



# Who can be paid to provide care using Direct Payments?

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- You can employ your own carers and support workers
- You can employ family or friends who do not live in the same house as you
- You can use a private care service or agency
- You can 'pool' your Direct Payment with other people

## The Regulations

The Regulations generally prevent using Direct Payments to secure the services from

- **A partner** (i.e. the other member of a married or unmarried couple)
- **A close relative living in the same household.** A close relative in this context is a parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, stepson or daughter, brother, sister or the spouse or partner of any of these.

This restriction is not intended to prevent people using their Direct Payments to employ a live-in personal assistant (providing that the person is not someone who would ordinarily be excluded by the Regulations).

There is no legal restriction on individuals using their Direct Payment to pay relatives who don't live with them.

Young people with disabilities, aged 16- to 17- years, are also subject to the above restrictions for purchasing services, as too are young carers (aged 16- to 17 years).

The Regulations do allow relatives who live with the recipient to be paid in exceptional circumstances. This would only be authorised if the council is satisfied that it is necessary to effectively meet a person's needs. If a person approaches the council with a request to pay a relative, the request will be considered on an individual basis.

People with parental responsibility for a disabled child may not continue to receive Direct Payments to purchase services that meet the needs of that child once the child reaches the age of 18 years. However, if they are going to continue in their caring role, they may be entitled to receive Direct Payments in their own right to support them in their caring role and to help them maintain their own health and well-being. This would be subject to then having an assessment of their own needs and would be part of the managed transition arrangements from Children Services to Adult Services.

## Protection of Children Act 1999

The Local Authority needs to be satisfied that a person providing care to a child or young person under the age of 18 is a suitable person.

In making Direct Payments, the Local Authority will need to be satisfied a "relevant individual" (a person who is or has been employed to provide care to a child) is not included on a list established under the Protection of Children Act 1999.

If the Local Authority receives information that a child may be at risk or harm from a person employed to provide care, Direct Payments may be suspended during an investigation into the circumstances and that individual may be referred to the Protection of Children list.

Particular care needs to be taken to ascertain the child's wishes and views about how their needs should be met. Where there is a difference of views between parents and disabled children aged 16- and 17-yrs and provided that the children have sufficient understanding to make informed decisions, precedence should be given to their views. It follows that there may be situations where it would be right for a young person to receive a Direct Payment whether the parents agree or not. This should always follow a comprehensive assessment of need and risk with the young person and their family.

### **Protection of Vulnerable Adults Scheme (POVA)**

The Protection of Vulnerable Adults Scheme acts as a workforce ban on those professionals who have harmed vulnerable adults they have been working with. It adds an extra layer of protection to the pre-employment processes, including Criminal Records Bureau checks, to prevent abusers from entering the care workforce. Essentially, at the centre of the scheme is the POVA list. Through referrals to, and checks against the list, care workers who have harmed a vulnerable adult, or have placed a vulnerable adult at risk of harm (whether or not in the course of their employment) will be banned from working in a care position with a vulnerable adult.

Currently, workers employed through Direct Payments are not included in the POVA guidance. However, through sound pre-employment checks, thorough recruitment practice and applications for CRB Disclosures, Direct Payments service users can be afforded high levels of protection from known abusers entering the social care workforce through Direct Payments.

The Local Authority must be satisfied that individual arrangements made using Direct Payments effectively meet the needs of the service user and that the standard of care is good enough to safeguard and protect the service user's welfare.

The Direct Payment Support Service can provide guidance and support with all aspects of the recruitment and employment of workers to promote thorough pre-employment checks and robust recruitment practices for Direct Payment service users.

### **Criminal Record Bureau (CRB) Checks**

The majority of people that use Direct Payments employ their own personal assistants to provide their care and support. In doing this, Direct Payments users also accept responsibility for finding appropriate and suitable people to employ. This will inevitably involve some form of recruitment and selection in order to identify a suitable personal assistant.

Information, advice and support are available from E.L.I.T.E to guide people through this process and to support them to advertise, interview and select personal assistants. E.L.I.T.E will also advise and support people to arrange for relevant pre-employment checks such as arranging interviews and requesting references.

It is the view of the Local Authority that all personal assistants employed to provide care to a child or young person under the age of 18 should have a background check with the Criminal Records Bureau (CRB). If the applicant for Direct Payments does not agree to this check, the Local Authority may decide that it would not be appropriate to make Direct Payments.

The Direct Payment will only be made for the care of a child or young person, once CRB clearance has been given and verified by the social worker/team manager. This principle is not designed to undermine the purpose of Direct Payments. Instead, it is intended to provide a level of protection and safeguarding to enable parents and young people to

arrange high standards of care with Direct Payments. The CRB check is a tool that can be used to reduce risk of abuse or exploitation.

Currently, there is no mandatory requirement for CRB checks and clearance for people working with adults under Direct Payments.

**Direct Payments users should be advised that they can request CRB checks for potential assistants if they decide that they want specific reassurances about the suitability of the people they are considering employing.**