

Authorised Person Fact Sheet

Authorised Person

An Authorised Person is someone appointed to receive Direct Payments to arrange services for a Service User who:

- Is eligible to receive adult social care services but
- Has been assessed as **lacking capacity to consent to receive Direct Payments.**

An Authorised Person is:

- Someone the Service User gave lasting power of attorney (attorney) over their affairs before they lost capacity, or
- A deputy appointed by the Court of Protection to act in the Service User's best interest.

If there is no attorney or deputy, or they do not want to act as the Authorised Person, someone else may be considered. Usually this is someone like a family member, husband / wife / partner, friend or a professional person like a solicitor.

If the Service User you are supporting HAS capacity to manage a Direct Payment but has requested that you manage it for them then you would not be an Authorised Person you would be a NOMINATED Person instead (please see Nominated Person Fact Sheet)

Being appointed as an Authorised Person

You cannot just become an Authorised Person.

We have to follow legislation and our own policy and procedures before we can appoint you to act as an Authorised Person for a Service User without capacity. Anyone authorised to make personal welfare decisions for the Service User has to agree too.

Certain conditions have to be met before we can make Direct Payments to an Authorised Person and before we appoint an Authorised Person, we always talk to other people about their views about the appointment. For example, we talk to the Service User about what they would like and we consult anyone:

- appointed as the Service User's attorney or deputy,

- that the Service User wishes us to speak to about Direct Payments, their health and welfare arrangements in general, or other related matters,
- involved in caring for the Service User or who may be interested in their welfare, like family members or friends.

Unless you are the Service User's husband, wife, partner, a close family member *, or a friend involved in their care, we carry out criminal record checks through the Disclosure and Barring Service before we make any appointment decisions.

We carefully consider what the Service User would want and what would be in their best interests.

We have to be satisfied that:

- Direct Payments will meet the Service User's needs.
- The conditions described in legislation and in our policy and procedures are met.
- You are willing and able to take on the responsibilities of acting as the Authorised Person. This means receiving Direct Payments and arranging support for the Service User. If you need help and support to do this, **we recommend** that you use one of the support services on our Direct Payment Support Services List. They can help you with managing the money, payroll services, recruiting and managing personal assistants, undertaking DBS checks, using an agency and other services.
- You will act in the Service User's best interests,
- Given all of the circumstances, it is appropriate to make Direct Payments to you.

Your role and responsibilities as the Authorised Person

- You will have to sign an agreement about how you will use Direct Payments. You agree to use Direct Payments only to arrange and pay for the services that we agree that the Service User needs. You must abide by the terms of the agreement and are accountable for how you use Direct Payments.
- You must involve the Service User as far as reasonably practicable and give them as much control and independence as possible over their care and support arrangements.
- You must make careful decisions on behalf of the Service User and always act in their best interests.
- You must tell us about any difficulties or changes, including if you believe the Service User has regained capacity or you think that Direct Payments are not meeting their needs.
- Direct Payment arrangements may involve legal responsibilities, especially if you are employing staff. You must ensure that you always act lawfully. You will be responsible for all costs of employment. You

will find some information about becoming an employer in our **Becoming an Employer** leaflet. **We recommend** that you seek advice and support from one of the Direct Payment Support Services. You may also have to undertake criminal record checks – see section on Keeping the Service User Safe.

- You will find information about using an agency to supply staff in our **Using an Agency** leaflet. If you need help and support in choosing or dealing with an agency, **we recommend** that you seek advice and support from one of the Direct Payment Support Services.
- You cannot use Direct Payments to pay yourself or to employ the Service User's husband, wife or partner. You cannot use Direct Payments to employ the Service User's close family members*. There are very few exceptions to this rule. No exceptions can be made without our written permission.
- Whilst we do not want to discourage you from acting as an Authorised Person, we must ensure that you are aware that anyone who acts as an Authorised Person may be guilty of fraud if they dishonestly abuse their position, intend to benefit themselves, or others, and cause loss or expose the Service User to risk or loss. The Fraud Act 2006 created an offence of 'abuse of position'. This applies when someone is expected to safeguard the interests of a person but instead acts against their financial interests. Such a person can be found guilty of a criminal offence.
- You must tell us if you decide that you no longer want to act as the Authorised Person so that we can arrange services for the Service User.

Criminal Records Checks

- Unless you are the Service User's husband, wife, partner, close family member* or a friend involved in their care, we carry out a criminal record check through the Disclosure and Barring Service to ensure that there is no reason why we should not appoint you to act as an Authorised Person.
- We strongly recommend that criminal records checks through the Disclosure and Barring Service are undertaken for anyone employed to provide services to the Service User. The cost can be funded from the Direct Payments account. Direct Payment Support Services can do the check for you.
- Unless you are the Service User's husband, wife, partner, close family member* , or a friend of the Service User involved in providing their care, you must arrange for anyone that you employ with Direct Payments to have a criminal records check.
- If you are a corporation or unincorporated body you must arrange for anyone that you employ with Direct Payments to have a criminal records check.
- If you use an agency, you should check that any staff supplied by the agency have had a satisfactory criminal records check.

Regardless of whether the person intending to administer the direct payment is the person who needs care or their authorised or nominated person, the County Council will ask the person to declare any convictions involving dishonesty.

Where a dishonesty conviction is declared, the County Council will assess whether or not it is appropriate for that person to administer the direct payment.

***Close family member:**

The definition of a close family member is someone who lives in the same household as the adult who is the adult's:

- Parent or parent-in-law
- Son or daughter
- Son-in-law/daughter-in-law
- Stepson or stepdaughter
- Brother or sister
- Aunt or uncle
- Grandparent, or
- The spouse/partner of any of the people listed above and living in the same household as the adult.

Further information

There is additional information in our:

- Adult Social Care Direct Payments guide
- Becoming an Employer guide
- Using an Agency fact sheet
- Nominated Person fact sheet

You can also talk to us about direct payments by contacting our Adults Direct Payments team on **01452 426009** or emailing us at directpaymentsteam@gloucestershire.gov.uk