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A guide to direct payments

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MERTON COUNCIL

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**A guide to direct payments**

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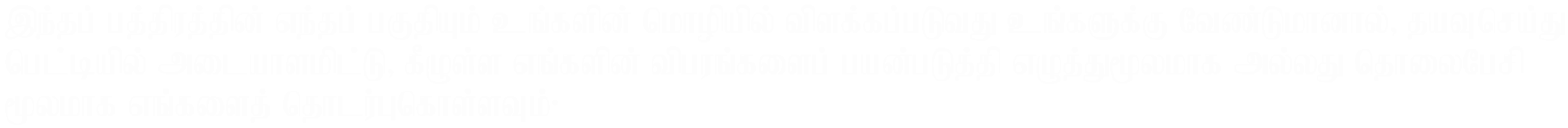
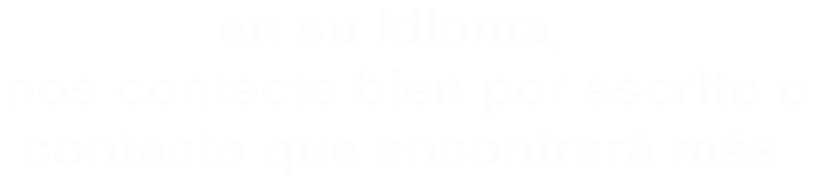
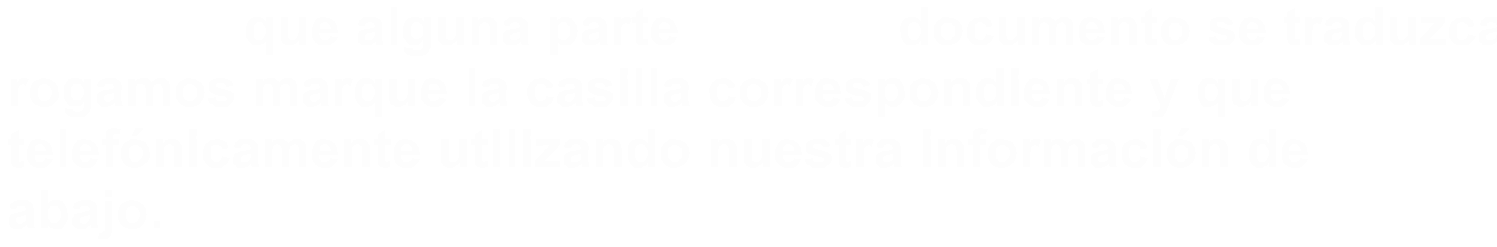
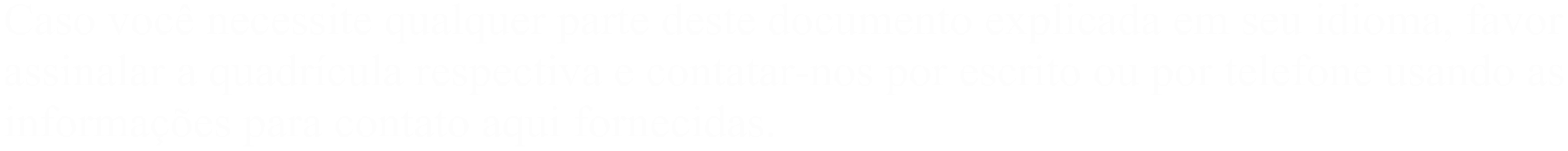
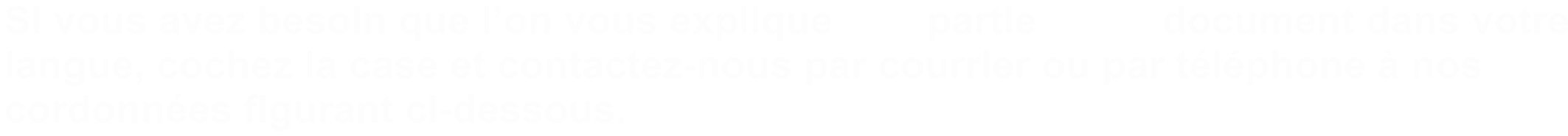
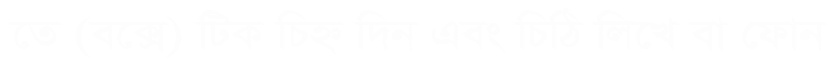
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Direct Payment Team

Merton Civic Centre London Road

Morden SM4 5DX.



