



London Borough of Lewisham Council Children with Complex Needs and Disabilities Service

Direct Payments Agreement

This agreement sets out the responsibilities and obligations of
Lewisham Council and recipients of direct payments.

This agreement is dated

and is made between

Children with Complex Needs Service,
London Borough of Lewisham Council
Kaleidoscope,
32 Rushey Green,
Catford,
SE6 4JF

and

.....
(the recipient)

Terms and Conditions

The following terms and conditions apply to the provision of direct payments for children and young people operated by Lewisham Council's Children with Complex Needs and Disabilities Service and as agreed by the parties to this agreement:

1. About the agreement

1. A direct payment is money paid by the council to individuals so that they can buy their own services or resources to meet eligible needs, instead of the council providing or arranging for the provision of services or resources.
2. Direct payments are made in respect of meeting the eligible needs of a child or young person. These needs may be outlined in an Education, Health and Care Plan (EHCP) or a Targeted Short Breaks support plan.
3. Any necessary one-off or annual payments will be made as soon as possible after this agreement is signed. Continuing payments will be made in advance and will be calculated per calendar month. Instalments will be paid onto the pre-paid cards on approximately the 1st of each month for Specialist Short Breaks clients. For Targeted Short Breaks clients, instalments will be paid on approximately the 1st of each quarter (1st April, 1st July, 1st October, 1st January) or at the nearest suitable point thereafter. For EHC Plan clients, the frequency of payments will be outlined within their plan.

2. Financial Administration

1. Lewisham Council will provide reloadable pre-paid named cards to all recipients of direct payments. All payments will be made to the pre-paid card account provided by the local authority.
2. Recipients of direct payments who lose their direct payment card may be charged £4 for a new card.
3. Recipients of direct payments will receive a PFS (Prepaid Financial Services) Mastercard. The PFS Mastercard works in a similar way to debit cards, it can be used to :
 - pay for necessary services or items.
 - set up direct debits and standing orders.
 - make BACS payments to other bank accounts.
 - cash withdrawals - this facility will no longer available on renewal of new pre-paid cards.
4. The pre-paid cards are set up solely in the name of the direct payment recipient. If the card is self-managed, any problems with using the card should be referred to PFS directly:
 - Customer Services telephone : 0203 953 5588 (Monday-Friday 8am-9pm).
 - Customer Service email : lewisham@prepaidfinancialservices.com

In order to access the Cardholder Control Portal for internet banking, you will need to go to the following website: <https://clients.prepaidfinancialservices.com/lewisham/login.aspx>

5. Short Breaks follow the financial year, which is from 1st April – 31st March of the following year. If direct payments are not used by the end of the financial year, funds will not be carried over to the next financial year. Funds that have not been used by the 31st of March will be claimed back by the Short Breaks Team at a later date and we will write to inform you when this will happen. Please ensure that any funds not used by the 31st of March are not spent in the new financial year. If unused funds are spent in the following financial year, you may be asked to repay the funds.

It is the responsibility of the recipient of direct payments to ensure that the pre-payment card is used solely for the purposes of direct payments to purchase support to meet eligible needs, and is used in line with the child or young person's EHC plan or the agreed care and support plan. If there are any queries about whether a support service is appropriate and the cost will be covered by direct payments, these should be discussed with a Social Worker or a Care Package Reviewing Officer before the purchase is arranged.

6. Recipients of direct payments are responsible for their own accounts and any payment to which you are not entitled, or is more than that to which you are entitled, you agree to allow the Short Breaks Team to recover. If you are aware that an overpayment has been made, you should notify the Short Breaks Team at the earliest opportunity and the funds be returned to the local authority. Lewisham reserve the right to recover overpaid funds for a period of up to 6 years from the date of the first overpayment.

3. Persons to whom direct payments may be made

1. The local authority may make direct payments available to a person who is either the child's parent/carer, a nominee or to the young person themselves.
2. Direct payments will only be made if the parent/carer or young person appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them, and:
 - is a person over compulsory school age.
 - has the capacity to consent to managing direct payments.
3. A local authority may make direct payments to a nominee who has been nominated in writing by the child's parent or the young person to receive the direct payments on their behalf.
4. If the Local Authority has decided to suspend direct payments it will inform the parent/carer or young person of its decision, giving reasons and informing them of their right to request a review.
5. Complaints in relation to decisions regarding direct payments should be made by emailing shortbreaks@lewisham.gov.uk or CYP.Casework@lewisham.gov.uk 0208 314 6930

4. Using direct payments

1. Direct payments are made in respect of meeting the assessed eligible needs for Specialist Short Breaks clients, or in line with a Targeted Short Breaks support plan. Direct payments for Short Breaks clients may only be used to meet the outcomes identified for the child or young person.
2. Recipients of direct payments must be able to justify that their payments have been used to meet the child or young person's outcomes if requested to do so by the Short Breaks Team. Where direct payments funds have been used to pay for activities, services or any other resource, the recipient will be required to provide evidence of spend through receipts or other appropriate means.

