Derby City Council

People Services

Direct Payments policy for children with disabilities

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Version control

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1.0	Apr 2020	Denyse Freemantle	New policy
1.1	Apr 2021	Denyse Freemantle	Update to Appendix 1
1.2	Apr 2023	Denyse Freemantle	Update to Appendix 1
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1.3	Apr 2024	Andrew Kaiser	Updates to Review Process & addition of Review pro-forma
1.3	Apr 2024	Andrew Kaiser	Inclusion of Continuing Care pathway/link in scope section/ Review section updated to reflect revised operational arrangements/update to DBS guidelines
1.3	Aug 2024	Denyse Freemantle	Appendix 5 – updated DBS guidelines in DP Agreement
1.4	Oct 2025	Andrew Kaiser	Updates to Review Process/Addition of Process Flow charts for Review Process
1.4	Nov 2025	Denyse Freemantle	Transferring from one Local Authority to another
1.5	Sep 2026	Denyse Freemantle	Condensed to improve readability and reduce duplication. Updates to Appendices 1, 2 and 3. Addition of Appendix 9. Update to DBS guidelines

Derby City Council

Contents

Appendices

1 Introduction

Direct Payments are funds provided by a local authority, instead of directly arranged services, to enable parents and carers to secure support that meets the assessed social care needs of children with disabilities, providing greater choice and control over how those needs are met.

2 Purpose and aim of the policy

This policy aims to ensure a consistent approach to the provision of Direct Payments for children with disabilities and their families, support compliance with relevant legislation and guidance, and assist Derby City Council staff in assessing, reviewing and planning support for children who are eligible for and receiving Direct Payments.

3 Legislation framework

Direct Payments for children with disabilities are provided under section 17A of the Children Act 1989 as an alternative to services arranged directly by the Council. Direct Payments may be made where a child with disabilities has been assessed as requiring services under section 17 of the Children Act 1989 and the statutory conditions for Direct Payments are met. The detailed requirements governing Direct Payments are set out in the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009 and the associated statutory guidance.

4 Scope

Derby City Council has a statutory duty to assess children with disabilities who may require services under the Children Act 1989. Where a Single Assessment identifies an eligible social care need, a Direct Payment may be used to meet that need either alongside other services or as a stand-alone form of support.

Direct Payments must only be used to meet the child's assessed social care needs as identified in the Single Assessment. SMART outcomes should be identified within the child's social care plan to demonstrate how the Direct Payment will be used to meet those needs.

If a child with disabilities has complex healthcare needs, a social care funded Personal Assistant cannot undertake healthcare tasks or be left in sole charge of the child. In exceptional circumstances, the use of Direct Payments for a child with complex healthcare needs may be agreed by the Principal Service Manager (or above), subject to written agreement from the Parent/Carer. Children with complex healthcare needs should be referred through the Continuing Healthcare pathway – CHC.

Where a Parent/Carer chooses to receive a Direct Payment, they are responsible for arranging and managing the child's support in line with the needs and outcomes identified in the Single Assessment.

The Parent/Carer is responsible for ensuring that Direct Payment funds are used appropriately and only for the agreed purpose. They retain day-to-day control of the Direct Payment and any support purchased through it, whether the funds are paid directly to them, their Representative, or a managed account provider. The Parent/Carer remains accountable to Derby City Council for the proper use of the funds and for ensuring that the agreed support is in place.

As part of the Single Assessment, Derby City Council will determine whether a Direct Payment is an appropriate way of meeting the child's assessed social care needs, taking account of the child's individual needs and family circumstances.

Where a Direct Payment is recommended, the Single Assessment must clearly set out:

- The rationale for recommending a Direct Payment.
- Whether the Parent/Carer can manage the Direct Payment, with support if required.
- The level and duration of support required.
- The outcomes to be achieved.
- How the Direct Payment will be used to meet the child's assessed needs.

The assessment must provide sufficient evidence to demonstrate how the proposed Direct Payment will meet the child's assessed needs and agreed outcomes.

Approval of a Direct Payment will be sought through the Council's agreed decision-making process.

Where Derby City Council determines that a Direct Payment is not an appropriate way of meeting the child's needs, the reasons for the decision will be recorded and shared with the Parent/Carer.

5 Eligibility

To be eligible for a Direct Payment, a child must have an assessed social care need under the Children Act 1989 and be eligible for support. Direct Payments may be made to:

- A person with parental responsibility for a child with disabilities.

- A young person aged 16 or 17 with disabilities who has been assessed as having the mental capacity to manage a Direct Payment and who is eligible for support.

Direct Payments may be used to fund all or part of an agreed package of support and can be provided instead of services arranged directly by Derby City Council.

Before a Direct Payment can be made, Derby City Council must be satisfied that:

- The individual agrees to receive a Direct Payment.
- The individual can manage the Direct Payment, either independently or with appropriate support.
- The Direct Payment will be used to meet the child's assessed needs.
- The child's welfare will be safeguarded and promoted.
- The individual is not excluded from receiving Direct Payments under relevant legislation.

Where a Direct Payment is proposed for a young person aged 16 or 17, Derby City Council must be satisfied that they have the mental capacity to consent to and manage the Direct Payment. Reference may be made to the Mental Capacity Act 2005 Code of Practice. Mental Capacity Act - Making Decisions

Derby City Council may refuse a Direct Payment where these conditions are not met.

The allocated caseworker will assess whether the child has an eligible social care need and whether a Direct Payment is an appropriate way to meet that need. They will also assess whether the Parent/Carer can manage a Direct Payment, with support where necessary.

6 Consenting to Direct Payments

A Direct Payment may only be made where the Parent/Carer agrees to receive one.

Anyone consenting to a Direct Payment accepts responsibility for arranging and managing the support to which the payment relates. This may include legal responsibilities, for example as an employer or when contracting with a service provider.

Before requesting a Direct Payment, the social worker must visit the Parent/Carer to explain how Direct Payments work, including the responsibilities involved and the terms and conditions of the Direct Payment Agreement.

The social worker must be satisfied that the Parent/Carer is willing and able to manage the Direct Payment, either independently or with appropriate support.

