

Nominated Person Fact Sheet

Nominated Person

A Nominated Person is someone who agrees to take on the full responsibility of a Direct Payment on behalf of a Service User who HAS capacity to manage a Direct Payment but chooses to ask someone to manage this for them.

If the Service User you are supporting LACKS capacity to consent to receive a Direct Payment or lacks capacity to manage a Direct Payment then they are unable to 'nominate' you to assist them and you would need to be appointed by Gloucestershire County Council to be an 'Authorised' Person instead. Please see the Authorised Person Fact Sheet if this applies to you.

Being appointed as a Nominated Person

You cannot just become a Nominated Person - the Service User you are supporting must agree to the arrangement and 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 Nominated 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 Nominated 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, 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 changed their mind and wants to manage the Direct Payment themselves, or if 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 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 a Nominated Person, we must ensure that you are aware that anyone who acts as a Nominated 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 Nominated Person so that we can arrange services for the Service User.

Criminal Records Checks

- 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.
- 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
- Authorised 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