3. Parents/carers will be able to choose what support they require for their child in order to meet the eligible needs set out in their child's individual care plan, support plan or EHC Plan. Young people will be able to choose the support they require to meet their needs as set out within their care plan or EHC Plan.
4. Recipients of direct payments are responsible for arranging support and will be responsible for dealing with any issues should they arise. If a recipient wishes to employ someone, including employing a relative or friend who doesn't live in the household, they must make sure that they meet all relevant employment regulations such as the minimum wage, employers National Insurance, holiday pay, statutory sick pay etc. See Section 5 of this document for more details.
5. Direct payments **must not be used** to pay for:
 - services or resources which do not meet the child or young person's outcomes, or for a Targeted Service, the outcomes for the family;
 - supplementing household income;
 - childcare, for example to look after the child because the parent/carer is at work or studying, unless included within a plan;
 - services from the local authority;
 - services or resources which are the responsibility of another provider;
 - permanent residential care or permanent adaptations to the home;
 - alcohol, tobacco, anything illegal or for gambling;
 - holidays, unless this is included within a plan;
 - afterschool clubs, and school trips unless this is included within a plan;
 - transport, unless this is included within a plan;
 - restaurants and fast food outlets;
 - supermarkets or retail stores;
 - activities entrance/participation fees for parents and siblings;
 - accessories needed to purchase for a specific activity (for example, football uniform, dance shoes, socks etc)
 - educational resources, such as tutors, educational books or other resources, unless this is part of a Personal Education Budget agreed by the SEN team;
 - games consoles and electronic media technologies, such as laptops, phones and TV unless included within a plan;
 - debt repayments;
 - employing someone in ways which breach employment regulations;
 - employing a spouse or civil partner, partner or a close relative living within the household, unless in exceptional circumstances agreed in advance.
6. A PFS card cannot be used to make cash withdrawals.
7. If a recipient of direct payments does not have enough money to make a purchase, or if more than the agreed support or care hours are used without the written approval from the local authority, the recipient must pay for any shortfall. For example, should a parent/carer wish to pay a higher rate to a personal assistant during bank holidays, it is the responsibility of the parent/carer to ensure that they have sufficient funds to pay for the difference themselves.

8. Additional direct payments or services will only be allocated following a review of the child or young person's care plan, EHC Plan or support plan. Agreement must be obtained in writing from the local authority.
9. Hours should be used on a weekly or monthly basis in line with the nature of support necessary for a child or young person as outlined within their EHC plan or their support plan. Support hours and direct payments should not be accumulated. For example, if a child or young person have been awarded 5 hours per week, then the maximum they can claim per week is 5 hours.
10. It is the responsibility of the recipient of direct payments to notify the local authority if any relevant circumstances change in a way which would impact on the need for the agreed provision.
11. If a recipient of direct payments is unsure whether they can use their direct payments for certain services or resources, they should first check what has been agreed in their care plan or support plan. If they are still unsure, the parent/carer or young person should contact the Short Breaks Team or the child or young person's Social Worker or EHCP Lead Officer for advice.

5. Employing a carer/personal assistant

1. All recipients should use a payroll company to pay their carer or personal assistants through PAYE. Under exceptional circumstance, and only if there is prior agreement by the Local Authority, carers or personal assistants who are self-employed may be considered. If agreed by the Local Authority they will be required to provide evidence by using the HMRC 'Employment Status Indicator' (ESI). The ESI is an online tool which HMRC provides to determine a worker's employment status. Recipients will also be required to provide an invoice showing their self-employed carer's or personal assistant's company registration details, together with details of the type of work undertaken, showing the dates and number of hours worked for each payment made to the employee.
2. Carers/personal assistants should never be paid in cash and all employers have the responsibility to consider the London living wage.
3. A recipient of direct payments who chooses to employ someone is treated in law as an employer and would hence take full responsibility for any necessary tax and National Insurance contributions. Recipients of direct payments may choose to use a third-party payroll company to calculate such contributions on their behalf. The direct payment rate builds in a reasonable cost for this service for all recipients of direct payments.
4. The direct payment rate builds in sufficient funds to cover the cost of employer's liability insurance up to the value of £61. It is the responsibility of anyone who chooses to employ a carer to have appropriate insurance in place. If a higher level of cover is purchased, the additional cost must be met by the recipient of the direct payment.
5. The Local Authority will agree to pay bank holidays for personal care hours only. For short break hours, if a carer or personal assistant work short break hours normally on a Monday for example, and a bank holiday falls on a Monday, the carer or personal assistant should work an alternative day as they cannot be paid bank holiday rates, unless there is an agreed exception.
6. If parents/carers or young people need advice about using their direct payments, they can contact the Short Breaks Team or their allocated Social Worker or EHC Plan Lead Officer who will be able to help.