The Parent/Carer must confirm their consent by signing the 'Requesting a Direct Payment' form (see Appendix 4). This confirms that they understand how Direct Payments operate and the responsibilities associated with managing them, including any legal responsibilities such as acting as an employer or contracting with a service provider.

7 Approving a Direct Payment

Once consent has been obtained, the social worker will submit an internal referral (along with their Single Assessment) to the relevant VCM Panel for consideration.

Direct Payments must be approved by the Principal Service Manager or above. Where the Principal Service Manager is not available at the VCM Panel, the decision should be deferred. Direct Payment awards exceeding £5,000 per child per annum must be approved by the Head of Service.

If the Direct Payment is approved, the Parent/Carer (and their Representative, where applicable) must sign a Direct Payment Agreement (see Appendix 5) before any funds are released.

8 Rates

Direct Payments are set at rates determined by Derby City Council, taking account of local market conditions and the level of support required to meet the child's assessed needs. Full details of the current rate structure are set out in Appendix 1, 'Direct Payment Rate Structure'. The rate structure is reviewed annually.

9 Financial contributions

Where a child is assessed as eligible, and a Direct Payment is used to meet their assessed needs, the child or their Parent/Carer will not be required to make a financial contribution.

Parents/Carers may choose to use their own funds to purchase additional support, services, or care above that identified in the assessment. For example, where a chosen service costs more than the approved Direct Payment amount, the Parent/Carer may supplement the Direct Payment with their own funds to cover the additional cost.

10 What Direct Payment funds can be spent on

Derby City Council cannot draw up an exhaustive list as to how the Direct Payment can be used - each case must be decided individually on its own merits, and based on the following:

The service, support or activity proposed should be:

- Legal.
- Clearly linked to the outcomes identified in the Single Assessment to secure provision to meet the child's assessed needs.

- Consistent with keeping the child healthy, safe and well.
- Affordable and proportionate to the assessed eligible needs of the child with disabilities.

A Direct Payment is most often used to employ Personal Assistants to provide care and support. Below are some examples of how some families use their Direct Payment:

- Employing a Personal Assistant to support the child to access identified activities; this enables Parent/Carers to have a short break to spend time with their other children.

- Employing a Personal Assistant to assist with the child's personal care.

11 What Direct Payment funds cannot be spent on

Direct Payments cannot be spent on:

- Anything that is illegal or is illegal to purchase, or that would endanger the child with disabilities or any other person.
- Gambling; debt repayment; alcohol or tobacco.
- To pay a family member living with the child with disabilities, except as agreed in exceptional circumstances (by the Principal Service Manager or above level).
- 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.
- 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.

12 Direct Payments managed by a designated Representative

A Parent/Carer may ask a suitable person to act as their 'Representative' to help manage the Direct Payment. This may include supporting them to arrange services or receiving and managing the Direct Payment on their behalf where the Parent/Carer is unable, unwilling, or requires support to manage the Direct Payment themselves.

Where a Direct Payment is paid to a Representative, the Representative assumes responsibility for the day-to-day management of the Direct Payment and compliance with this Policy and the Direct Payment Agreement.

The Council must be satisfied that the nominated Representative is suitable and able to manage the Direct Payment. Where the Council is satisfied that this is the case, it may make the Direct Payment to that Representative in accordance with relevant legislation and statutory guidance.

The Representative is accountable to Derby City Council for the way in which the Direct Payment funds are used on behalf of the child. The Parent/Carer remains responsible for overseeing the Direct Payment arrangement and working with the Representative to ensure that the Direct Payment is used to meet the child's assessed needs.

A person who receives payment from the Direct Payment, including a Personal Assistant, must not act as the Representative.

13 Managed accounts

The Parent/Carer may choose to engage a managed account provider to administer their Direct Payment. The provider is appointed by the Parent/Carer and will support the financial management of the Direct Payment, which may include payroll processing, making payments to care providers, and maintaining financial records.

Where a managed account is in place, Direct Payment funds may be paid directly to the managed account provider, who will administer the funds on behalf of the Parent/Carer in line with the agreed care and support plan.

The managed account provider acts in an administrative capacity only and does not hold responsibility for assessing needs or determining the support to be provided. Responsibility for ensuring that the child's assessed needs are met remains with the Parent/Carer.

The Council will fund managed account costs up to the amount specified within the Direct Payment Rate Structure. Any costs above this amount must be met by the Parent/Carer.

The Parent/Carer remains responsible for ensuring that the Direct Payment is used appropriately and that suitable arrangements are in place to meet the child's assessed needs.

14 How Direct Payments are paid

Where Direct Payment funds are paid directly to a Parent/Carer or their Representative, they must be held in a separate bank account used solely for the Direct Payment (the 'Nominated Account'). Alternative arrangements may be agreed by Derby City Council in exceptional circumstances, including for one-off payments.

Direct Payments will normally be paid into the Nominated Account by BACS. The initial payment will be made 28 days in advance and, unless agreed otherwise, subsequent payments will be made on a four-weekly cycle. In some circumstances, a one-off payment may be more appropriate.

The Nominated Account must only be used for transactions relating to the Direct Payment and the child's assessed needs as set out in the Single Assessment. Bank charges and other costs associated with the account are the responsibility of the Parent/Carer/Representative.

The Council will notify the Parent/Carer/Representative of any changes to the Direct Payment amount. The Parent/Carer/Representative must notify the Council promptly of any changes to the Nominated Account and immediately of any concerns regarding the use or security of the account.

Cash withdrawals or cash payments from the Nominated Account are not permitted unless agreed in advance by the Council.

Upon signing the Direct Payment Agreement, the Parent/Carer/Representative must complete a New Customer Form (Appendix 6) to enable the Council to verify personal and bank account details.

15 People excluded from receiving a Direct Payment

Direct Payments may not be made in respect of certain people who have been placed under certain conditions or requirements by the courts in relation to drug and/or alcohol dependencies, as listed below:

- offenders on a community order, or serving a suspended prison sentence under the Criminal Justice Act 2003, which includes a requirement to accept treatment for drug or alcohol dependency

- offenders released from prison on licence under the Criminal Justice Act 1991, the Criminal Justice Act 2003 or the Crime (Sentences) Act 1997 subject to an additional requirement to undergo treatment for drug or alcohol dependency; and

- people subject to equivalent provisions under Scottish criminal justice legislation.

