

## **Nominated Persons Information Fact Sheet**

### **Nominated Person**

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

If the individual 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 the Council to be a 'Suitable Person' instead.

### **Being appointed as a Nominated Person**

You cannot just become a Nominated Person, the Individual you are supporting must agree to the arrangement and we have to be satisfied that:

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

### **Your role and responsibilities as the Nominated Person**

- You will have to sign an agreement about how you will use Direct Payment. You will agree to use Direct Payments only to arrange and pay for services that is agreed to meet the care and support needs of the individual you are supporting.
- You must abide by the terms and condition of the direct payment agreement and are accountable for how you use direct payments.
- You must involve the individual you are supporting 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 individual and always act in their best interest.

- You must tell us about any difficulties or changes, including if you believe the individual you are supporting changes 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. We recommend that you seek advice and support from the Direct Payment Support Services.
- If you need help and support in choosing or dealing with an agency, we recommend that you seek advice and support from the Direct Payment Support Services.
- You cannot use Direct Payments to pay yourself or to employ the individual you are supporting husband, wife or partner or close family members\*, there are exceptions to this rule, but no exception can be made without the councils 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.

### **Criminal Records Checks**

We strongly recommend that criminal records check through the Disclosure and Barring Service are undertaken for anyone employed to provide services to the Individual you are supporting. The 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 Council will ask the person to declare any convictions involving dishonesty. Where a dishonesty conviction is declared, the 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.