpose of the direct payment, frequency of payments and direct payment review dates set out below.

Purpose (as set out in the Single Assessment/EHCP)	
Number of hours per week	
Hourly rate (£)	
4 weekly payment (£)	
Direct payment start date	
Initial review date (3 months after start date)	
2nd review date (9 months after initial review)	

If required, the initial payment will include additional funds to pay for set-up costs, such as undertaking an enhanced Disclosure and Barring Service (DBS) check and employer’s public liability insurance. We will also pay reasonable costs for you to procure a payroll account service, should you decide to use one. Thereafter, we will pay these reasonable costs annually, where necessary.



Set up costs (to be included with the initial payment)	
DBS check	
Employer's liability insurance	
Managed account/payroll service	
Other	
Total set up costs	

We will:

- pay the direct payment directly into your nominated bank account
- regularly review the availability and suitability of your direct payment, as well as the amount offered and the calculation made according to your individual circumstances
- reduce your direct payment if you have accrued a surplus or if we have made an overpayment to you
- reduce your direct payment if we consider that it is reasonable to offset unused direct payments against the outstanding amount to be paid
- reserve the right to receive and request evidence that the money paid to you has been used for the specified purpose only.

You as the parent/carer/representative receiving the direct payment will:

- at all times act in the best interests of the child or young person you are receiving the direct payment for
- at all times adhere to the guidance and procedures as laid out in Derby City Council's Direct Payment Policy
- nominate a specified bank account for the direct payments to be paid in to on a 4 weekly basis, and be responsible for ensuring that the funds are received to this account
- ensure that the bank account approved by the local authority is only accessible by the person receiving the direct payments or any other person approved in writing by the local authority
- be responsible for making all the necessary arrangements to ensure that the child or young person receives the support agreed in their Single Assessment/EHCP

- be responsible for ensuring there are adequate funds in the nominated account to cover all costs relating to the direct payment such as bank charges, DBS checks, employer's liability insurance and managed payroll account fees
- be responsible for ensuring the child or young person's safety and security whilst receiving support funded through the direct payment, including ensuring that they are appropriately accompanied as necessary
- be responsible for the terms and conditions of any agreement made with any other parties for the purpose of arranging the support agreed in the child or young person's Single Assessment/EHCP
- take all reasonable precautions to make sure that all arrangements you make for the child or young person funded by the direct payment will be in accordance with all relevant laws designed to ensure that they are safe
- ensure that any third parties involved in the provision of the support agreed in the child or young person's Single Assessment/EHCP are appropriate individuals to undertake such activities within the meaning of the Safeguarding Vulnerable Groups Act 2006, including ensuring that enhanced Disclosure Barring Service checks have been undertaken where necessary
- make sure the child or young person receives the support as agreed in their Single Assessment/EHCP and as set out in this Agreement
- give written notice to us if the child or young person's needs change on a permanent basis, allowing 20 working days' notice for an interim review to be arranged by us
- inform us if the child or young person moves address
- inform us if the child or young person is unable to receive the support agreed in their Single Assessment/EHCP on a long-term basis so that we can adjust the direct payment
- make your own alternative arrangements utilising the direct payment to overcome any short-term issues (such as occasional illness) which affect the provision of the support agreed in the child or young person's Single Assessment/EHCP
- inform us if you no longer wish to receive the direct payment
- complete and submit Spending forms for every review

- Repay some or all of the direct payment money if:
 - for whatever reason, you are temporarily unable to arrange the support agreed in the child or young person’s Single Assessment/EHCP, or if the balance of the account exceeds 8 weeks’ of direct payments
 - you have been using the direct payment for items or services other than those agreed in the child or young person’s Single Assessment/EHCP
 - the direct payment has been inappropriately used (either intentionally or unintentionally) or you have shown yourself to be incapable or unwilling to manage your direct payment correctly
 - you fail to comply with the review or financial monitoring process
 - we suspect that criminal activity has taken place
 - we decide that another form of assistance is to be offered
- repay any overpayment within 14 days of presentation of an invoice from us
- understand that if the child or young person is assessed as no longer being eligible the direct payment will end
- not use money received as a direct payment for any purpose other than what was agreed in the child or young person’s Single Assessment/EHCP and which is stated in this Agreement
- keep clear and accurate records of all spending of the direct payment and, in particular, be able to show how it has been used to meet the child or young person’s needs. You will also be required to keep invoices, payslips and receipts for anything (over £20) that you have purchased with the direct payment, although you may find it easier to keep receipts for all expenditure. You must allow us to look at these records if we ask you
- keep all relevant paperwork concerning how you have spent the direct payment for a period of at least 7 years, including retaining all receipts for a period of 6 months, in a condition which can be checked by officers authorised by us to ensure that all money received has been utilised for the stated purpose
- understand that you are responsible for any tax liability that arises because of receiving a direct payment



You agree **not** to use the direct payment for:

- anything that is illegal or is illegal to purchase, or that would endanger the child or young person or any other person
- gambling; debt repayment; alcohol; tobacco
- to pay a family member living with the child or young person, except as agreed in exceptional circumstances
- emergency, acute, and most primary healthcare services which are already provided on the NHS
- treatments, such as medication, that the NHS would not normally fund because they are not shown to be cost effective
- purchasing services directly from Derby City Council or their partner agencies
- permanent residential care
- equipment
- as a substitute for Disabled Facilities Grants
- living expenses, for example food, rent, utility bills, clothing, etc.
- any charges due to the Council
- anything else that has not been agreed in the child or young person's Single Assessment/EHCP.

