

## DIRECT PAYMENT AGREEMENT

This agreement is between ..... and Shropshire Council

Council Address: Shire Hall, Abbey Foregate, Shrewsbury SY2 6ND

In this agreement we will be called **the Council** and the person getting the Direct Payment is named as **You**

When we say **You** we mean either:

- The person getting the Direct Payment, or
- The person who is chosen to get it and look after it on your behalf. (This may be a nominated person or an authorised person)

**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 You feel it necessary take independent legal and financial advice before signing it.

**Your payments will start once you have signed this agreement.**

## Introduction

The Council will assess your needs for care and support and together with you agree a care and support plan to achieve the outcomes that matter to you so that you can live your life.

**You** have chosen to have a Direct Payment for services and support to meet your needs.

The Council will pay a Direct Payment to meet these needs to:

- You** as the adult getting the care and support or
- The person who looks after it for you, or
- An organisation you have chosen to look after it, and who will make the payments on your behalf.

**You** or the person who will look after your Direct Payment must meet the Direct Payment conditions, (the Council will have checked the rules before agreeing to pay a Direct Payment).

To receive your Direct Payment, you need to:

- Open a new bank account just for the Direct Payments. It cannot be part of another account, have an overdraft or have charges. It can be an account that you already have which doesn't have any money in it. (Only exception is if the direct payment is a one off)
- The Council can pay your Direct Payment to a third-party provider, such as a community organisation. They will look after this money and make payments on your behalf.

The Council will check Your Direct Payment and the amount of money you get at least every year.

The amount allocated for your Direct Payment will be written in your Care and Support Plan.

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

You will need to pay your Personal Contribution every 4 weeks. You will receive a letter telling you how much this is and how it has been worked out.

It is a good idea to set up a Standing Order from your personal account to your Direct Payment account for the amount you need to pay (your contribution).

The amount paid by **the Council** will be reduced by the amount of your contribution to make your total Direct Payment. Personal Contributions will apply from the start of the Direct Payment.

If you do not know the amount of your Personal Contribution at the suggested start date of your Direct Payment, you can choose to wait until you know what your contribution will be before you agree to start a direct payment.

### Details of Direct Payment Bank Account

The first payment will be made on [*insert date*].

The Direct Payments will be paid into the following Direct Payment Bank Account:

Name of account holder:	
Name and address of bank:	
Account number:	
Sort code:	
Just Credit Union membership:	

**What you agree to and what the Council agrees to**

<p><b>You</b> agree that:</p>	<p><b>The Council</b> has a duty of care and will:</p>
<p>The Council has assessed your needs and will give you a copy of Your Care and Support Plan</p>	<p>Check your care and support needs every year to make sure that the Direct Payment is enough to meet your needs and to support the outcomes that matter to you, as recorded in your Care and Support Plan.</p> <p>This will be done either by phone or by visiting you.</p>
<p>You will find services and support to meet the outcomes that matter to you set out in your Care and Support Plan</p>	<p>Make sure that you get the support you need to meet the outcomes as agreed in your Care and Support Plan.</p>
<p>You will spend your Direct Payment on services and support to meet the outcomes that matter to you set out in your care and support plan.</p>	<p>Make sure that any money you pay towards your care and support is fair. This is called your Personal Contribution. The amount you contribute takes into account any extra costs you have because of your disability.</p>
<p>You will give back any money if the Council asks you to.</p>	<p>Make sure <b>the Council's</b> money is being spent properly, and as stated in the Support Plan.</p>
<p>The Council has given you enough information and support about Direct Payments.</p>	<p>Answer any questions you have and provide the responses in a way that is accessible to <b>you</b>.</p>

## Telling the Council about any changes

It is very important that **You** tell **the Council** about any changes that might affect your care and support needs. The kind of changes we need to know about are:

- Having a stay in hospital.
- Going away from your residential address for more than 4 weeks.
- No longer needing a service.
- A change in your financial situation (money).
- A change in the kind of care and support you need
- A change in your mental capacity (making your own decisions)
- Any problems you have getting services or managing the Direct Payment
- Any changes to the rates an Agency charges you.

Telling us about these things allows the Council to make changes to your Direct Payment, if needed. If your needs change then the Direct Payment might change. The Council has the right to make a change to your Direct Payment. If the Council makes any changes, we will give you 7 days' notice.

### Keeping records

**You** need to keep all paperwork to show how your Direct Payment is being spent. This is all explained in the Welcome Letter you get at the start of your Direct Payment.

You need to keep these records for 6 years, even after your Direct Payment has ended. The Council will check your current paperwork at least every year or at other times if they need to.

If the Council asks to see your records or wants more information, you will be asked to send this within 14 days.

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

If you have spent too much, or not enough of your Direct Payment, the Council has the right to make a change to your Direct Payment.