Ref: 053718

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|  | **Introduction**  Welcome to this guide to the direct payments scheme. Direct payments are a way of giving you more control, flexibility and choice over the way you receive care services and  how you live your life. This user guide is designed to tell you more about direct payments, the support you will receive, and the roles and responsibilities of those involved. You will receive direct payments if you have been assessed as needing community-care services and want to have more control over who delivers those services and how they are delivered.  This guide gives you a range of advice and help you may need to ensure that you can effectively manage your direct payment.  **What you can use direct payments for**  You can use direct payments to buy the care and support you need, which will have been identified in your assessed Care and Support Plan. A lot of people use their direct payments to pay for a personal assistant, either by employing them directly or through an agency. However, direct payments are about meeting your needs for support in the way that suits you best. |
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| **What can’t you use a direct payment for?**  You cannot use direct payments to pay for permanent long-term residential or nursing care. If you decide to get a personal assistant and so become an employer, you cannot employ anyone who lives with you (unless in exceptional circumstances and agreed by the Council). There is more information about becoming an employer later in this guide.  **Your responsibilities as a direct payments customer**  As a direct payments customer, you need to be sure that you can manage the payments yourself or with the help of someone else. We can help you look at your options for receiving support. If you employ a personal assistant, you will have responsibilities as an employer. We will discuss your role as an employer later in this guide but you will get help and support with this and all other areas of the scheme from the Direct Payments Team.  **People involved with your direct payments and their roles**  Social worker  Your social worker will carry out a needs assessment to decide what kind of care you need and how many hours a week you need this care. They will discuss your needs with you and draw up a Support Plan based on this needs assessment. If you have shown an interest in the direct payments scheme, the social worker refers you to our Direct Payments Team. | **Frequently asked questions**  **How often do I get my direct payments?**  Every four weeks, in advance (in other words, for the four weeks to come).  **What will happen if the money isn’t in my account?**  You will need to contact the Direct Payments Finance Officer (DPFO) and they will investigate for you.  **What happens if I decide to change my personal assistant?**  If you change personal assistants, please sign a contract with the new assistant. You don't have to do this but we would recommend that you do. You should also give your personal assistant a job description.  **Can I employ one of my relatives to be my personal assistant?**  You cannot employ anyone who lives with you to be your personal assistant unless there are exceptional circumstances and the Council agree to that person providing your care. However, you can employ a relative who does not live with you to be your  personal assistant.  **Can I use my direct payments to pay for services from my local council or any other**  **council?**  You cannot use direct payments to pay for care from any council as the scheme offers you a choice of care providers. However, you can choose to have a mixed package of care that is partly provided by social services and partly paid for through direct payments.  **Can I use direct payments to pay for health care?**  No. The direct payments scheme is a replacement for social care services that would have been arranged by social services following a care assessment. |
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| **Complaints or compliments**  If you have any questions about direct payments, please contact the Direct Payments  Team (contact details at the end of this guide). If you have a particular complaint  about the direct payments scheme or a member of staff, please write to the Customer  Services Team (contact details at the end of this guide). If you are not satisfied with the outcome of your complaint, you can register a complaint using the Council’s corporate complaints procedure:  <https://www.merton.gov.uk/council-and-local-democracy/complaints-compliments-and-comments> | Direct Payments Support Officer (DPSO)  The Direct Payments Support Officer will explain the scheme to you. They will explain what it involves, what their role is, how they will provide advice and support to you and what your responsibilities are. The DPSO will talk through the options for using an agency to provide your care, or for employing a personal assistant to provide your care. The DPSO is there to support you whilst you are receiving a direct payment.  Financial Assessment Team  When you receive your community-care services, you may have to pay a contribution towards the cost of your care. Our Financial Assessment Team will assess your income, savings and outgoings and work out how much, if anything, you may need to pay. Before our team can carry out a financial assessment, you will need to fill in the FC2A financial assessment form. If you find it difficult to fill in the form, you can speak to a member of the Financial Assessment Team at the Civic Centre or they can visit you at home to help you fill in the form. They will also carry out a welfare benefits check to see if you can claim any further benefits. When the team have made their assessment, they will write to tell you how much you will need to pay each week towards your care. You will need to pay this amount at least every four weeks into your direct payment account.  If you need more information about financial assessments, please contact: The Financial  Assessment Team, Civic Centre, Morden, Surrey SM4 5DX or on 020 8545 3632. |
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| **How to get direct payments**  There are certain things you will need to do to get started on the direct payments scheme. The Direct Payments Team will go through the process with you step by step, help you with the forms you need to fill in and explain what they are for.  There are two main ways of receiving care and paying for it with direct payments:  • Using an agency  • Employing a personal assistant  Using an agency  If there is a particular agency you would like to use, please let us know. Otherwise, we can give you a list to choose from. If you are already receiving community-care services, you can continue with your current agency or you can change agencies if you find one that can more suitably meet your needs. Please note that if the agency you use charges more than the direct payment rate, you will have to pay the additional amount into your direct payment account.  Employing a personal assistant  You can employ a personal assistant to carry out your care instead of using an agency. This can be someone you already know or you can advertise for a personal assistant.  If you employ a personal assistant, you will have responsibilities as an employer.  If you already know the person you would like to employ as your personal assistant, you will not have to start the recruitment process. If you have not already got someone in mind, you will have to start the recruitment process but the Direct Payments Team will help you every step of the way.  **The recruitment process for employing a personal assistant**  If you would like to have your care provided by a personal assistant rather than an agency but you don’t have anyone in mind, you may be able to use the recruitment process to find someone. This process is just like any other and involves job advertisements and interviews. When you have your first meeting with the Direct Payments Officer, they will discuss whether you want an agency to provide your care services or whether you would like a personal assistant. If you would like to employ a personal assistant, the DPSO can help you with this. |  |