6. Monitoring and reviewing direct payments

1. Direct payments are public money, therefore Lewisham Council has a responsibility to ensure that they are spent appropriately. The Short Breaks Team will monitor and review how direct payments are spent.
2. Recipients of direct payments are required to submit all invoices and receipts to the Short Breaks Team email shortbreaks@lewisham.gov.uk on a quarterly basis to evidence appropriate spending of direct payments. Ad hoc checks may also take place as an extra safeguard if necessary. Monitoring receipts must be printed on a company headed paper or stamped with a company stamp. Chip & Pin receipts are also acceptable as long as they state the date, amount, and the number of people paid for and what services/activities were purchased. Recipients should keep full records of all transactions in respect of direct payments for at least six years. If and when the service ends, recipients should still keep full records of all transactions and receipts for at least six years.
3. The Short Breaks Team may require evidence of where each carer or personal assistant is registered either through an agency or payroll bureau. A payroll company may be used to prepare pay slips, calculate and pay tax and National Insurance contributions.
4. When Direct Payment funds have been used to pay for services or resources and money has been transferred into a personal account from a direct payment account, the recipient will be required to provide thorough evidence of spend through receipts or other appropriate means. It is the recipient's responsibility to keep these receipts for monitoring purposes and to provide them to the Short Breaks Team every 3 months, by the 15th of the following month after the period in question.
5. Parents/carers or young people who manage direct payments are encouraged to keep copies of all receipts, as they may be asked to repay any money which they cannot evidence how it was spent.
6. If evidence for monitoring is not submitted or only partially submitted when required, the Short Breaks Team will send a reminder letter to the parent/carer asking for the receipts. Failure to provide evidence may result in a request to repay the funds and the account being suspended.
7. If required evidence for monitoring is submitted late on three occasions, the local authority may decide that offering direct payments is not an efficient use of resources. Under these circumstances, the Short Breaks Team may manage the card and facilitate payment for care services on behalf of the parent/carer or young person.
8. If direct payments are not being spent appropriately or in line with the child or young person's care plan, EHC Plan or support plan, the Care Package Reviewing Officer or Short Breaks Reviewing Officer will discuss their concerns with the parent/carer, allocated social worker or EHC Plan Lead Officer.

7. Unauthorised Spend

1. Following the monitoring review, if direct payments are not being spent appropriately and there is evidence of unauthorised spend, the following procedure will be invoked:
 - The Short Breaks Reviewing Officer will liaise with the parent/carer to discuss the unauthorised spend and request the return of funds to the account.

- The Care Package Reviewing Officer or Short Breaks Reviewing Officer will send an unauthorised spend account suspension letter and will suspend the account within 3 days.
 - The Care Package Reviewing Officer will discuss with the parent/carer or named card holder the nature of the unauthorised spend.
 - The discussion will take place and may include :
 - the future of the care package.
 - how the funds are to be paid back.
 - recover the card from the parent and discuss the managed account processes.
 - The Short Breaks Reviewing Officer will discuss the unauthorised spend at a QA meeting with Managers, a decision will be made if an invoice to cover the debt should be raised with the Finance Support Group which will be sent to the parent/carer /young person for payment.
 - once the parent/carer has returned all of the unauthorised spend and a risk analysis has been undertaken, there may be the opportunity for the parent/carer to regain management of the pre-paid card if this is agreed at the QA meeting.
2. If an account is suspended, parents/carers will not be able to access any of their direct payments. Parents/ carers or a young person will be unable to use chip and PIN facilities or make balance transactions once their account has been suspended. The child or young person's needs may be reassessed and any necessary support services or resources will be arranged and managed through the local authority.