16 Employing Personal Assistants using Direct Payments

16.1 General Principles

Where a Parent, Carer or their Representative uses Direct Payment funds to employ a Personal Assistant (PA), they act as the employer and are legally responsible for complying with all relevant employment law and statutory duties.

The Council does not employ or arrange Personal Assistants on behalf of families. Its role is to ensure that proposed arrangements are capable of meeting the child's assessed needs safely and in a way that safeguards and promotes the child's welfare.

16.2 Employer Responsibilities

Employers must ensure compliance with all relevant employment legislation, including but not limited to:

- Registration with HM Revenue and Customs (HMRC) as an employer.
- Provision of a written contract of employment.
- Payment of tax, National Insurance, holiday pay, and any other statutory employment costs.
- Compliance with workplace pension legislation, including enrolment and employer contributions where required.
- Maintenance of a valid Employers' Liability Insurance policy and annual renewal.
- Ensuring that Personal Assistants have access to any training reasonably required to deliver support safely.
- Recruitment, selection and management of suitable Personal Assistants.
- Be responsible for any statutory redundancy liabilities relating to Personal Assistants.

16.3 Employment of family members

Direct Payments are not intended to replace normal family care or informal support within the household or wider family network.

A Direct Payment will not normally be used to employ a person who lives in the same household as the child receiving support. Exceptions will only be made in exceptional circumstances where it is clearly demonstrated that this is necessary to meet the child's assessed needs. Any such arrangement must be approved by a Team Manager or Principal Service Manager.

The Council may, where appropriate, agree for a relative who does not live in the same household to be employed as a Personal Assistant. Each case will be considered individually based on the child's assessed needs and whether the arrangement is in the child's best interests.

A person in receipt of Carer's Allowance for the child cannot also be employed as a Personal Assistant through Direct Payments.

16.4 Decision-making and suitability

In deciding whether a Personal Assistant arrangement is appropriate, the Council will consider whether the proposed support:

- Meets the child's assessed needs as set out in the Single Assessment.
- Goes beyond what would normally be expected within family care arrangements.
- Supports the agreed outcomes for the child, including independence, safety, and social inclusion.
- Can be delivered safely and consistently by the proposed Personal Assistant.
- Promotes the child's welfare and safeguards their needs.

16.5 Safeguarding and monitoring

All Personal Assistants must understand that they are employed under a contractual arrangement with the Parent/Carer or Representative.

The Council may carry out appropriate safeguarding checks, including the use of internal systems, where concerns arise about the suitability of a Personal Assistant.

The Council will also monitor Direct Payment arrangements to ensure that Funds are being used appropriately and that the child's assessed needs continue to be met.

17 Disclosure and Barring Service (DBS) checks

Safeguarding is a fundamental requirement of Direct Payments and will be considered as part of the assessment and review process.

All Personal Assistants employed through a Direct Payment must have a satisfactory Enhanced Disclosure and Barring Service (DBS) check in place before commencing work. Enhanced DBS re-checks should be completed every 3 years.

Where a Personal Assistant is employed through a Direct Payment, Derby City Council will meet the cost of the initial DBS check.

Self-employed Personal Assistants are responsible for obtaining and maintaining an up-to-date Enhanced DBS check at their own expense. The DBS certificate should normally have been issued no more than 6 weeks before work commences with the child.

The Parent/Carer must see evidence of a satisfactory DBS check before the Personal Assistant starts work and must retain confirmation that the check has been completed.

18 Reviewing a Direct Payment

There are process flowcharts (see Appendices 2 and 3) which outline the Direct Payment review process.

Reviews are undertaken to ensure that Direct Payments continue to meet the child's assessed needs and that public funds are being used appropriately and for the agreed purpose.

Derby City Council will undertake regular reviews of the use and management of Direct Payments. Any discrepancies identified during the review process will be investigated and addressed with the Parent/Carer/Representative.

An initial review should take place 3 months after the Direct Payment has been established to ensure it is operating in line with the agreed purpose and the Direct Payment Agreement.

18.1 Reviews for cases held by Children's Social Care

For children allocated to a social worker, Direct Payments should be reviewed through Child in Need (CIN) Reviews, Child Protection (CP) Core Group Meetings and Child Protection Conferences, where applicable. Direct Payments should also be considered as part of the annual Single Assessment.

Direct Payments should be incorporated within the CIN or CP plan, with clear outcomes identified.

Parent/Carers should bring their financial monitoring paperwork to these meetings.

18.2 Reviews for cases held at Family Help level

For children whose Single Assessment identifies a social care need, but where there is no requirement for ongoing social work involvement and a Direct Payment alone is sufficient to meet the assessed need, the case may be held at Family Help level. These children will still require an annual Single Assessment.

Where concerns arise regarding the child's needs or the use of the Direct Payment while the case is held at Family Help level, the case should be stepped up to Children's Social Care and allocated to a social worker to undertake a Direct Payment Review. Where significant changes to the child's needs or circumstances are identified, a reassessment may be required through an updated Single Assessment.

18.3 Reviewing and reassessing needs

A reassessment should be undertaken where there is evidence that the child's needs or circumstances have changed, where a significant change to the level of support is being considered, or where the current arrangements may no longer be meeting assessed needs.

Reviews and reassessments must consider whether:

- The Direct Payment remains necessary to meet the child's assessed needs.
- The level of support remains appropriate.
- The Direct Payment remains the most appropriate way of meeting the child's needs.
- Changes to the Direct Payment are required.

The regulations governing Direct Payments allow them to be increased, reduced, suspended or ceased, in whole or in part, where there is a clear and evidenced rationale.

Any decision to continue, increase, reduce, suspend or cease a Direct Payment must be recorded, together with the rationale for the decision and any changes to the support arrangements. Where an increase is agreed, the additional support to be provided and the outcomes to be achieved should be clearly documented.

Families may request a review or reassessment of a Direct Payment at any time where there is evidence that the child's needs or circumstances have changed. Requests will be considered on the basis of the information provided and may result in a review, reassessment, or a decision that the existing arrangements remain appropriate.