Employing Staff

If you choose to employ anyone to provide the support agreed in the child or young person's Single Assessment/EHCP, you must have employer's liability insurance before they start work. You must renew this insurance as required, or annually.

You cannot employ anyone who lives in the same household as you or the child or young person without first having written permission from us. We may give permission in exceptional circumstances.

You must act as a responsible employer and make all your arrangements in line with employment legislation, and ensure that you have sufficient funding to cover your potential employer responsibilities.

If you employ anyone who will have frequent, unsupervised contact (more than 3 times per month) with the child or young person, you must ensure that the person has undertaken an appropriate enhanced Disclosure Barring Service check and be satisfied that the person does not pose any significant risk of harm to the child or young person.

We reserve the right to carry out checks to make sure any PAYE, Income Tax and National Insurance contributions deducted from an employee's pay has been paid over to HMRC, and that employment payments do not breach the national minimum wage and conform to pension requirements if eligible.

We strongly recommend that you obtain independent advice concerning employment law.



Monitoring by the Council

We must review the making and use of direct payments at least once within the first 3 months of the direct payment being set up. We will undertake a second review 9 months after the initial review. Thereafter, reviews will take place every 6 months or sooner if undertaking a new Single Assessment/EHCP.

At the time of review, we will request to look at your bank statements and other records to establish how you are spending the direct payment. This is to ensure that you are using it for the support that was agreed in the child or young person's Single Assessment/EHCP and within the terms set out in this Agreement. We will do this by contacting you to arrange to visit you in your home, or other mutually agreed venue, at a time that is convenient to both parties.

Suspending and terminating this agreement

We will give notice in writing, setting out our reasons for any decision to suspend your Direct Payment, or stop it and terminate this Agreement, if:

- you notify the local authority in writing that you no longer consent to receiving direct payments
- you cease to be a person to whom a direct payments may be made
- for whatever reason, you are temporarily unable to arrange the support agreed or the agreed support can no longer be secured by means of a direct payment
- Derby City Council becomes aware that the making of direct payments is:
 - (i) having an adverse impact on other services which the local authority provides or arranges for children and young people with a Single Assessment/EHCP
 - (ii) no longer compatible with the local authority's efficient use of its resources
- you have been using the direct payment for items or services other than those agreed in the child or young person's Single Assessment/EHCP or that specified on Page 2 of this Agreement
- your direct payment has been inappropriately used (either intentionally or unintentionally) or you have shown yourself to be incapable or unwilling to manage your direct payment correctly

- you fail to comply with the review or monitoring process
- we suspect that criminal activity has taken place
- we decide that another form of assistance is to be offered.

We reserve the right to recover payments as necessary in line with the local authority's debt recovery process.

Complaints

We must reconsider our decision when requested to do so by you but we are not required to reconsider our decision more than once. You have the right to complain about the operation of this Agreement using our complaints procedure.

Privacy Notice

How is your information used?

The information we collect will be used for the purpose of completing a financial assessment (if required), for setting up, paying, monitoring and administering a payment to enable you in accordance with the child or young person's support plan.

Who will your information be shared with?

The information provided may be shared with other departments in the Council (such as Commissioning, Finance etc). The amount that you are paid, and details of the financial assessment may be shared with health colleagues, schools or other educational settings, along with any other agencies that are working with the child or young person for the same or similar purposes. The information may also be shared with the Department for Education (DfE), Ofsted, CQC, the Adoption Leadership Board and the HCPC because we have a legal duty to do so.

For further information about how your personal information will be used please visit www.derby.gov.uk where you can see a full copy of our privacy notice. Alternatively, you can request a hard copy from us by phoning 01332 256959 or emailing us at:

thelighthouse@derby.gov.uk

Signing this Agreement

The person in receipt of the Direct Payment named on Page 1 of this Agreement should sign this Agreement below. This person may be the disabled young person, their parent, carer or their representative). If signed by the representative, the disabled young person or their parent/carer should also sign to give their consent to allow the representative to act on their behalf.

I, the parent carer representative (please tick appropriately) confirm that I have read, understood and agree to the terms of this Agreement:

Signature:
Print name:
Date:

Signed on behalf of Derby City Council by:

Signature:
Print name:
Date:

To be signed by parent/carer if instructing a representative to act on their behalf

I consent to NAME OF REPRESENTATIVE to act as my representative to receive and manage direct payments for my child/young person.

Signature of Parent/Carer
Print name
Date

Please let us know if your contact details change.

You have the right to know what information we hold about you and we try to make sure it is correct.

If you would like any further information or advice, please contact your allocated caseworker.

Integrated Disabled Children's Service
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