

# Merthyr Tydfil County Borough Council

## **Place and Transformation Directorate**



Cyngor Bwrdeistref Sirol  
**MERTHYR TUDFUL**  

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**MERTHYR TYDFIL**  
County Borough Council

## **Direct Payments**

April 2019

## **What are Direct Payments?**

Direct Payments are a way of arranging your own care services by receiving a regular payment instead of having services arranged or provided by the Local Authority. Direct Payments are designed to give you flexibility to meet your care needs in ways that are most convenient for you. With Direct Payments you choose who provides the care to meet your needs, and you control when services are delivered.

You must remember that these payments are only made to help you purchase care to meet your assessed needs and are not extra money to spend as you choose. They cannot, for example, pay for services you receive from Health or the Housing Department. Direct Payments are not regarded as income, so your income tax and/or benefit situation will not be affected.

If you are eligible to receive services, a Direct Payment can help you to gain greater independence by giving you control over how your needs are met.

## **Who can receive Direct Payments?**

Under the Social Services and Well-being (Wales) Act 2014, the Local Authority has powers to provide Direct Payments:

- to meet your care and support needs if you are an adult\*
- to meet your care and support needs if you are a child
- to meet your support needs if you are a carer

\*If you are an adult with needs for care and support, and lack capacity for the purposes of the Mental Capacity Act 2005, Direct Payments can be made to a willing and appropriate 'suitable person' who will receive and manage Direct Payments on your behalf. The suitable person must be capable of managing the Direct Payments either on their own or with support. In most instances the suitable person will be a close friend or family member involved in your care and support.

## **How Can I Apply For Direct Payments?**

If you are not currently receiving any services from us, you will need to arrange for an assessment of need. This can be arranged via the Duty Officer whose details are at the end of this leaflet.

If you are already receiving services and are interested in changing to Direct Payments, contact your Social Worker or the Duty Officer who will arrange to meet with you and discuss what needs to be done.

## **What can Direct Payments be spent on?**

Direct Payments are given to pay for services as detailed in your Care and Support plan which will be established and discussed during your assessment. Your plan will detail what services the payment can be used for. Examples of services are personal care, night sitting or daytime activities. Direct Payments can also be used to purchase long or short term residential care.

The Local Authority may also agree to allow you to combine support, so that some needs are met by the Local Authority and others through Direct Payments.

## **If I receive Direct Payments, will I be an employer?**

If the Direct Payment is used to employ a care agency, then that agency will have responsibility for all employment rules and procedures for the staff providing care. However, if you (or a 'suitable person' acting your behalf) employ staff (personal assistants) directly, then you will be classed as an employer.

## **What does being an employer involve?**

If you (or a 'suitable person' acting on your behalf) employ staff directly, you are bound by all the laws that cover employment. There are responsibilities that go with being an employer these are a few examples of what you may need to do:

- Check the references of the intended employee.
- Check timesheets and pay wages.
- Ensure that auto enrolment duties are complied with.
- Find out if the intended employee has had an up to date Disclosure and Barring Service (DBS) check.
- Ensure that the employee has the annual leave they are entitled to under 'Working Time Regulations'.
- Do a health and safety check to ensure that there are no potential dangers in your home.
- Assess whether the care you need, such as lifting, could put the employee at risk.
- Make sure that the employee has suitable insurance cover.
- Make sure you/or the disabled person and the potential employee both have employer's liability insurance and public liability insurance – these are sometimes included in a comprehensive household insurance policy.
- Account to the Inland Revenue for the deduction of income tax and national insurance contributions.
- If the employee becomes ill or pregnant you will be liable for the normal payments that employers have to make.
- You must ensure your Direct Payment has enough of a 'contingency' element to meet all your legal responsibilities.

This is not a definitive list and people considering becoming employers must ensure they seek advice on their full responsibilities.

### **Is there any support available?**

The Local Authority will commission a support scheme that provides help to people who want to use a Direct Payment to manage their responsibilities.

The Direct Payment Support Scheme has advisors who can meet with you to discuss Direct Payments and help you to decide if you would like to receive your services in this way. If you choose to have a Direct Payment, they can help you to meet your responsibilities as an employer:

- They can assist with the recruitment of your support staff (these are called Personal Assistants or P/A's);
- They can arrange to pay the P/A's on your behalf and deal with Income Tax, and NI contributions.
- They can arrange for Disclosure and Barring Service (DBS) checks to be carried out.
- They can help with taking out the appropriate insurance cover.
- They can help with meeting the requirements of employment law, i.e. safeguarding the well being of your personal assistants.
- They can help you to open a separate bank account for your Direct Payments.

