



Family &
Community
Services

Direct Payment Agreement Handbook

version 1.1
January 2015



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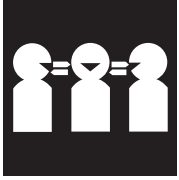
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Getting Started

This is the introduction to the Direct Payment Agreement (DPA) Handbook. It provides you with a range of useful information that will help you get to know what this handbook is about and how to use it.

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Information in other languages



If you need assistance in language other than English to understand this information, please call the Translating and Interpreting Service (TIS) on 131 450.

ARABIC

إن كنت تحتاج للعون باللغة العربية لفهم هذه المعلومات فبرجاء الاتصال بخدمة الترجمة والترجمة الشفوية (TIS) على الرقم 131 450.

CHINESE SIMPLIFIED

如果您需要帮助理解本份资料，请致电电话传译服务处 (TIS)，电话131 450。

CHINESE TRADITIONAL

如果您需要幫助理解本份資料，請致電電話傳譯服務處 (TIS)，電話131 450。

CROATIAN

Ako vam je za razumijevanje ovog pisma potrebna pomoć tumača na hrvatskom jeziku, nazovite Službu prevoditelja i tumača (TIS) na 131 450.

GERMAN

Wenn Sie zum Verständnis dieser Informationen Hilfe in einer nichtenglischen Sprache benötigen, wenden Sie sich bitte an den Übersetzungs- und Dolmetschdienst (TIS) unter der Rufnummer 131 450.

GREEK

Αν χρειάζεστε βοήθεια σε γλώσσα εκτός της Αγγλικής για να καταλάβετε αυτές τις πληροφορίες, παρακαλείστε να τηλεφωνήσετε στην Υπηρεσία Μεταφραστών και Διερμηνέων (TIS) στο 131 450.

ITALIAN

Se vi serve aiuto linguistico in italiano per capire queste informazioni, chiamate il Servizio telefonico interpreti (TIS) al numero 131 450.

KOREAN

본 정보를 이해하시는데 한국어로 도움이 필요하시면 전화 통역 서비스 (TIS)에, 전화 131 450번으로 연락하십시오.

MACEDONIAN

Ако ви треба помош на некој друг јазик за да ги разберете овие информации, ве молиме телефонирајте во Службата за писмено и усмено преведување (TIS) на 131 450.

MALTESE

Jekk għandek bżonn ta' l-għajnuna f'lingwa oħra barra l-Ingliš biex tifhem dan it-tagħrif, jekk jogħġbok ċempel lis-Servizz tat-Traduzzjonijiet u l-Interpreti (TIS) fuq 131 450.

POLISH

Jeżeli potrzebujesz pomocy w języku innym niż angielski, aby zrozumieć niniejsze informacje, proszę zadzwoń do Biura Tłumaczeń (TIS) pod 131 450.

RUSSIAN

Если для понимания этой информации вам нужна помощь переводчика, позвоните в Службу устного и письменного перевода (TIS) по телефону 131 450.

SERBIAN

Ako vam treba pomoć na jezicima sem engleskog da biste razumeli ove informacije, molimo vas da nazovete Službu prevodioca i tumača (TIS) na 131 450.

SPANISH

Si usted necesita ayuda en español para comprender esta información, llame al Servicio de Traducción e Interpretación (TIS) al 131 450.

TAGALOG

Kung kailangan ninyo ng tulong sa isang wika na hindi Ingles upang maintindihan ang impormasyong ito, mangyaring tumawag sa Serbisyo sa Pagpapaliwang at Pagsasalin (TIS) sa 131 450.

VIETNAMESE

Nếu cần được giúp đỡ về ngôn ngữ khác tiếng Anh để hiểu thông tin này, xin điện thoại cho Dịch vụ Thông Phiên Dịch (TIS) qua số 131 450.

Names and numbers

If you are not sure who your local DPA Coordinator is, you can contact your local Family and Community Services (FACS) office, listed on the next page, they will be able to give you the contact details for your DPA Coordinator.

You can also see page 1.5 for alternative people to contact.