18.4 Decisions following review

Any decision to continue, increase, reduce, suspend or cease a Direct Payment must be recorded within the child's plan and review documentation.

Following a CIN or CP Review, or reassessment, any decision to increase, reduce, suspend or cease a Direct Payment should be confirmed in writing to the Parent/Carer/Representative, together with a copy of the relevant review minutes.

Where the Parent/Carer/Representative disputes a decision, a full Single Assessment should be completed to evidence the rationale for the decision and shared with them.

19 Financial monitoring of Direct Payments

Derby City Council will undertake financial monitoring of Direct Payments to ensure that public funds are being used appropriately and in accordance with the child's assessed needs and agreed outcomes. The Parent/Carer/Representative is required to maintain appropriate financial records and provide information requested by the Council as part of the monitoring process.

Full details of the financial monitoring requirements, including the records to be retained and the information to be submitted, are set out in the Financial Monitoring Guidance (Appendix 7) and Spending Form (Appendix 8).

Failure to comply with the financial monitoring requirements may result in further review and may lead to the suspension or discontinuation of Direct Payments.

20 Concerns regarding the use of Direct Payments

If concerns arise that a Direct Payment is not being used in accordance with the Direct Payment Agreement, the child's assessed needs, or the child's welfare, Derby City Council may undertake additional monitoring, request further information, arrange a reassessment, or step the case up to Children's Social Care where appropriate. Any concerns and actions taken should be clearly recorded.

If the funds have been used inappropriately (either intentionally or unintentionally) due to mismanagement of the Direct Payment account, or the Parent, Carer or Representative has shown they are incapable of or unwilling to manage the Direct Payment correctly, a review or reassessment will be undertaken as a matter of urgency.

If the outcome is that the funds have been used inappropriately, the Council will seek to recover the funds and will request that they be returned on demand. The matter will be referred to the Council's Debt Recovery Team who will pursue the recovery of the funds.

As a result of any findings of financial checking, any discrepancies will be investigated and may result in the Direct Payment being suspended. A financial audit may take place at any time.

21 Direct Payment Agreement

The Parent/Carer and their Representative (where applicable) must sign a Direct Payment Agreement before any Direct Payment can be made (see Appendix 5).

The Direct Payment Agreement sets out the responsibilities of the Parent, Carer and Representative and Derby City Council in relation to the management of the Direct Payment. It includes the arrangements for payment, financial monitoring and review, contingency reserves, record keeping, and the circumstances in which a Direct Payment may be varied, suspended, terminated, or recovered.

22 Agreed contingency reserves

Derby City Council agrees that 8 weekly payments of Direct Payment funds may be held in the Nominated Account at any one time, as an agreed reserve. If, at any time, the funds held in the Nominated Account exceed a total sum of 8 weekly payments the Parent, Carer, or their Representative shall, upon request, return these excess monies to the Council.

23 Recovery of Direct Payments

Derby City Council reserves the right to recover Direct Payments, in the following circumstances:

- Where the Direct Payment has not been used to meet the agreed outcomes identified through the Council's assessment and review process.
- Where the Parent/Carer/Representative fails to comply with the Direct Payment Agreement or fails to provide information reasonably requested in relation to the management of the Direct Payment.
- Where a Direct Payment has been overpaid or paid in error.
- Where Direct Payment funds have accumulated above the agreed contingency reserve level.
- Where Direct Payment funds remain in the account following the suspension, discontinuation or termination of the Direct Payment after any legitimate liabilities have been met.

Direct Payment funds will be recovered in accordance with Derby City Council's debt recovery procedures.

24 Unspent Direct Payments

Parents/Carers/Representatives are expected to use Direct Payment funds for the agreed purpose and within a reasonable timescale. Where monitoring identifies a build-up of unspent funds that cannot be justified by planned expenditure, contingency reserves, or agreed commitments, Derby City Council may review the Direct Payment arrangement and recover any excess funds.

25 What happens to any remaining funds if Direct Payments end

Where a Direct Payment ends, the Parent/Carer/Representative must ensure that all outstanding liabilities relating to the Direct Payment have been settled. Following a final reconciliation of the account, any remaining Direct Payment funds must be returned to Derby City Council.

26 Statutory redundancy costs for personal assistants

Where a Personal Assistant employed through a Direct Payment becomes entitled to a statutory redundancy payment, responsibility for meeting that liability rests with the Parent/Carer/Representative as the employer.

Parents/carers should ensure that appropriate arrangements are in place to meet potential redundancy liabilities, including maintaining appropriate insurance cover and retaining agreed contingency reserves within the Direct Payment account.

Where redundancy costs are covered by an insurance policy, any claim should be made in accordance with the terms of that policy.

Insurance policies may not cover redundancy costs arising from changes in legislation, government policy, local authority policy, eligibility criteria, or decisions affecting entitlement to Direct Payments. In such circumstances, statutory redundancy costs remain the responsibility of the employer and should be met from accrued Direct Payment funds.

27 Overpayments

If the child receiving a Direct Payment is no longer entitled to, or the Parent/Carer has decided they no longer wish to receive a Direct Payment, and/or an overpayment has occurred due to an error on the part of Derby City Council, the Direct Payment recipient will be notified that this overpayment will be recovered. Funds should be returned within 14 days of the receipt of a written request from the Council.

28 Discontinuing Direct Payments

Where a Direct Payment is discontinued, Derby City Council will work with the family to consider alternative arrangements for meeting the child's assessed eligible needs, where required.

Derby City Council may suspend, vary or discontinue Direct Payments where:

- The child no longer requires the support for which the Direct Payment was agreed or is no longer eligible to receive that support.
- The child's assessed needs can no longer be appropriately met through a Direct Payment.
- The Direct Payment is not safeguarding or promoting the child's welfare.
- The Parent/Carer is unable or unwilling to manage the Direct Payment, with or without support.
- The terms of the Direct Payment Agreement have been breached.
- The Direct Payment is not being used to meet the outcomes identified through the Council's assessment and review process.

Except where immediate action is required to safeguard the child or protect public funds, Derby City Council will provide 4 weeks' written notice of its intention to suspend or discontinue Direct Payments and will explain the reasons for its decision.