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| **Health and safety**  As an employer you are responsible for the health and safety of your employees, and this includes your personal assistant. However, it is also your personal assistant’s responsibility to be aware of any health and safety issues and point out to you any possible dangers. Your personal assistant has a responsibility not to act in a way that may endanger either your safety or their own.  **Changing your personal assistant**  If you change your personal assistant, please tell us. You should sign a contract with your new personal assistant and send us a copy. You don’t have to do this but it means that we know who your personal assistant is, in case we need to contact them, and it also sets out in writing what you expect of your personal assistant. Please contact us if you would like any support during the recruitment process. | You must consider your needs as set out in your agreed Support Plan. The number of hours of care you need each week will be set out in your Support Plan but these can be flexible to suit your needs. You do not have to employ a personal assistant for all of your allocated hours. Instead, you can have a mixed package of care with an agency carrying out some of the care and a personal assistant providing the rest.  Job description  It outlines the responsibilities of the job and what you expect your personal assistant to do. A job description is very important as it tells the personal assistant what the job involves. It should describe what the personal assistant is expected to do, and what care and support they need to provide. Remember, you need to include all the relevant information to make sure the right person applies for the job. There is an example of a  job description in the literature, which you can use as a guide.  Job advertisement  If you decide you would like to employ a personal assistant and want to start the recruitment process, you will need to write a job advertisement that explains what the job is for, where it is based, the hours involved and the rate of pay. Remember that the  advert will attract candidates based on the information you provide so it is important that you include anything you think may be relevant. You will need to discuss with the Direct Payment Officer where to display the advertisement, the closing date and any costs involved.  Job application form  Once you and the Direct Payments Officer have agreed the details of the job description and job advert, you can arrange for the advertisement to be displayed. There is an example of a job application form in the literature that you may like to use. Again, this is a guide and you do not have to use it. The job application asks about education and work experience, and also asks for references. You should always take up any references.  After the closing date, the Direct Payments Officer will meet with you to go through the application forms if necessary and also to arrange a date, time and place for interviews. |
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| Job interview  When you have looked at the application forms and decided who you want to interview, the Direct Payment Officer can call them to let them know the date, time and place. You can hold the interviews at one of our day centres. You can even hold them at your home if you want to, but you may prefer to use a public venue.  The Direct Payment Officer can be present at the interviews to provide any support you may need. Although the application forms will give you some information about a person, you will be able to decide at the interview whether a person is suitable for the role of your personal assistant. Before the interview you should prepare and, if necessary, write down the questions you want to ask. To find out if the person is suitable for the role, you need to ask for more information about any relevant experience they have had and why they would like to be employed as your personal assistant. You will need to explain a little about what you expect from them, for example whether you will need them to work unsociable hours or bank holidays. Be prepared to be open and honest about your needs and you are more likely to get the most suitable person as your personal assistant. Once you have decided who you think will be most suitable for the job, you will have to inform them of the outcome.  If you don’t find anyone suitable after the interviews, you can repeat the recruitment process or you can go back to having an agency provide your care.  Contract of employment  Once you have chosen your personal assistant, you will need to sign a contract with them. This sets out the terms and conditions for the job, the pay, the working hours and the start date. You and your personal assistant must both agree to and sign the contract. You and your new personal assistant will each keep a copy of this contract. There is an example of a contract that you can use as a guide in the literature.  Payroll  If you decide to employ a personal assistant and they have another job, then, depending on the number of hours they work for you, you may have to pay tax and National Insurance for them. There are a number of agencies that can help you with this as advised in our literature. | Direct Payment Agreement  The Direct Payment Agreement sets out the responsibilities that you and we agree to when you start the direct payments scheme. It is signed by you (or your representative) and one of our officers before you can start to receive a direct payment. This agreement confirms the date that the direct payments will start from. You should keep a copy of your Direct Payment Agreement for your own records.  Disclosure and Barring Service (DBS)  When you employ someone, you can ask for a DBS check on them and we can do this on your behalf. The DBS service allows organisations in the public, private and voluntary sectors to make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially those involving children or vulnerable adults. You do not have to carry out a DBS check on your chosen personal assistant but it would give you added security as your personal assistant would be working inside your home, and it is something that we can help with. You need to remember that the DBS check can take a few weeks so you may decide to employ your personal assistant before the results are available, which is entirely up to you. The cost of the DBS check will be covered by the direct payments start-up costs.  Employers’ insurance  If you become an employer, you need to take out insurance to protect you and your employee, the personal assistant. The personal assistant could accidentally injure themselves, you or someone else during their working day. The insurance policy provides financial protection for you as an employer against problems arising from the  legal responsibilities of employing a personal assistant. The cost of employers’ insurance will be included in your direct payments. Details of potential insurers you may like to consider using are included in the literature. Please see separate document entitled Employers Liability Insurance if you engage a self-employed worker as part of your direct payment.  Timesheets  You must keep a record of the hours that your personal assistant does each week. Both you and your personal assistant may find it useful as a record of the hours they have worked or any time off they have had. |