### **Can I employ a close relative as a personal assistant?**

The Local Authority may authorise Direct Payments to pay a relative living in the same household as you. However, each case will be individually assessed by the Local Authority and after considering your views, the Local Authority must be satisfied that employing a close relative living in the same household is the best way of meeting your assessed needs, and that it will not have an adverse effect on your employer responsibilities.

### **Do I have to pay for Direct Payments?**

Merthyr Tydfil County Borough Council is working within a framework of financial restraint and therefore charges a contribution towards the services it provides, including Direct Payments. Service users in receipt of chargeable community support services, and chargeable residential care, are invited to receive an individual financial assessment or means test.

Please refer to the 'Paying for Community Care and Support' and the 'Paying for Residential Care' Leaflet for more information on the financial assessment process.

## **How much will I receive?**

This will depend on what services you are assessed as needing within your Care and Support plan. There is a set hourly amount the local Authority pays for.

- Day Hours, Leisure Hours, Night Waking Hours, Respite hours.
- Residential Care will be dependent on need and choice of home\*

\*There will be a maximum that MTCBC will pay towards residential care fees, if the home you choose charges more you will need a third party to pay the difference. This may be a family member and in some circumstances you may be able to pay this yourself.

## **How will Direct Payments be paid?**

You will need to open a separate bank account to ensure it remains clear that the money you receive continues to be spent on the services you have been assessed as needing. Once you have confirmed the new account details, and returned all the relevant paperwork, the process can begin. The start date of the service will be confirmed to the Financial Assessment and Charging Team, who will write to you; they will advise you of the date of the first payment, the amount, the period it covers, and any additional amounts included. There will be a timetable included, detailing the future dates, and the amounts of any future Payments.

## **Do I need to keep records?**

If you decide to take up a Direct Payment, you will be required to sign a contract with the Local Authority that lists your responsibilities while in receipt of a payment. The contract, along with a regular financial review of your accounts, will help to ensure you are managing the account appropriately, ensure public monies are being spent properly, and you are operating the Direct Payments in accordance with your agreed Care and Support Plan. You will need to keep the following information on file:

- Direct Payment agreement between you and MTCBC.
- Contract of employment between you and employee(s).
- Hourly pay scale budget.
- All Bank Statements.
- Remittance reports/summaries from the Inland Revenue.
- Copies of all payslips.
- Personnel correspondence (mileage, holidays, sickness).
- All receipts/invoices for additional Payments made.
- Cheque books and Paying in books, and/ or remittance slips.
- Certificate of insurance.

During the review, the Local Authority will monitor the administration of the account, and the care being purchased. If the Local Authority is satisfied that the Direct Payment has not been used to secure the care and support you require, and that your personal outcomes have not been achieved, we may require repayment of some or all of the Direct Payments relating to that period. This will also apply if you have not met any condition the Local Authority originally attached to the provision of the Direct Payments. However, decisions about recovery will be made on a case by case basis, based on individual circumstances.

### **What happens if my circumstances change?**

If you feel that your needs have changed, please contact your Social Worker, or the Duty Officer, to arrange for an assessment. If it is decided that your needs have changed, then your Payments may also change to reflect this.

### **What if I no longer want to continue with Direct Payments?**

If your circumstances change and you no longer need Direct Payments the support scheme will assist you to end them. If you want to cancel your Direct Payments but still need services, you can choose to have those services provided or arranged by the Local Authority.

### **How do I complain?**

If you are dissatisfied with the any element of your Direct Payments, you can use the Councils Complaints Procedure. Please visit the 'Social Services - Compliments and Complaints Procedure' web page for advice and information at [www.merthyr.gov.uk](http://www.merthyr.gov.uk)

### **For more information on Direct Payments please contact us on:**

- Duty Officer 01685 724500

or

Customer Service Reception,  
Merthyr Tydfil County Borough Council,  
Civic Centre  
Merthyr Tydfil,  
CF47 8AN  
Telephone: 01685 725000

## Useful Contacts:

- Online toolkit produced by the Care Council for Wales, useful for both Employers and Personal Assistants: <http://www.paemployertoolkit.wales/>
- Carers UK: <http://www.carersuk.org>
- Money advice service: <https://www.moneyadviceservice.org.uk/>
- Age Concern: <http://www.ageuk.org.uk>

This information may be made available in any other form or format upon request.

