

Staffordshire County Council
Directorate of Social Care and Health
Direct Payments Project Board

Direct Payments *in* Staffordshire

*Gives service users and carers flexibility, choice
and control in the way they are supported*

Direct Payments and protecting Vulnerable Adults (POVA)

Information for practitioners, carers and service users.



If you would like a copy of this leaflet in larger print, on audiotape, in braille
or in a different language, please contact our helpline on 01785 276900.

IMPORTANT INFORMATION

Please Read Very Carefully

This document is intended to be a brief guide only and should be read in conjunction with the Adult Directorate's publication 'Carers' Assessments and Services – Policy and Eligibility Criteria' (November 2006) and the Practitioner Guidelines on Social Work Assessment, Care Plan and Review Documents.

Every effort has been made to ensure that it is as accurate and up to date as possible, having regard to current statutory requirements at the time of printing. However, the County Council does not accept any responsibility for any error or discrepancy in the document, or any liability for loss or damage arising from reliance by any person on any part of this document.

Furthermore, it is your responsibility to consider obtaining appropriate independent legal advice about the contents of this guide and its application to your personal circumstances, or otherwise about the way in which the County Council has carried out any financial assessment in relation to your care arrangements.

Nothing contained in this document shall restrain, restrict or interfere with the ability of the County Council to exercise its powers, duties, functions and discretions in accordance with any relevant enactments and regulations and also any applicable guidance issued by the Secretary for Health from time to time.

Contents

1. Introduction
2. The Criminal Records Bureau
3. Advice for service users about checking the background of personal assistants.
4. Practice Guidance: Arranging the background check of a personal assistant.
5. Legislation and References

Annex 1: CRB forms in respect of direct payments: SSM procedure for both the adult's and children's schemes

Annex 2: Staffordshire County Council Social care and Health/Children and Lifelong Learning Direct Payments/CRB Clearances – Contact Names/Areas

Annex 3: Sample letter alerting Service User to concerns about CRB Disclosure.

**Staffordshire County Council
Social Care and Health Directorate**

**Direct Payments and Protecting Vulnerable Adults
Policy and Practice Guidance**

1. Introduction

The Government states that the purpose of direct payments is to put people in control of the care they receive, and the present guidance aims to achieve a balance between empowering the person receiving a direct payment and protecting somebody who is also potentially vulnerable. Regardless of lobbying by professional care organisations, the Department of Health does not make criminal background checking of personal assistants a condition of receiving a direct payment. Therefore Staffordshire County Council recommends that if a service user chooses to employ a personal assistant, rather than purchase care through an agency, the service user should also choose whether or not the person to be employed will be subject to an enhanced Criminal Records Bureau check.

This Policy and Practice document is for use by managers, practitioners and service users. It is available on the Direct Payments website.

2. The Criminal Records Bureau

The Criminal Records Bureau (CRB) provides a Disclosure Service to help employers make safer recruitment decisions. It replaces the Criminal Records checks that have in the past been carried out by the local police. The CRB disclosure widens the scope of posts which can be checked to include those involved in caring and supporting 'vulnerable adults' and for the purposes of administering the Direct Payments Scheme, potential carers of direct payments recipients employed under the Scheme. The Service checks information against the Police National Computer (PNC).

There are three levels of disclosure; enhanced, standard and basic. Enhanced disclosure is requested for all posts that involve '*regularly caring for, supervising, training or being in sole charge of vulnerable adults*'.

This is a thorough process that identifies any person appearing on the Protection of Vulnerable Adults (POVA) list and also provides information about any spent and unspent convictions the person may have, any cautions, concerns, reprimands and final warnings held at local and national level.

3. Advice for service users about checking the background of personal assistants.

Although there is currently no obligation to carry out the same checks for personal assistants that are employed by you, Staffordshire County Council does consider that such checks are necessary to protect you. While it is not a condition of receiving a direct payment through the Scheme you are strongly advised to arrange for an enhanced disclosure check to be carried out. A potential employee may, for example, have previously committed offences against vulnerable adults or may have been dismissed from an agency for poor care practice. A small number might have been barred from certain care sectors and may gravitate to those that are less regulated or are completely unregulated.