My DPA Coordinator

Name	
Phone number	
Email address	

My local FACS office

Phone number	

My nominee

Phone number	

Other useful contacts

Phone number	
Phone number	

Contact details for FACS

There are FACS offices in different parts of NSW. Please contact the office closest to where you live.

Local Government Areas: Ashfield, Burwood, Canada Bay, Canterbury, Leichhardt, Marrickville, Strathfield, Sydney (South and West)	Sydney Toll free: 1800 000 201 information.referral@facs.nsw.gov.au
Local Government Areas: Bankstown, Camden, Campbelltown, Fairfield, Liverpool, Wingecarribee, Wollondilly	South Western Sydney Toll free: 1800 000 201 information.referral@facs.nsw.gov.au
Local Government Areas: Botany Bay, Hurstville, Kogarah, Randwick, Rockdale, Sutherland Shire, Sydney (Inner and East), Waverley, Woollahra, Lord Howe Island	South Eastern Sydney Toll free: 1800 000 201 information.referral@facs.nsw.gov.au
Local Government Areas: Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah, Willoughby	Northern Sydney (02) 9407 1650 metronorth.iri@facs.nsw.gov.au
Local Government Areas: Auburn, Baulkham Hills Shire, Blacktown, Holroyd, Parramatta	Western Sydney (02) 9407 1650 metronorth.iri@facs.nsw.gov.au
Local Government Areas: Blue Mountains, Hawkesbury, Lithgow, Penrith	Nepean Blue Mountains 1800 668 241 (Lithgow residents) (02) 9407 1650 metronorth.iri@facs.nsw.gov.au

Local Government Areas: Kiama, Shellharbour, Shoalhaven, Wollongong	Illawarra Shoalhaven Toll free: 1300 841 566 southern.iri@facs.nsw.gov.au
Local Government Areas: Bega Valley, Bombala, Cooma-Monaro, Eurobodalla, Goulburn Mulwaree, Palerang, Queanbeyan, Snowy River, Upper Lachlan Shire, Yass Valley	Southern NSW Toll free: 1300 841 566 southern.iri@facs.nsw.gov.au
Local Government Areas: Albury, Berrigan, Bland, Boorowa, Carrathool, Conargo, Coolamon, Cootamundra, Corowa Shire, Deniliquin, Greater Hume Shire, Griffith, Gundagai, Harden, Hay, Jerilderie, Junee, Leeton, Lockhart, Murray, Murrumbidgee, Narrandera, Temora, Tumbarumba, Tumut Shire, Urana, Wagga Wagga, Wakool, Young	Murrumbidgee Toll free: 1300 134 450 western.iri@facs.nsw.gov.au
Local Government Areas: Bathurst Regional, Blayney, Bogan, Bourke, Brewarrina, Cabonne, Cobar, Coonamble, Cowra, Dubbo, Forbes, Gilgandra, Lachlan, Mid-Western Regional, Narromine, Oberon, Orange, Parkes, Walgett, Warren, Warrumbungle Shire, Weddin, Wellington	Western NSW Toll free: 1300 134 450 western.iri@facs.nsw.gov.au
Local Government Areas: Balranald, Broken Hill, Central Darling, Wentworth, Unicorp, Far West	Far West Toll free: 1300 134 450 western.iri@facs.nsw.gov.au

Local Government Areas: Gosford, Wyong	Central Coast Toll free: 1300 205 268 hunter.iri@fac.s.nsw.gov.au
Local Government Areas: Armidale Dumaresq, Cessnock, Dungog, Glen Innes Severn, Gloucester, Greater Taree, Great Lakes, Gunnedah, Guyra, Gwydir, Inverell, Lake Macquarie, Liverpool Plains, Maitland, Moree Plains, Muswellbrook, Narrabri, Newcastle, Port Stephens, Singleton, Tamworth Regional, Tenterfield, Upper Hunter Shire, Uralla, Walcha	Hunter New England Toll free: 1300 205 268 hunter.iri@fac.s.nsw.gov.au
Local Government Areas: Bellingen, Coffs Harbour, Kempsey, Nambucca, Port Macquarie-Hastings	Mid North Coast Toll free: 1300 364 563 northern.iri@fac.s.nsw.gov.au
Local Government Areas: Ballina, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley, Tweed	Northern NSW Toll free: 1300 364 563 northern.iri@fac.s.nsw.gov.au

What is the DPA?