Where a Direct Payment is suspended or discontinued, the Council will undertake a final reconciliation of the Direct Payment account and may recover any unspent or improperly used funds in accordance with this Policy and the Direct Payment Agreement.

The discontinuation of a Direct Payment does not prevent a child from receiving a Direct Payment in the future where they remain eligible and a Direct Payment is assessed as an appropriate way of meeting their needs.

29 Transferring from one Local Authority to another

If the child moves outside the Derby City area to become the responsibility of another Local Authority, the Direct Payments will cease after 4 weeks, and it will become the responsibility of the new Local Authority.

If an eligible child transfers into Derby from another local authority with a Direct Payment, then Derby City Council will accept the transferring authority's assessment for 4 weeks until a reassessment has been completed or a review has occurred, whichever is completed first. This must be explained to the Parent/Carer prior to the transfer as there may be a subsequent change to the child's support plan and Direct Payment.

30 Policy Review

This policy will be reviewed on an annual basis, or sooner if practitioners identify any risks to children with disabilities or their Parent/Carer/Representative, or employees.

31 Communicating the policy

The Head of Service for Specialist Services and the Head of Service for Children's Social Care are responsible for implementing and managing the policy in terms of social care Direct Payments in their respective areas.

This policy document will be circulated to all practitioners and shared with children and their parents, carers, and Representatives. It will be stored in Derby City's online library of Social Care Procedures at Derby CSC Procedures and available on Derby City Council's website at Derby.gov.uk

32 Breaches and non-compliance

Failure to comply with this policy, the Direct Payment Agreement, or associated procedures may result in a Direct Payment being suspended, discontinued, or alternative arrangements being made to meet the child's assessed needs.

Complaints about services or support independently purchased through a Direct Payment should be addressed directly with the service provider or employee concerned.

Complaints relating to the assessment, approval, administration, monitoring, review, or management of Direct Payments by Derby City Council will be considered in accordance with the Council's complaints procedure.

Integrated Disabled Children's Service

Direct Payment rate structure

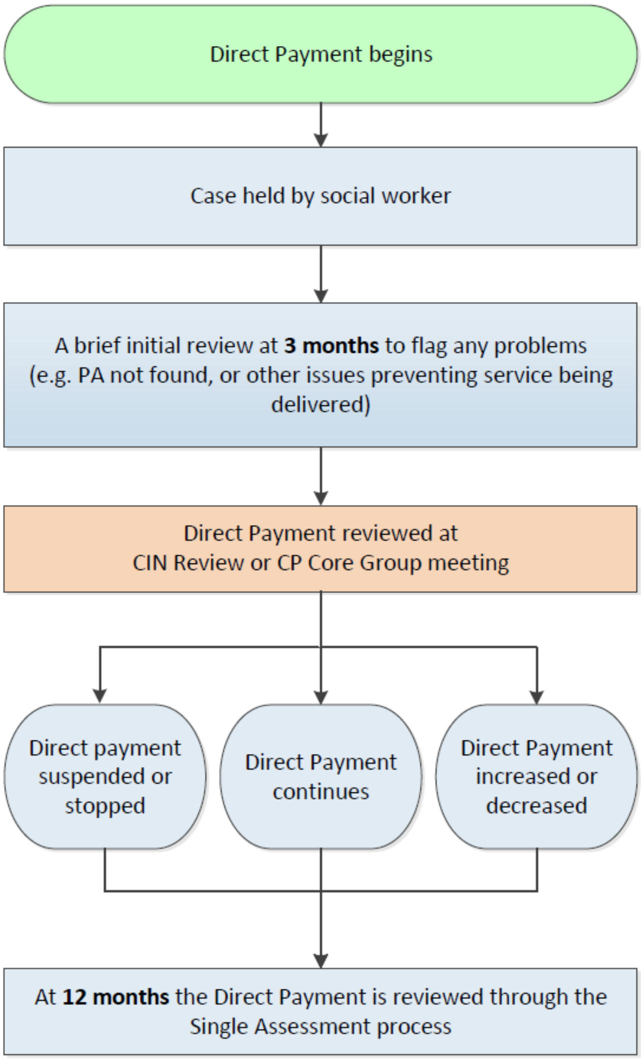
Direct Payment rates		
Standard Rate	£16.64 per hour gross	**You can pay your Personal Assistant £12.71 per hour** This leaves a surplus to cover on-costs such as employer's national insurance (15%); pension contributions (3%) and 4 weeks holiday cover (where necessary) and to accrue enough money to cover recurring annual insurance renewal premium.
Night Rate 1	£20.92 per hour gross	**You can pay your Personal Assistant £16.08 per hour** This leaves a surplus to cover on-costs such as employer's national insurance (15%); pension contributions (3%) and 4 weeks holiday cover (where necessary) and to accrue enough money to cover recurring annual insurance renewal premium.
Night Rate 2	£23.17 per hour gross	**You can pay your Personal Assistant £17.85 per hour** This leaves a surplus to cover on-costs such as employer's national insurance (15%); pension contributions (3%) and 4 weeks holiday cover (where necessary) and to accrue enough money to cover recurring annual insurance renewal premium.

Set up costs (to be paid with the initial payment when the Direct Payment is first set up)		
Employer's liability insurance	Up to £100 per annum	We will pay up to £100 for one year's insurance, when your Direct Payment is first set up. Thereafter, you must ensure you accrue enough money from the surplus to pay for next year's annual insurance premium.
Enhanced Disclosure and Barring Service check (if applicable)	£49.50 per check	If you are employing a PA, you must ensure they have a satisfactory Enhanced DBS check **BEFORE** they start work.
Recruitment and employment support	Up to £300	Recruitment period up to 3 months.
Recurring annual costs		
Payroll service and/or Managed Account	Up to £310 per annum	If you cannot, or do not want to, organise payroll yourself, you may pay a company to do it for you. We will pay up to the amount shown here, per annum. You must inform your allocated caseworker if you wish to use a managed payroll service.

Rates commence 1 April 2026

Direct Payments Review Process 1

For cases held by a social worker



REVIEW TO INCLUDE

The parent, carer or representative should co-operate fully with each review.