Alternatively, if you wish to purchase care from a care agency rather than employ a personal assistant, you should satisfy yourself that the agency is registered with the Commission for Social Care Inspection (CSCI). You can be assured that staff employed by such registered agencies will have been CRB checked. However, if the agency is not registered, you may wish to either seek such a check for the person supporting you or reconsider your choice of care agency.

If you want a background check of your preferred personal assistant, you will need to consider the following **practice guidance**.

As a direct payment recipient you cannot directly approach the Criminal Records Bureau (CRB) for a background check against someone you wish to employ (the candidate). However, a vetting organisation can do so on your behalf. Any registered body could act as a vetting agency. This could be a local authority or a voluntary organisation, although the Rowan Organisation is not a Registered Body. Staffordshire County Council would act on your behalf and you can request that the Authority contact the CRB and arrange for an enhanced disclosure to be carried out about the candidate.

Staffordshire County Council will pay for the cost of the background check as part of the start-up costs for a particular scheme.

The basic procedure is the same as for other CRB disclosures.

4. Practice Guidance: Arranging the background check of a personal assistant.

The service user, as the potential employer, must initiate the application by asking the Council to request the background check of the candidate to be the personal assistant. The Rowan Organisation or the local Social Care and Health Support Services Manager would offer guidance through the process. The following

procedure should be followed (see also Annex 1, more detailed procedure for Support Services managers)

1. After interviewing the candidate(s), the service user, as the potential employer will decide whether a background check of the preferred candidate is wanted. The service user can request the CRB check through the Council. The successful candidate will be issued with a numbered Disclosure Application Form by the local Social Care and Health Support Services Manager, which he/she will be asked to complete all sections except sections, X and Y.
2. The Rowan Organisation will confirm with the relevant Support Services Manager (SSM) the name of the candidate by email.
3. The successful candidate will be asked to make an appointment with the SSM at the local Area Social Service Office to have Section X and Section Y of the Disclosure Application Form completed and the candidate's identity confirmed.
4. The candidate will be asked to bring proof of identity at a convenient time. Forms of identity include at least one form of photo identification i.e. passport, driving licence or at least two forms of non-photo identification such as a birth certificate, paper driving licence, P45/P60 or marriage certificate. Two proofs of address are also required such as a recent utility bill, credit card statement, bank, mortgage or insurance statement. All documents must be in the candidate's current name and at least one document must show the current address and at least one document must show the correct date of birth.
5. The Support Services Manager will complete section X of the Disclosure Application Form, countersign and arrange for submission to the CRB.
6. The resulting disclosure will be sent to the person wanted to be employed (the applicant) and a copy will be sent to the Council. The Council will then assess the individual's suitability for the position to be filled and advise the service user accordingly. On receipt of the disclosure the Support Services Manager will inform the local Social Services Area Manager and discuss any area of concern.
7. The service user, as the employer, has no right of access to view the disclosure. Indeed, it would be an offence for the Council to reveal the information to the service user. However, the person wished to be employed can voluntarily show the disclosure to their potential employer should he/she wish to do so. This could help resolve disputes particularly where the Council has advised the service user that they feel the person is unsuitable.

(Please refer to Annex 2, standard letter from the Council, alerting the service user about concerns following CRB disclosure)

8. The Council may recommend an alternative way of meeting the service user's care needs if the preferred applicant is regarded as unsuitable. However, it is the service user's decision as to whether to employ the candidate or not, taking into account any advice given by the Council. The Council may withdraw the offer of a Direct Payment if the service user decides to employ a personal assistant who the authority regards as unsuitable.
9. Any disputes following the application of this policy and practice guidance will be resolved through the Directorate's publicised complaints procedure.

Just say, for example, on receipt of the disclosure from the CRB, the Support Services Manager becomes aware of a relevant conviction. The personal assistant will be contacted for his/her written permission to share that information with you, the potential employer. If permission is not given by the personal assistant and there is, for example, a conviction disclosed, then the Council would advise you that the applicant is not considered suitable for the position. If permission is given to share the disclosed information, the matter will be discussed with you as the employer. Whether or not written permission has been given by the candidate to share the CRB information with you, it would still be your decision on whether to employ the candidate as your personal assistant.

