DIRECT PAYMENT AGREEMENT - SELF MANAGED

The whole of this document needs to be completed, signed and returned

This agreement is between and Shropshire Council

Council Address: Guildhall, Frankwell Quay, Shrewsbury SY3 8HQ

In this agreement we will be called **the Council** and the person managing the direct payment is named as **You**

When we say **You** we mean:

- The eligible person/carer who draws on social care

Name of adult the Direct Payment is for:

Address:

LAS Number (This is your ID number for the Council):

This agreement is a legally binding document so please read it carefully and if necessary, take independent legal and financial advice before signing it.

Your payments will start once you have signed this agreement.

Building Society Bank Details

Name of account holder:	
Just Credit Union Account Number:	
Building Society Sort Code:	
Membership Number:	
Email:	

Introduction

To receive a direct payment, **you** need one of the following:

- A bank account separate to personal finances. It cannot receive interest, have an overdraft, or have charges.

- An account that you already have with a zero balance separate to your personal finances. It cannot receive interest, have an overdraft or have charges.

- The Council will pay the direct payment to a third-party provider, such as a community organisation. They will make payments on your behalf.

The Council will have assessed your needs for care and support and together will have agreed a support to achieve the outcomes that matter to **you**. A direct payment has been chosen to purchase services and support to meet your needs. The amount of money agreed for the direct payment has been calculated to meet your assessed needs and will be written in the support plan.

You must meet the Direct Payment conditions, (the Council will have checked that you are eligible before agreeing to pay a Direct Payment).

Please be aware that the Direct Payment amount has been calculated to meet your assessed needs only.

The Council will look at how the direct payment is working with you every year.

If you have been financially assessed to contribute, this needs to be paid regularly to the account. (Contributions are not applicable to support plans for carers).

The Direct Payment will be paid every 4 weeks into the account.

It is a good idea to set up a Standing Order to the account for your contribution.

If a contribution is applicable, the direct payment will be combined with the amount of money paid by the Council. Contributions will apply from the start of the direct payment.

If the contribution is unknown, **you** can choose to wait until **you** know what it will be before **you** agree to start a direct payment.

The Council will check every year that the contribution is correct.

Important Information

It is important that **you** tell the Council about any changes that might affect **you**. The kind of changes we need to know about are:

- Going away from home for more than 4 weeks.
- No longer needing a service.
- A change in the kind of care and support needed.
- A change in financial situation.

- A change in making decisions (mental capacity).

- Changes to agency care or personal assistant (PA) rates.

If your needs change, then the direct payment may also need to change.

If the Council makes any changes, we will give **you** 7 working days' notice.

Keeping Records

Direct payments are funded by public money. The Council has a duty to ensure it is used as agreed within the support plan and to prevent fraud. Everyone who has a direct payment will have a financial check-up at three months, and after that, a financial check-up will generally be every twelve months.

Unless using a Just Credit Union account, who will keep and provide this information on your behalf, **you** will need to keep records i.e., bank statements, invoices and receipts to show how the direct payment is being spent.

You need to keep these records for 6 years, even after your Direct Payment has ended.

The Council will check every year that the money you pay (Personal Contribution) towards your care and support is correct.

Following a financial check-up if the Council asks **you** to return any money:

- This might suggest that the Council needs to review your support plan.

- Sometimes the Council might need to stop a direct payment but if it does the Council will make other arrangements to meet the eligible care and support needs.

Paying for Additional Services/Activities

The Direct Payment is to be used to pay for services and activities set out in your Support Plan. The Direct Payment will be calculated so that you will have enough money to pay for services that meet your assessed needs. If you choose to receive services or take part in activities that are not included in your Support Plan, you must pay for those services out of your own money and not use the Direct Payment for that purpose. Examples of additional services could include:

- Paying for carer to provide more hours than are needed to meet your needs,
- Paying for more carers than you are assessed as needing or
- Requesting a carer to sleep overnight at your home or to go on trips or social outings with you where you feel that you would like additional company and support but don't actually need them to be with you to meet your assessed need.

If you run out of money to pay for additional services, please be aware that the Council **will not** pick up these costs. You will need to cancel the arrangements that you have made as soon as possible and ensure that any payments due to carers or providers are settled.

Becoming an employer – employing a PA

Being an employer comes with responsibilities some of which are detailed below. For full information about employment responsibilities and recruitment advice please use this resource: https://www.skillsforcare.org.uk/Recruitment-support/Support-individual-employers-PAs/Individual-employers/Individual-Employers.aspx.

You need to make sure the PA understands that they are not working for the Council.

You need to pay any tax and national insurance payments which are due to His Majesty's Revenue & Customs HMRC (the tax office). The Council will make provision for payroll services to make sure these are calculated correctly.

If you add terms to employment contracts which are more generous or include the provision of services which go above and beyond what is required to meet your responsibilities as an employer, any additional costs incurred must be paid for out of your own funds. Other associated employment costs may be discussed with the direct payment team.

The Council recommends **you** carry out a Disclosure and Barring Service (DBS) check (police check) on any people you employ. **You must** carry out this check if the person you employ is unsupervised with children. Contact direct.payment@shropshire.gov.uk to request an enhanced with barring adults and children's DBS check. For more information use this link https://www.gov.uk/government/publications/dbs-workforce-guidance

The Council **does not** normally allow you to employ a PA or use the services of a self-employed PA, living in the same household as you. **You** can ask the Council to agree this on a temporary basis for specific reasons. The Council will confirm in writing if this is agreed.

It is important to ensure your PA has business insurance if using their own vehicle for the purposes of work.

Within the UK, an employer has legal duties, some of these are listed below. As an employer you will have employer insurance with access to legal advice when required:

- Provide any employees with an employment contract.
- Have employers' insurance (amount included in direct payment to cover this cost).
- Pay at least minimum wage.
- Make sure that employees have the right to work in the UK.
- Work within relevant employment law.