The review should establish that:

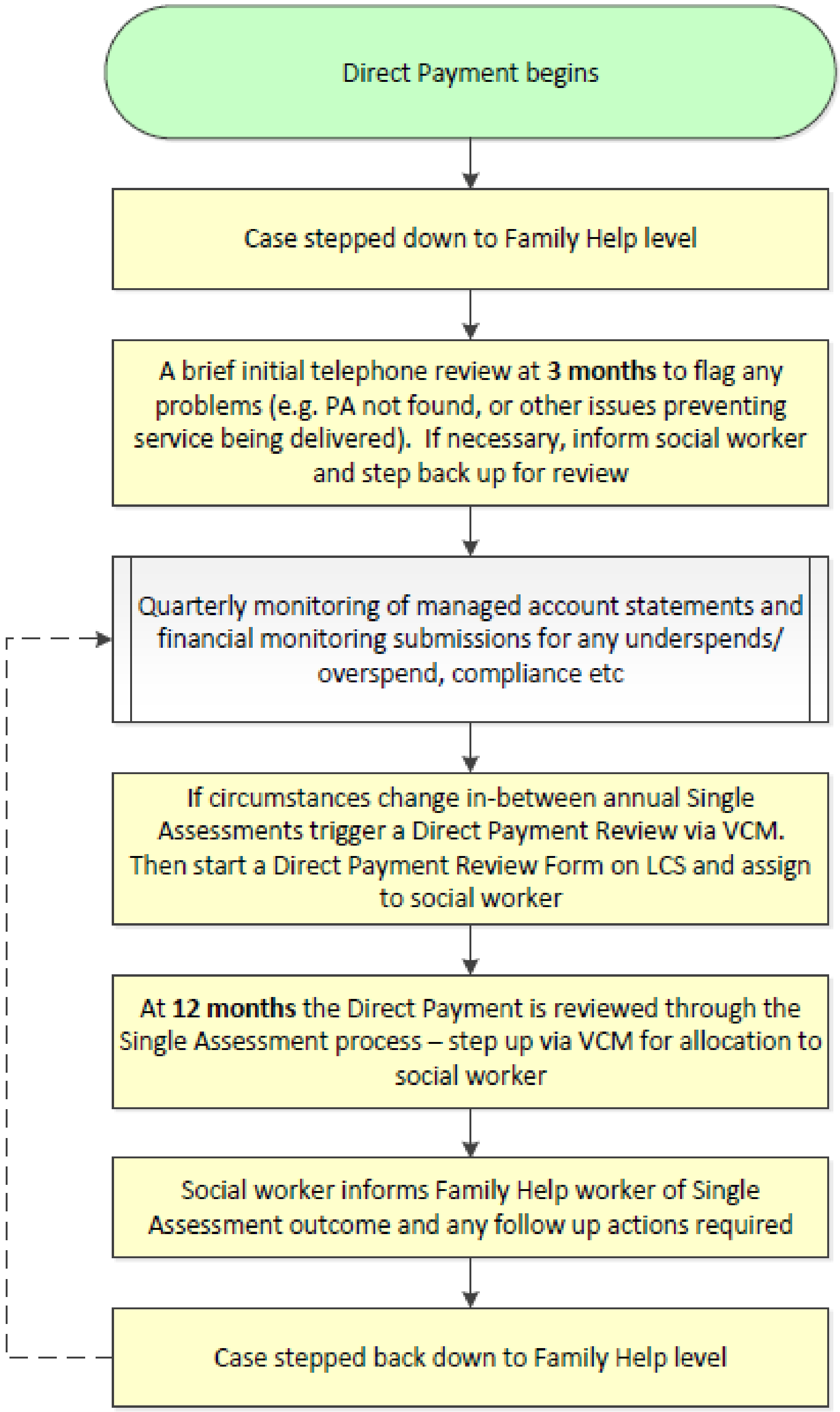
- the Direct Payment is being managed within the terms of the Direct Payment Agreement
- the bank account is being managed correctly
- records and receipts are up to date
- the Funds are being used for the services or support for which they were intended as set out in the Single Assessment
- the arranged support or services are sufficiently meeting the assessed eligible needs of the child.

The Reviewer is required to examine the following documentation which can be completed prior to the planned CIN/CP review:

- up-to-date, completed, and signed Spending forms (where applicable)
- copy of bank account statements, showing the most recent balance
- evidence that an employment contract has been issued (if employing a personal assistant)
- evidence that an enhanced DBS check has been undertaken.

Direct Payments Review Process 2

For cases held at Family Help level



Requesting a direct payment

Direct Payments can give you more choice and control over how your child's assessed needs are met, but they also involve additional responsibilities.

Before you decide whether to request a Direct Payment, your allocated caseworker will explain how Direct Payments work and help you understand Derby City Council's Direct Payment Policy.

We have included some independent websites below which may help you decide whether a Direct Payment is right for you. These are only examples, and other information is available online. Please let your allocated caseworker know if you do not have access to the internet.

Employing people
GOV.uk - Employing people

Setting up and managing a workplace pension
GOV.uk - Workplace pensions

Direct payments | Carers UK

Direct payments - what are they - Citizens Advice

If you decide to request a direct payment, you must complete and sign this document and return it to your allocated caseworker, who will then process the request for you. We will write to you and let you know if your request has been approved or declined.

I understand that:

- If I appoint a Personal Assistant, I will become an employer and I will be responsible for things like:
    - issuing a contract of employment
    - ensuring a satisfactory Enhanced DBS check is in place before a Personal Assistant starts work.
    - buying Employer's Liability Insurance every year
    - ensuring any NI contributions due are paid to HMRC
- If I hire someone to manage my payroll for me, I will remain responsible for the overall management of the direct payment.
- If I ask someone to represent me and manage or receive my direct payment on my behalf, I will remain accountable for the way in which the direct payment is used.

- I must complete and submit spending forms, bank statements and any other information reasonably requested by Derby City Council as part of the review and financial monitoring process.

- I must ensure that any Personal Assistant employed through a Direct Payment has a satisfactory Enhanced DBS check in place before commencing work and that DBS re-checks are completed every 3 years.

- I must co-operate fully each time my direct payment is reviewed.

- I must manage the funds so that contingency reserves are built up for costs such as employer's liability insurance, NI and pension contributions etc.