5. Legislation and References

No Secrets – Department of Health Guidance 2000
The Community Care (Direct Payments) Act 1996
Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003
Care Standards Act 2000
Carers and Disabled Children Act 2000
Carers (Recognition and Services) Act (1997)
Health and Social Care Act 2001
Safeguarding Vulnerable Groups Bill
'Safe and Sound' CSCI, June 2006

For further information about the Council's policy on protecting vulnerable adults, please contact your local care manager or visit the Staffordshire Adult Protection Partnership Board Home Page on the County Council's web-site.

Annex 1: CRB forms in respect of direct payments: SSM procedure for both the adult's and children's schemes

1. Rowan Organisation, as the Support Contractor, will pass on the telephone number of the Support Services Manager from whom the service user needs to obtain the CRB form.
2. Rowan Organisation e-mails or rings the Support Services Manager to make them aware of who will be contacting them and whether they will be supporting an adult or child.
3. (Support Services Managers' e-mail address is: firstname.surname@staffordshire.gov.uk (all in lower case, see below for list)
4. Once contacted, the Support Services Manager will provide the applicant with a CRB form for completion and arrange a time to verify Section X and Y.
5. Completed forms are sent into HQ Operations Support for the attention of M Tyne, and entered onto database.
6. Disclosures from the CRB received at HQ will be returned by M Tyne to the appropriate Support Services Manager.
7. Support Services Managers to e-mail, with password protection, the Rowan Organisation to inform them that clearance has been received and if no convictions have been recorded then the appointment can proceed without further advice.
8. Support Service Manager retains forms in line with CRB policy (6 months if no dispute).
9. If CRB form identifies convictions the Support Services Manager makes the Team Manager aware.
10. The Team Manager contacts the potential personal assistant to ask for written permission to share the information with the Service User:
 - If written permission is not given, the Council/Department advises the Service User that the person is not considered to be suitable for the position.
 - If permission is given by the applicant, the Department discusses with the Service User making the decision whether to employ the personal assistant or not.

**Annex 2: STAFFORDSHIRE COUNTY COUNCIL
SOCIAL CARE AND HEALTH/CHILDREN AND LIFELONG LEARNING
DIRECT PAYMENTS/CRB CLEARANCES – CONTACT NAMES/AREAS**

Yvonne Melville	Newcastle Cheadle	01782 296290
Sharon Turrell	Leek Kidsgrove Biddulph	01538 483112
Angie Walters	Codsall	01543 510300
Su Skelding	Cannock	01543 510300
Wendy Littlehales	Burntwood Rugeley	01543 510410
Wendy Dallow	Lichfield	01543 510800
Karen Mason	Tamworth	01827 475506
Eleanor Lloyd	Burton Uttoxeter	01283 239888
Margaret Draper Norma Needham	Stafford Area (Children's) Stafford Area (Adults)	01785 276800 01785 276969

Margaret Draper/June 2006

Annex 3: Sample letter alerting Service User to concerns about CRB Disclosure.

BRENDAN SULLIVAN
Head of Service (Resources)
Leek Area Services Office
County Services Building
Fountain Street
Leek
Staffs. ST13 6JR
Email: leek.socialservices@staffordshire.gov.uk

Tel: 01538 483112

Fax: 01538 483145

Please ask for:

Dear (Service User)

Date

Re: Direct Payments

As you will be aware your personal assistant/carer (...name...) has been subjected to appropriate checks to ensure they are a suitable person to be employed by you.

The result of those checks has now been passed to the Council. As you will be aware, the Council is unable to disclose to you the result of those checks without the consent of the personal assistant/carer (...name...) him/herself.

Could I suggest that you ask your personal assistant/carer (... name....) if you could see their CRB (Criminal Record Bureau) check before you decide on their suitability for employment.

Although I am not in able to disclose the content of this CRB report to you myself I need to highlight to you that I have concerns on the findings and strongly recommend you check these details for yourself before you employ (...name...).

The Council will discuss this matter further with you once you have decided what action you intend to take. I must advise you that the offer of a Direct Payment to any service user may be withdrawn if the Council considers that the service to be paid for by the Direct Payment is to be delivered by a person who may be considered to place the service user at any risk.

Yours sincerely,

Team Manager
(Local Area Service)