- Not discriminate against any employee based on disability, age, gender, race or ethnic origin, religious beliefs or sexual orientation.

Using self-employed PAs

To find out the difference between self-employed and employed see: https://www.gov.uk/employment-status/selfemployed-contractor

To use a self-employed person's services, **you** need proof that they are self-employed. **You** should ask them to provide in writing confirmation of below. They should cover the cost of providing this evidence.

- What services they are going to provide and that they have the right skills and qualifications.
- Business insurance if using their own vehicle for the purposes of work.
- A copy of the letter issued by HRMC showing their UTR (Unique Tax Reference) – a 10-digit number.
- A copy of their Public Liability Insurance Cover.
- We highly recommend seeing a copy of their DBS check, which they are liable for arranging and purchasing.

Using a Service Provider

A service provider might be a:

- Care Agency
- Day Service
- Community based service

To use a direct payment to buy support from a service provider, there should be a service agreement in place between you and the service provider. This would describe the service that they provide, that they have appropriate insurance and can meet the person's needs. Care agencies and some day services should be registered with the Care Quality Commission (CQC). https://www.cqc.org.uk/

Ending the Direct Payment

You can end the Direct Payment agreement at any time. This needs to be in writing to the: **Direct Payment Team, Guildhall, Frankwell Quay, Shrewsbury, SY3 8HQ**

Try to give the Council four weeks' notice.

The Council may sometimes have to end your agreement. This may be because:

- You spent the money on items/services that are not agreed in the support plan and have not provided an explanation.
- The money has been misused in some way.
- You are no longer eligible, or you care needs have changed significantly.
- You have not met the conditions of this agreement

If the Council needs to end the agreement, other arrangements will be made to ensure your eligible needs continue to be met.

Redundancy costs for employed PAs are not included in ongoing direct payments. If redundancy costs arise, the Council will pay them but will use any leftover money in the direct payment account first.

The Council is not responsible for any claims, losses, liabilities or demands of any kind, including property damage.

The Council is only liable if, due to its negligence, your employee dies or is injured while providing the service.

Personal Data

Personal data will be used as part of assessing and reviewing the direct payment and to make sure it is used safely and legally.

You have a right to know what personal data is being held about you and how the Council may use it. The Council has a policy on this which you can read here or ask to be sent a copy. www.shropshire.gov.uk/privacy/your-privacy/

Complaints

You have a right to complain about how this agreement is working and should use the Council's complaints procedure which is accessible online on the Council's website: www.shropshire.gov.uk/feedback .

If you wish to complain about the Services that you have received, you must contact the provider of the Services directly.

Conditions

Please tick that **you** agree with everything in this list:

I agree that the money will be used as agreed in the support plan or as agreed with the social care worker. I can ask the Council at any time for an up-to-date support plan and to review or amend it.	
I will pay the contribution every 4 weeks (if applicable).	
If I do not pay the contribution or if I pay less than the assessed amount, the Council will give me an invoice which I must pay.	
I agree that if I am asked to, I will repay any money owed back to the Council. If I do not have enough money to pay the Council, I will agree to a repayment plan	
I will declare if bankruptcy proceedings have ever been issues or are issued against me.	

I agree not to take out cash from my direct payment account, unless agreed in advance with my social care worker	
I will check that invoices for any services are correct before authorising payment.	
I agree to carry out my duties as an employer including use of Employment Insurance and follow legal advice provided through the insurance policy (if applicable).	
I will meet the costs of any services or allowances given to an employee, which are over and above what I am required as an employer to cover.	
I understand that the Council will **not** pay for additional services which are not included in my Support Plan and will not be responsible for settling any debts relating to such additional services	
If the direct payment is ended, I will follow the advice provided by the Council to end all arrangements.	
I agree that the Council can hold and use my personal data to provide the direct payment, including this agreement.	
I will provide true and accurate information when requested.	

Name: (You)	
Signature:	
Date:	
Name: (Authorised Officer of the Council):	
Signature:	
Date:	

DEFINITIONS

What these words mean:

Agreement	Means this agreement and includes all documents mentioned in it
Assessed Needs	Your eligible needs for care and support which have been written in your Care Act Assessment
Care Act Assessment	Means an assessment of your needs for care and support carried out using the Care Act 2014
Support Plan	Means the document produced by you and the Social Care worker which has been agreed by you following a Care Act Assessment carried out by or on behalf of the Council
Close Relative	Is your parent, brother, sister, aunt, uncle, grandparent, son, daughter, parent-in-law, son-in-law, daughter-in-law, stepson or stepdaughter, spouse or partner
Data Protection Legislation	Means all the laws and guidance about the processing of personal data and privacy (mainly The Data Protection Act 1998 and General Data Protection Regulation (GDPR).)
Direct Payment	Means the payments made by the Council to You to arrange for the support to meet the outcomes that matter to you.

Direct Payment Account	The Bank/Building Society Account opened specifically for the purposes of this Agreement.
Finance Officer (Reconciliation Team)	Means the person working for the Council who does the financial check-up when it is needed
GDPR	Means the General Data Protection Regulation 2016/679 as they apply and are incorporated into UK law
Nominated Person	Someone who you have nominated in writing to receive the Direct Payment on your behalf.
P.A	Means Personal Assistant who will support you to meet the outcomes that matter to you using the Direct Payment
Personal Budget	Is an amount of money allocated and agreed as being necessary by the Council to support you to meet your eligible needs following a Care Act Assessment
Personal Data	Has the same meaning as set out in the GDPR
The Service	This describes what you buy with the Direct Payment. Examples of this are: equipment; day care; employing a PA or an agency to provide care