This is not a complete list of responsibilities.
Derby City Council strongly recommends you seek independent advice on employment law before signing a Direct Payment Agreement

I confirm that I would like Derby City Council to consider my request to receive a Direct Payment to meet my child's assessed needs and agreed outcomes, as identified through the Single Assessment.

Signature	
Print name	
Relation to child	
Date	
Name of child	
Child's date of birth	

Direct Payment Agreement

Between

Derby City Council (“we”/ “us”)

and

NAME OF PARENT/CARER/REPRESENTATIVE (“you”)

for the provision of a Direct Payment for

CHILD’S NAME

This Agreement is legally binding on both Derby City Council and **PARENT’S NAME** 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 to meet the child's assessed needs as identified in the Single Assessment and we have agreed to give you a Direct Payment subject to the conditions contained within this Agreement.

We have carried out an appropriate assessment and calculated the Direct Payment that **CHILD’S FIRST NAME** is entitled to for the purpose(s) set out in the Single Assessment, details set out below:

Purpose	
Number of hours per week	
Gross hourly rate	
PA hourly rate	
Weekly payment	
4 weekly payment	

The initial payment may include additional funds to cover approved set-up costs associated with establishing the Direct Payment, such as an Enhanced Disclosure and Barring Service (DBS) check, Employer’s Liability Insurance, recruitment support and payroll or managed account services, in accordance with Derby City Council’s Direct Payment Rate Structure.

Ongoing funding for payroll or managed account services will be provided in line with the Direct Payment Rate Structure. You will be responsible for ensuring sufficient contingency funds are retained within the Direct Payment account to meet any ongoing liabilities and costs not funded separately by the Council.

Set up costs (to be included with the initial payment)	
DBS check	
Employer’s liability insurance	
Managed account	
Payroll service	
Recruitment & Employment Support	
One off support set up	
Pension set up/auto enrolment	
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 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 receives the support agreed in their Single Assessment.

- 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'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's Single Assessment.

- Take all reasonable precautions to make sure that all arrangements you make for the child 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's Single Assessment are appropriate individuals to undertake such activities within the meaning of the Safeguarding Vulnerable Groups Act 2006.

- Make sure the child receives the support as agreed in their Single Assessment.

- Give written notice to us if the child's needs change on a permanent basis.

- Inform us if the child moves address.

- Inform us if the child is unable to receive the support agreed in their Single Assessment 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's Single Assessment.

- Inform us if you no longer wish to receive the Direct Payment.

- Complete and submit Spending forms for every review or at any other time if requested by us.

- Repay some or all the Direct Payment money if:

- For whatever reason, you are temporarily unable to arrange the support agreed in the child's Single Assessment, or if the balance of the account exceeds the sum of 8 weeks of Direct Payments.

- You have been using the Direct Payment for items or services other than those agreed in the child's Single Assessment.

- 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 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 Single Assessment, and which is stated in this Agreement.

* Keep clear and accurate records of all spending of the Direct Payment and be able to show how it has been used to meet the child's needs. You will also be required to keep invoices, payslips, and receipts for anything that you have purchased with the Direct Payment. You must allow us to look at these records if we ask you.

* All records, including receipts, invoices, bank statements and payroll records, must be retained for 7 years, 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.

* Understand that any person in receipt of Carer's Allowance for the child named in this Agreement cannot be employed as a Personal Assistant using Direct Payment funds.

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 any other person.
* Gambling; debt repayment; alcohol; tobacco.

- To pay a family member living with the child, 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's Single Assessment.

Employing Staff

- If you choose to employ anyone to provide the support agreed in the child's Single Assessment, 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 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 enough funding to cover your potential employer responsibilities.

- You must ensure that all Personal Assistants employed through a Direct Payment have a satisfactory Enhanced DBS check in place before commencing work. Enhanced DBS re-checks should be completed every 3 years.

- 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.

Reviewing the Direct Payment

The Direct Payment will be reviewed regularly to ensure it continues to meet the child's assessed needs, deliver the agreed outcomes, and that public funds are being used appropriately and for the agreed purpose. Any concerns or discrepancies identified during the review process will be investigated and discussed with you and appropriate action will be taken where necessary.

Financial Monitoring by the Council

We will require you to regularly submit bank statements and other records to establish how you are spending the Direct Payment (see the Financial Monitoring Guidance). This is to ensure that you are using it for the support that was agreed in the child's Single Assessment and within the terms set out in this Agreement.

We agree that 8 weekly payments of Direct Payment funds may be held at any one time, as an agreed contingency reserve. If, at any time, the Direct Payment funds held by you exceed a total sum of 8 weekly payments you shall, upon request, return these excess monies to the Council.

Suspending and terminating this agreement

We will give you four weeks' written notice of any decision to suspend your Direct Payment or terminate this Agreement, setting out the reasons for our decision, if:

- You notify us in writing that you no longer consent to receiving Direct Payments.
- You cease to be a person to whom a Direct Payment 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.
- You have been using the Direct Payment for items or services other than those agreed in the child's Single Assessment.
- 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.
- Following review or reassessment, we are no longer satisfied that the child's assessed needs can be appropriately met through a Direct Payment.

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

Signing this Agreement

The person named on page 1 of this Agreement to receive the Direct Payment should sign below. This person may be the child, their Parent/Carer, or their chosen representative. If signed by the representative, the child 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:

To be signed below by the child or Parent/Carer if instructing a representative to act on their behalf

I consent to the person named above to act as my representative to receive and manage my Direct Payments on my behalf.

Signature:
Print name
Date

Signed on behalf of Derby City Council by:

Signature:
Print name:
Date:

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.

New Customer Form (BACS Payments)

For us to pay your Direct Payments, we need details of your nominated bank account.