The DPA is a Direct Payment Agreement.

Direct payments are a way of paying for disability support. You decide what goals you want to achieve and the types of supports you want to purchase with your funding. Once we have both agreed that this is how your funding will be spent, FACS will pay the funding directly to a bank account you manage.

The DPA is made up of three documents:

- the DPA letter
- the Individual Plan
- the DPA Handbook – this document.

We explain all of this in more detail on page 2.6.

If you use a DPA, you can work with your local DPA Coordinator. They can help you set up your DPA and can assist when you have a question or you need help or advice.

What is this Handbook about?

This Handbook explains how to use direct payments to manage your disability support, including:

- what you must do to manage your direct payments
- information that will help you to manage your direct payments.



How to use this Handbook

We've organised this Handbook into ten chapters. There is a summary and a small table of contents at the start of each chapter to help you find the information you need.

Some people will need help to use this Handbook. You may like to ask someone you trust to help you use it. This person might be a friend, family member or an advocate.

We've written this Handbook for people with disability, and when we use the word 'you' we are referring to the person who the direct payments are for. Some family members or support people may use the Handbook on behalf of a person with disability. When we use the words 'we', 'us' or 'our' this refers to the **Department of Family and Community Services** (FACS).

If you need some help with the document, you can also speak with your DPA contact person. In most cases, this will be your local DPA Coordinator.

If you are using Services Our Way, you can talk to your Place Manager.

If you are part of the Younger Onset Dementia program, you can talk to your Assessments Australia Assessor.

A note about 'must'

When we use the word 'must' it means that you have to do something. Using the word 'must' is a way of showing you that you have certain obligations or responsibilities when receiving direct payments.

Why are we offering direct payments?

In NSW, the disability system is changing.

You may have heard of the *Disability Inclusion Act 2014* and Living Life My Way. These are the NSW Government's new law and policy guiding how people with disability can have more choice and control over their supports and services as NSW transitions to the National Disability Insurance Scheme (NDIS).

The NDIS is a new way of providing lifetime care and support for people with disability around Australia.

Under the NSW Government's *Disability Inclusion Act 2014* and the Living Life My Way framework, people can receive their disability supports through an individualised funding arrangement.

Individualised funding is funding that is allocated to a person rather than to a program, place, support or service. It provides the person with choice and control over how funds are managed and supports are purchased.

These changes are happening at an important time, especially as the NDIS has already started in some areas.

The NDIS will be available in all parts of NSW by July 2018.

Some people in NSW have already started using direct payments. This is through a range of programs run by Ageing, Disability and Home Care, which is part of FACS.

We want to simplify and improve the way these payments work. This is a big part of getting everyone ready for the full rollout of the NDIS.

The option to choose the DPA started for some people on 1 January 2014. We have started offering the DPA in this gradual way to see how this new system works in practice. By doing this, we can learn from experience and make improvements as we go.

We want to make sure that everyone who can use direct payments will be able to do so in time for the full rollout of the NDIS in 2018.

Who can use direct payments?

Only a limited number of people can use direct payments during the first stage of the launch of this self management option.

During this period, people who can apply for direct payments must be:

- A person with disability who is a resident of NSW and is eligible for a service under the **Disability Inclusion Act 2014** (NSW). We explain more about this law on page 5.8.
- A nominee or other supporter of a person with disability. We explain who a nominee can be on page 2.12.

and

- Someone who is already using direct payments from FACS to manage individualised funding, or someone who has approved individual funding from one of the following FACS programs:
 - Community Support Program (which has replaced the High Needs and Attendant Care Programs)
 - Direct Payment Pilot in Southern Region
 - Services Our Way
 - Supported Living Fund
 - Younger Onset Dementia.