8. Reducing, stopping or increasing the amount of direct payments

1. Where the local authority decides to increase or reduce the amount of direct payments or to stop making a direct payment, it must provide reasonable notice in writing to the person receiving the direct payment. This decision will be agreed at the Care Package Panel.
2. The local authority may stop making direct payments if:
 - the person receiving the direct payments no longer consents to do so;
 - the person receiving the direct payments ceases to be a person to whom direct payments may be made as outlined in section 3 of this document;
 - following a review, it appears to the local authority that the person receiving direct payments is not using those payments to meet agreed outcomes;
 - the Direct Payments have not been used or have been used inappropriately;
 - following a review, it appears to the local authority that the agreed provision can no longer be secured by means of direct payment;
 - at any point the local authority becomes aware that by making direct payments, there is an adverse effect on other services or is no longer consistent with the local authority's efficient use of resources;
 - the family is no longer resident in the London Borough of Lewisham;
 - the child or young person is no longer with the family.
 - the child or a young person turns 18 and no longer receives support from Children With Complex Needs Service.
3. If direct payments are to be stopped, any unspent money must be paid back to Lewisham. Consideration will be given to any existing commitments made to service providers or employees, if the recipient has discussed this prior with the Local Authority.

9. Repayment and recovery of direct payments

1. Lewisham Council may require that part or all of a direct payment must be repaid to the local authority if this would be an appropriate course of action. The local authority will have regard to whether:
 - the circumstances of the child or young person has changed in a manner which has significant impact on the appropriateness of the agreed provision;
 - all or part of the direct payments have not been used to secure the agreed provision;
 - there is no submission of receipts to show evidence of spend from the direct payment account or the evidence provided is unsatisfactory, i.e. receipts/invoices submitted do not meet valid receipts criteria.
 - theft, fraud or another offence may have occurred in connection with the direct payments.
2. Lewisham Council may seek repayment of any portion of the direct payments that have not already been spent on the agreed provision. Under these circumstances, the local authority will give reasonable notice in writing to the person receiving the direct payments. The notice will set out:
 - the reasons for the decision;
 - the amount to be repaid;
 - the time within which the sum must be repaid.

10. Managed Direct Payments

1. A Short Breaks direct payment account can be managed by the Short Breaks team either due to previous misuse of funds, missing receipts or if the recipient requests that the Short Breaks team manages the direct payments on their behalf.
2. A managed account means that the Short Breaks team financially manages the funds in the account on behalf of the recipient.
 - If a recipient has a Targeted or Specialist Short Break service for activities, they will need to pay for the activities and then submit the receipts to the Short Breaks team shortbreaks@lewisham.gov.uk for reimbursement.
 - The Short Breaks service will endeavor to reimburse money back to the recipient within 7-10 working days of any receipts emailed to shortbreaks@lewisham.gov.uk as long as they are acceptable activities and receipts that fall in line with the care plan and direct payment agreement. If a recipient arranges an activity and is issued an invoice to pay, the invoice should be emailed to shortbreaks@lewisham.gov.uk and the team will issue the payment directly to the provider on the recipient's behalf.
 - If a recipient employs a carer or personal assistant, the payroll provider will send any submitted timesheets to the Short Breaks team for approval prior to issuing a payment to the carer or personal assistant. If a timesheet cannot be fully approved, the Short Breaks team will contact the recipient and explain why. The Short Breaks team will also pay the yearly insurance fee on behalf of the recipient/employer. If an agency is used to provide care support, the invoices should be emailed to shortbreaks@lewisham.gov.uk and the Short Breaks team will then issue the payment directly to the provider on the recipient's behalf.

- It is still the responsibility of the recipient to ensure that they are using funds within the allocated budget and submit receipts that fall in line with their child's current support plan. Pre paid card bank statements can be sent to the recipient upon request.
 - If a Short Breaks direct payment account requires to be managed by the Short Breaks team due to misuse of funds or missing receipts, the recipient will be advised in writing about this. The account will be placed on deposit only and the prepaid card must be returned to the Short Breaks team.
 - If recipients require assistance from the Short Breaks team to make a payment or set up a direct debit while the account is managed by the Short Breaks team, they will need to sign a consent form which allows the Short Breaks team to contact providers on their behalf.
3. If a recipient believes that a managed Direct Payment will not meet the child or young person's needs, then a review of their service can be requested with their Care Package Reviewing Officer.