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| **Forms for the direct payments scheme**  Contingency plan  If you are employing a personal assistant, we will ask you to think about what would happen if they were off work for any reason, and whether you know someone else who could replace them at short notice. You don’t have to do this, but if you have someone in mind as a replacement we will ask you for their contact details. If you don’t know of anyone who could replace your personal assistant if they were off work, you will need to contact the Council’s Direct Payments Support Officer and they will help you arrange for someone from an agency to provide your care services if your personal assistant is unable to work for any reason. | **Paying for your care**  The hourly rate that you pay your personal assistant will have already been agreed between you. It is up to you how often you pay your personal assistant, but we recommend that you pay them every four weeks in arrears (in other words, you pay them for the four weeks just gone), but it has to be line with the contract of employment.  If you receive care from an agency, the agency will invoice you direct. This may be every week or every month, or even after each visit. It depends on which agency you are using. You must pay the agency or your personal assistant the exact amount, with the money coming from your direct payments account. This helps you, and us, keep track of the money going into and out of the account.  You can use a payroll company to prepare pay slips so that you know how much to pay your personal assistant. They can also help you to work out and pay tax and National Insurance contributions for the personal assistant (if appropriate). We advise you to use a payroll agency as doing your own payroll can be complicated. The money we pay you for direct payments will cover the cost of any payroll company you employ. The Direct Payment Support Officer can help you set up with a payroll company.  **Being an employer**  Employers and employees have legal rights and responsibilities.  Employment details  It is good practice to have a written contract of employment. Most employers give their employees a written contract that contains some basic details. You must make any changes to the employment details in writing. An example of an employment contract can be found in the literature or you can contact your insurer for further guidance. |