You may have a different kind of funded support. If so, and if you would like to apply for a direct payment, you can register your interest by:

- contacting ADHC on 1800 605 489
- emailing livinglifemyway@facs.nsw.gov.au
- completing either one of the following online registration forms:
 - o **Individual Funding Arrangement request for yourself**
 - o **Individual Funding Arrangement request for a friend or family member**

Note: these online forms should only be completed by people wishing to register themselves, or by parents and carers on behalf of a family member or friend.

- contacting your **local FACS** district office.

The Executive Director Community Access will approve requests to apply for a DPA on a case by case basis from people with approved individual funding.

Who cannot receive direct payments?

Direct payments are not suitable for everyone.

FACS will not enter into a DPA **directly** with a person who:

- is under the age of 18, unless in exceptional circumstances
- has a court-appointed decision maker who manages funds on behalf of the person
- does not appear to understand their Individual Plan, the Direct Payment Agreement or Handbook or the choices and responsibilities they face, when they are supported to understand these
- would be exposed to an unreasonable risk
- is an insolvent under administration (this means they have been made bankrupt)
- is an incorporated entity (for example a company, or a non-government organisation).

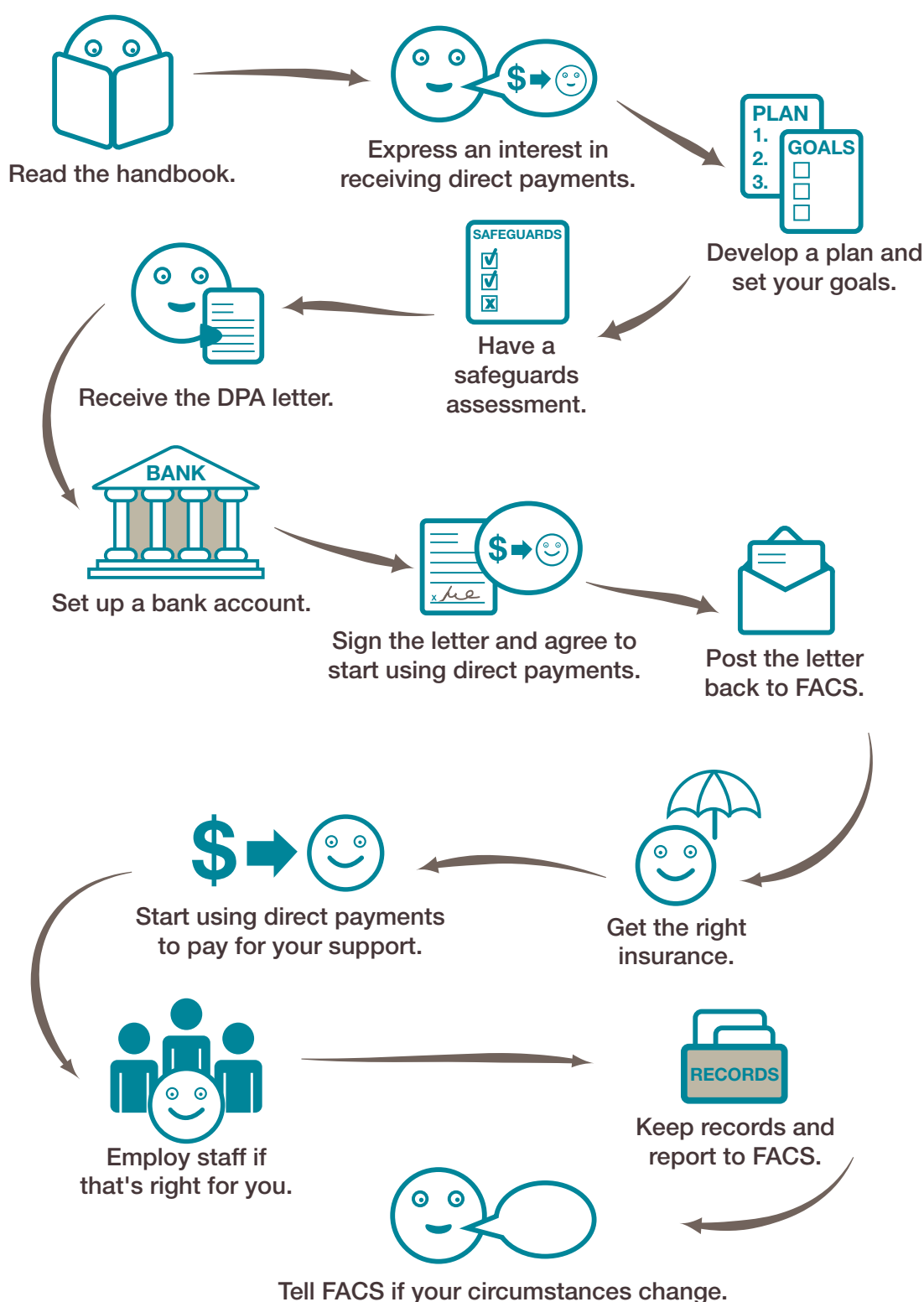
If FACS cannot enter into a DPA directly with you, you may be able have a nominee do so on your behalf. This includes a parent who may want to enter into a DPA on their child's behalf.