If the Council asks you to return any money:

- This might indicate that **the Council** needs to review your care and support needs.
- If your needs change then the Direct Payment might change.
- Sometimes the Council might need to stop a Direct Payment but if it does The Council will make other arrangements for your care and support.
- In very rare circumstances there may be legal action taken against you if you do not return money if you are asked to do so.

### **Becoming an employer**

**You** agree that any person/s who you employ with your Direct Payment are your responsibility.

You need to tell the person that they are working for **you** and not **the Council**.

The person you employ must have an employment contract and this must be clearly written in their employment contract.

You need to pay any tax and national insurance payments which are due to HMRC (the tax office).

The Council does not normally allow you to employ your husband, wife, partner, or a close relative (who lives with you) as your Personal Assistant. **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. **The Council** can agree for someone who lives with you to provide administrative support with managing your Direct Payment.

You have legal duties as an employer in the UK you must:

- provide anyone you employ with an employment contract
- have insurance which is included in your Direct Payment
- pay them at least minimum wage, your Direct Payment also includes money towards redundancy, sickness, pension, Income Tax and National Insurance (The **Council** recommends using a payroll provider to make sure this is done correctly).
- make sure that anyone you employ has the right to work in the UK.
- You **should** carry out a Disclosure and Barring Service (DBS) check on any people you employ.
- You **must** carry out this check if the person you employ is unsupervised with children.
- You must work within all relevant employment law
- Not discriminate against anyone you employ based on disability, age, gender, race or ethnic origin, religious beliefs or sexual.

If you want to use a self-employed person you need proof that they are self-employed. You should ask them to give you something in writing that covers the following.

- What services they are going to provide and that they have the right insurance, the right skills and qualifications.
- A Copy of the letter issued by HMRC identifying their UTR – a 10-digit Unique Tax Reference
- A Copy of their Public Liability Insurance Cover
- They should pay for all costs of providing this evidence.

### **Ending the Direct Payment**

**You** can end the Direct Payment agreement at any time. **You** need to try and give the Council 4 weeks' notice. This needs to be in writing to the: Direct Payment Team, Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND

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

- You have not spent the money on the outcomes agreed in your Care and Support Plan and haven't been able to explain why.
- The money has been misused in some way.
- You no longer have any care and support needs or they have changed significantly.
- You have not met the conditions of this agreement

If **the Council** needs to end the agreement, other plans will be made so that any care and support needs you have will still be met.

**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, the person who **You** employ dies or is injured while providing the service.



## Consent

You now need to tick that you agree with everything in this list

I agree to all that is set out in this agreement. I understand that **the Council** may need to share information with other Council services and others who check and look after public money.

I will keep all records about my Direct Payments for 6 years.	
I understand that if I do not give the Council the information it asks for my Direct Payment may be stopped and I may have to give back some money.	
I will tell the Council of any changes that affect my care and support.	
I will pay my Personal Contribution every 4 weeks.	
If I do not pay the Personal Contribution or if I pay less than the assessed amount, the Council will give me an invoice which I must pay.	
I also understand that my Direct Payment may be stopped.	
I will allow the Council to see any records about the money spent for my care and support.	
If I choose to look after my own Direct Payment, or if an organisation or third party looks after it for me, I agree to the Council being given the information it needs.	
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 agree that I will pay it back as a debt.	
I agree not to move money from the Direct Payment account to any other bank account unless it is for something that has been agreed in my Care and Support Plan	
I agree not to take out cash from my Direct Payment account.	
I agree that the Direct Payment will only be used for the outcomes that matter to me to meet needs set out in the Care and Support Plan.	
I agree to carry out my duties as an employer as explained in the Welcome Pack:	
I understand that if the Direct Payment is ended, I am still responsible for payments due to Personal Assistants or any other providers I have used.	
I understand that the Council has a duty to protect public money and to prevent fraud.	
I understand that it is a crime and legal action may be taken, if I give false and/or misleading information.	

## Your agreement about how the Council will use your personal data

**You** agree to the Council sharing your Personal Data in line with the Data Protection Legislation with relevant health and social care partners, when it needs to share this in order to meet **your** social care or health needs.

You have been and agree that the Council can hold and use your Personal Data to provide the Direct Payment, including this Agreement.

This Personal Data will be used as part of assessing and reviewing the Direct Payment ongoing and to make sure it is used in the right way to keep you safe

You have been informed of **Your** right to know what Personal Data is being held and how the Council may use it and that the Council has a Policy on this which you can read here or ask to be sent a copy.

<https://www.shropshire.gov.uk/media/14524/data-protection-policy-v10.pdf>

### 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](http://www.shropshire.gov.uk) .

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

Name:.....

Signature:.....

Date:.....

### Tick which one you are:

1. The adult with care and support needs
2. The Nominated Person
3. The Authorised Person

## What these words mean **DEFINITIONS**

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
Authorised Person	Someone who manages your direct payment on your behalf because you lack capacity (understanding). They take on the full legal responsibilities for it.
Care Act Assessment	Means an assessment of your needs for care and support carried out using the Care Act 2014
Care and 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 car