11. Data Sharing and Fraud Prevention

1. Lewisham Council will share your name, address and date of birth with the prepaid card provider, Prepaid Financial Services (PFS) who are used to administer direct payments. Lewisham Short Breaks Team may need to share or discuss details of the care hours or care tasks within your care plan with your chosen care provider. They may also need to discuss your employment arrangements with your payroll provider. These companies will not share your information with any third parties, we can provide further information on their data security measures if required.
2. Lewisham Council is required by law to protect the public funds it administers and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for, in order to improve the delivery of services and to prevent and detect fraud. Further information on how we share information held by the council can be found at www.lewisham.gov.uk or contact the Information Governance Team on 0208 314 9928 or by email: dpa@lewisham.gov.uk.
3. If you give information that is false or misleading it may be regarded as a criminal offence and action may be taken against you including court action and the recovery of monies paid.

11. Appeals Procedure

1. The recipient of direct payments has the right to appeal any decision in relation to their direct payments.
2. Appeals should be addressed to the Short Breaks, Kaleidoscope, 32 Rushey Green, London, SE6 4JF. Email shortbreaks@lewisham.gov.uk

Authorised Signature

I confirm that I have read, understood and will comply with all the terms and conditions as set out in Lewisham Council's Children with Complex Needs Service's Direct Payments Agreement:

Name of
Child/Young
person:

Name of
Parent/Carer:

Signature of
Parent/carer:

Date
Agreement
Signed:



Lewisham Direct Payments Card Status

I a parent/carer of
..... agree the issued Direct Payments account is:

Managed by myself :

- I will use the account to pay for the services that are identified in the care or support plan;
- I understand that I am responsible for paying the carers as per the Employment Regulations and Direct Payment agreement;
- I am responsible for paying activity providers in line with my child or young person's care or support plan;
- I understand that I am responsible for the prepaid card account and the any associated spend from the direct payments card and I am as the card holder responsible for returning any used funds that cannot be accounted for or are classified as an unauthorised spend;
- I understand that the card can be used only by myself and cannot be given to a third party including my child or young person who receives the short break service;
- I understand that I am responsible for returning any unspent funds that have not been used by the end of a financial year and I will be liable to return these funds to the Local Authority upon the request.

Managed by Short Breaks Team :

- I understand that the Direct Payments card is issued in my name and I am responsible for arranging the support that is set out in my child or young person's care or support plan;
- I understand that the Short Breaks Team will keep my named Direct Payment card securely in the safe and manage the financial aspect of Direct Payments on my behalf;
- I understand that the Short Breaks Team will make payments to reimburse me after I have provided those with any evidence of spend in line with my child or young person's care or support plan. This can be undertaking directly to the service provider after the invoice has been issued or alternatively I will be reimbursed if I make a payment upfront.
- I understand that the Short Breaks Team will not be able to pay for any service if evidence of any spend is not provided/not appropriate or the service purchased is not identified in my child's or young person's care or support plan.
- I am aware that if the carer is employed/contracted, I am responsible for complying with all the employment regulations and signing all the necessary forms, i.e. payroll forms, timesheets, insurance and pension's documentation, DBS request forms etc.



Direct Payment Agreement Appendix No 1

- I am aware that if the carer is employed, the Short Breaks Team will be responsible for approving timesheets with the payroll provider of my choice on my behalf, this will include; verifying hours worked in line with my child or young person's care or support plan and agreeing to pay the carers only for the hours that are set in the care or support plan.
- I am aware that all the unused funds within one financial year are automatically returned to the Local Authority on my behalf but the Local Authority will inform me of the breakdown in writing.

Authorised Signature

I confirm that I have read, understood and will comply with all the terms and conditions as set out in Lewisham Council's Children with Complex Needs Service's Direct Payments Agreement's Appendix No 1:

Printed name and Signature of Parent/Carer:

.....

Signature of Short Break Co-ordinator :

.....

Date Appendix No 1 Signed :

.....



Lewisham Direct Payments Dates to Remember

London Borough of Lewisham endeavour to pay money onto pre-paid cards on the following dates (or at the nearest suitable point thereafter)

Targeted Service Users

1 st April	for April to June expenditure
1 st July	for July to September expenditure
1 st October	for October to December expenditure
1 st January	for January to March expenditure

Specialist Service Users

1st of each month

Deadline for receipts for money spent to be returned by ALL service users to the Short Breaks Team

15 th July	for April to June (quarter 1)
15 th October	for July to September (quarter 2)
15 th January	for October to December (quarter 3)
15 th April	for January to March (quarter 4)