



Gofal Cymdeithasol **Cymru**
Social Care **Wales**

Accessing support to be a direct payments employer

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Find out more about accessing support to be a direct payments employer

What does it mean to be a direct payments recipient?

Direct payments recipients are responsible for using the money in the way that has been agreed within their support plan.

That could mean a range of things from buying equipment to gym membership or perhaps employing a personal assistant, either directly or through an agency.

The key thing is direct payment recipients have choice in what they buy and where they buy it.

In return for increased flexibility, direct payment recipients need to keep good records of what they buy as they are using public money.

Support services available to help direct payments recipients

Although a direct payments recipient is responsible for buying their support and keeping good records of what has been bought, that doesn't mean they have to do everything themselves; there's plenty of support available to help them.

Every local authority has an administrative support service to help people operate direct payments.

Some local authorities provide this help directly using their own staff, others use support organisations to do it on their behalf.

Some local authorities will work with one support organisation, others might have a list of approved organisations so people can choose the one they like best.

Local authorities change the support organisations that they work with from time to time.

So to find who provides the support service in your area, it is best to go to the 'Direct Payments' page on your local authority's website.

If an individual feels they are not being adequately served by a direct payments support organisation, they can if necessary find another organisation that can support them, still funded by their local authority.

What type of support do local authorities offer?

Direct payment services and centres for independent living can provide advice and guidance. They can also offer support to manage direct payments.

Types of support offered include:

- Advice on employment law, health and safety and insurance
- Recruiting, training and managing PAs and dealing with any disputes
- Putting contingency plans in place, for example in case a PA is off sick
- Undertaking Disclosure and Barring Service (DBS) checks (previously known as Criminal Records Bureau (CRB) checks)
- Providing payroll and bookkeeping services.

[Acas](#) also had advice about being an employer and a helpline for questions 0300 123 1100.

People may need advocacy support to help them understand this information and make decisions about what will work best for them.

[A member of the co-operative Moncare explains how a direct payment support service has been vital in helping her to manage her direct payments.](#)

[Advice about how you can share the management of personal assistants or support workers with other direct payments recipients](#)

Recent case judgements about being a direct payments employer

It is important for direct payment employers to be aware of current legal case judgements that might affect them.

Working with a support organisation helps keep up to date with latest developments to ensure compliance with the law.

A recent court case between Mrs Tomlinson-Blake and the Royal Mencap Society opened a debate as to whether sleep-in PAs or support workers should be paid at least the National Minimum Wage for each hour that they were on-site rather than a shift allowance.

An initial ruling said that at least the National Minimum Wage should be paid, together with six years of back-pay.

The July 2018 appeal

A more recent appeal in July 2018 removed the need for back-pay and stated that personal assistants (or support workers) are only entitled to at least the National Minimum Wage for time when they are required to be awake for the purposes of working.

Following this judgement, the trades union UNISON was considering taking the case to the Supreme Court.

It should be noted that there was a large body of case law prior to the Mencap appeal which held that being in the place of employment constituted 'working'.

Mencap has also made clear that they do pay staff at least the National Minimum Wage for overnight working and that they felt compelled to take the case only to avoid the six years back pay bill and not because of the principle of the National Minimum Wage.

[Read more about the background to the Mencap case and explanations about the judgement](#)

The individual's choice to find alternative services

Direct payments give people choice. If they find a particular support service does not suit them, they can speak to their local authority about choosing an alternative provider.

We want your feedback

Help us to improve the Direct payments resource by telling us what you think about it in our short [four question survey](#).