You will not need to complete all sections – please refer to the table below:

If you are setting up a new Direct Payment						
complete ticked sections only	***1(a)***	***1(b)***	***2***	***3***	***4***	***5***
If you are setting up a new Direct Payment and you want to receive funds into your own account	✓	✓	✓			✓
If you are setting up a new Direct Payment and want to send the funds to a third-party account	✓	✓		✓		✓

If you are already receiving a Direct Payment						
complete ticked sections only	***1(a)***	***1(b)***	***2***	***3***	***4***	***5***
If you are already receiving a Direct Payment and you want to change your existing bank details	✓	✓			✓	✓
If you are already receiving a Direct Payment and want to change to a third-party account	✓	✓		✓		✓

Section 1(a)	**Personal details of the child**
Full name	
Address	
Date of birth	

Section 1(b)	**Personal details of the Parent/Carer/Representative**
Full name	
Address	
Telephone no	
Email	

Section 2

Bank details of the Parent/Carer/Representative

(this account must be setup and used for Direct Payments only and separate from any other account)

I confirm that I am the Parent/Carer/Representative named on the Direct Payment Agreement and I instruct Derby City Council to send my Direct Payment funds to the following account:

Name of bank/building society	
Address of bank/building society	
Account name	
Account number	
Sort code	

Section 3

Payments to a third party

(e.g. payroll service, accountant etc.)

I confirm that I am the Parent/Carer/Representative named on the Direct Payment Agreement and I instruct Derby City Council to pay my Direct Payment funds directly to the third party named below:

Company name	
Address	
Postcode	
Contact name	
Telephone	
Name of bank/building society	
Address of bank/building society	
Account name	
Account number	
Sort code	

Section 4
Change my bank account details

I confirm that I am the Parent/Carer/Representative named on the Direct Payment Agreement and I instruct Derby City Council to change my existing bank details to the following account:

Name of bank/building society	
Address of bank/building society	
Account name	
Account number	
Sort code	

Section 5
Signature

I confirm that I am the Parent/Carer/Representative named on the Direct Payment Agreement and that the information I have given is accurate.

Signed:	
Print name:	
Date:	

Direct Payments Financial Monitoring Guidance

This guidance explains the records you need to keep and the information you may be asked to provide to Derby City Council so we can monitor how your Direct Payment is being used.

Financial monitoring helps ensure Direct Payments are used appropriately, safely, and in line with your child's assessed needs and agreed outcomes. By accepting a Direct Payment, you agree to keep the records described in this guidance and provide them when requested.

Why do I need a separate bank account?

Direct Payments must be paid into a bank account that is used only for Direct Payments. Using a separate account makes it easier to monitor how the funds are being used and ensures that your personal finances remain separate from Direct Payment funds.

What records do I need to keep?

You must keep the following records:

- timesheets, payroll records or payslips for any staff you employ
- invoices and receipts for goods and services purchased using the Direct Payment
- bank statements for your Direct Payment account.

You should keep these records together and make them available for inspection when requested by the Council.

Records relating to Direct Payments must be retained for 7 years.

Who will review my records?

The Council will review the use of your Direct Payment as part of the review process.

We may also request copies of records at any time as part of our audit and financial monitoring arrangements. This helps us ensure that public funds are being used appropriately and in accordance with your child's assessed needs and agreed outcomes.

What information do I need to send to the Council?

You must complete and sign a Spending Form and provide copies of relevant bank statements at the frequency agreed by the Council. The Spending Form should record all expenditure from the Direct Payment account during the reporting period.

You should retain original documents and provide copies when requested.

Where a managed account is used, the Council may request statements or reports from the managed account provider as part of the monitoring process.

How do I complete the Spending Form?

The Spending Form records how your Direct Payment has been used.

- You should include all payments into and out of the account during the reporting period and ensure the information matches the transactions shown on your bank statements.

- Please submit statements in date order to support the monitoring process. If a transaction appears on your Spending Form but not yet on the bank statement provided, this can usually be reconciled during the next monitoring period.

- The 'details of expenditure' section should explain how the spending relates to your child's assessed needs and agreed outcomes.

- By signing the declaration, you confirm that the Direct Payment has been used in accordance with your child's Single Assessment.

Why do I need to provide bank statements?

Direct Payments are public funds. As a condition of receiving them, you must provide information that allows the Council to confirm that the money is being used appropriately and for its intended purpose.

How often will I need to provide information?

Monitoring arrangements will be determined by the Council and may vary according to individual circumstances. Where monitoring demonstrates that the Direct Payment is being managed appropriately, the frequency may be reduced. In some circumstances, more frequent monitoring may be required.

The Council may also review the balance held within the Direct Payment account to ensure funds remain within the agreed contingency reserve arrangements and that any accumulated funds can be accounted for.

Your allocated caseworker will explain the monitoring arrangements that apply to you.

Where do I send my Spending Form and bank statements?

The Council will provide details of where and how documents should be submitted when your Direct Payment is set up.

What if I use a care agency?

Care agencies should provide invoices for the services they deliver. You should check invoices carefully and retain copies for your records. Where possible, payments should be made by bank transfer, online banking or telephone banking, as this provides a clear audit trail. Cash payments should only be used where agreed in advance by Derby City Council and must be fully recorded on the Spending Form.

What records should I keep if I employ a Personal Assistant?

If you employ a Personal Assistant, you should maintain timesheets or other records of hours worked.

If you use a payroll provider, they will usually help you maintain these records.

Where possible, staff should be paid in line with the Council's 4 weekly payment cycle, and timesheets should be completed regularly to ensure accurate records are maintained.

What happens if I do not comply with the monitoring requirements?

If you do not provide the information requested, the Council will contact you and may offer support to help you meet the monitoring requirements.

Where information continues not to be provided, or where there are concerns about how the Direct Payment is being used, the Council may undertake further enquiries and may suspend Direct Payments while concerns are investigated.

Any discrepancies identified through financial monitoring will be discussed with you or your representative.

What if I need support?

If you need help managing your Direct Payment or completing financial monitoring requirements, please contact your allocated caseworker, who will discuss what support may be available.

Direct Payment Spending form

By signing the Direct Payment Agreement, you agreed to complete this form and submit it to your allocated caseworker before each review. Please remember to attach copies of your bank statements covering the same period.

Child's name	
Child's date of birth	

Date of spend	Details of expenditure	Amount spent (£)
TOTAL AMOUNT SPENT		£

I confirm that I have used my Direct Payment funds to meet the needs described in my Single Assessment. I have kept copies of all supporting evidence for the money and will retain this evidence for the next 7 years.

Name of Parent/Carer/Representative	
Signed	
Date	