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| Redundancy  If you have employed a personal assistant for two years or more, they will be entitled to a payment if you make them redundant. You should contact your employment insurer and payroll company for advice if you intend to make a personal assistant redundant.  Tax and National Insurance  You may have to register as an employer with Her Majesty’s Revenue & Customs (HMRC) and be responsible for making sure that income tax and National Insurance contributions due on your personal assistant’s wages are paid to HMRC. However, you could use a payroll agency to help you with this. The cost of the payroll agency’s services will be covered in your direct payments. A list of payroll agencies is included in the literature.  Wages  By law, there is a minimum wage that you must pay any employee, depending on their age. Our Direct Payments Rates leaflet indicates an hourly rate which you can pay your personal assistant to ensure that you meet your legal obligations.  Holidays and holiday pay  All employees are entitled to 5.6 weeks paid holiday per year. If you work fewer than five days a week, your holiday is worked out as a proportion of the full-time entitlement. You could agree to give your personal assistant more holidays than the legal entitlement, but your direct payment is unlikely to cover extra paid leave. It is up to you when your personal assistant takes their holidays and they must agree with you beforehand when they will take their leave. You can set out in the contract certain dates when your personal assistant can or cannot take their holidays. You may need someone to cover when your personal assistant is on holiday and holiday cover through an agency.  Sick pay  The only payment for sick leave that your personal assistant will be entitled to is Statutory Sick Pay (SSP), which will be paid in line with regulations. If your personal assistant does not qualify for SSP they will have to contact the Department for Work and Pensions (DWP) for advice about sick pay. If your personal assistant is off sick for more than seven days in a row, they will need to produce a sick note from their doctor before | you can pay them SSP. You could agree to pay more sick pay than the SSP entitlement but your direct payments will not cover this.  Cash payments  You should never pay your personal assistant in cash.  Maternity pay and paternity pay  Any Statutory Maternity Pay (SMP) or Statutory Paternity Pay (SPP) that your personal assistant may be entitled to will be covered by direct payments. There are qualifying conditions for SMP or SPP that your personal assistant may or may not meet. If your personal assistant does not qualify for SMP, they may be entitled to claim Maternity Allowance from their local Job Centre Plus office.  Reducing working hours  If you need fewer hours of care over time (either through your decision or if the Council reduce the number of hours support you receive through your direct payment), you will need to give your personal assistant up to four weeks’ notice of this change. They will get up to four weeks’ pay for their original working hours and then the pay will reduce to the actual hours worked after that. You should seek the advice of your insurer if you reduce down the hours your personal assistant works.  If you go into hospital  In the event that the direct payment customer is admitted to hospital, residential care or respite  on a temporary basis and does not need the PA’s services during this period, they reserve the  the right to impose a period of lay off and withhold payment of salary, providing it is in  accordance with the PA’s contract of Employment. Please contact your insurer for further  advice.  Settling disputes  If you are not satisfied with your personal assistant’s behaviour, standard of work or reliability, or if you need to make them redundant, you will need to follow a fair procedure for dealing with such matters. You are advised to seek appropriate advice from your insurer on this matter.  If they have a work-related complaint about you or their job, the Advisory, Conciliation and Arbitration Service (ACAS) has a useful free booklet about dealing with disputes that you can use as a quick reference guide. ACAS can also help in settling disputes (sometimes for free). |

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| |  | | --- | |  |     **Frequently asked questions**  **How often do I get my direct payments?**  Every four weeks, in advance (in other words, for the four weeks to come).    **What will happen if the money isn’t in my account?**  You will need to contact the Direct Payments Finance Officer (DPFO) and they will investigate  for you.    **What happens if I decide to change my personal assistant?**  If you change personal assistants, please sign a contract with the new assistant  and send us a copy. You don’t have to this but we would recommend that you  do. You should also give your personal assistant a job description.  **I can’t fill in my monitoring form. What can I do?**  If you contact the Direct Payments Team, the DPFO will be able to help you either over the  phone or by visiting you at home.  **Can I employ one of my relatives to be my personal assistant?**  You cannot employ anyone who lives with you to be your personal assistant unless there are  exceptional circumstances and we agree to that person providing your care. However, you can  employ a relative who does not live with you to be your personal assistant.  **Can I use my direct payments to pay for services from my local council or any other**  **council?**  You cannot use direct payments to pay for care from any council as the scheme offers you a  choice of care providers. However, you can choose to have a mixed package of care that is  partly provided by social services and partly paid for through direct payments.    **Can I use direct payments to pay for health care?**  No. The direct payments scheme is a replacement for social care services that would have  been arranged by social services following a care assessment. | |  | | --- | |  | |