People who have a court-appointed decision maker to manage funds on their behalf cannot elect to have a nominee at the current time.

We provide more information about nominees on page 2.12.

How the DPA works

This diagram shows what you will need to do to use the DPA.



A useful checklist for managing your direct payments

Where to
find more
information

<input type="radio"/>	I have read and understood this Handbook. I've contacted my DPA Coordinator with any questions I have about using the DPA.	Page 1.4
<input type="radio"/>	I've asked for legal advice if I want to make sure I understand the terms of the DPA.	Page 4.2
<input type="radio"/>	I've expressed an interest in receiving direct payments.	Page 2.8
<input type="radio"/>	I've made an Individual Plan. I've read this plan carefully. I've set my goals and have worked out what support I will need to achieve them.	Page 2.9
<input type="radio"/>	I've had a safeguards assessment.	Page 2.9
<input type="radio"/>	I've received the DPA letter, have read it carefully and accept the terms of the DPA. I have asked for legal advice if I think I need it.	Page 4.2
<input type="radio"/>	I've set up my separate bank account.	Page 4.4
<input type="radio"/>	I've signed the DPA letter and have sent it back to FACS.	Page 4.5
<input type="radio"/>	I know what to do if I decide to use a nominee.	Page 2.12
<input type="radio"/>	I've organised my insurance.	Page 4.6
<input type="radio"/>	I've decided if I'm going to be an employer. If I am going to be an employer, I know what I have to do and when.	Page 6.1

**Where to
find more
information**

<input type="radio"/>	I know what to do if I want to employ a member of my family.	Page 6.8
<input type="radio"/>	I understand my responsibilities around work health and safety.	Page 5.10
<input type="radio"/>	I know what records I need to keep and how long to keep them for.	Page 6.14 and 7.10
<input type="radio"/>	I know when I have to report to FACS and which documents I have to provide.	Page 7.10
<input type="radio"/>	I understand the circumstances in which I might have to pay money back to FACS.	Page 7.7 and 7.8
<input type="radio"/>	I know what to do if I want to make changes to my Individual Plan.	Page 8.2
<input type="radio"/>	I know what to do if my personal circumstances change.	Page 8.3
<input type="radio"/>	I know what to do if there is a problem or if I disagree with a decision that FACS has made.	Page 9.8

Glossary

Word	Meaning
Agreement	A contract or legal document. This document outlines the conditions that two parties – such as the government and the person receiving direct payments – agree to.
Business day	A day that is not a Saturday, Sunday or public holiday in NSW.
Carer	A carer is someone who provides ongoing help to another person who needs it because of their disability, long term or life-limiting illness, mental illness, dementia and/or ageing. A carer is not paid for the care they provide, however they may receive a pension or allowance from Centrelink.
Circle of support	A group of people chosen by a person with disability, which meets regularly with them to help plan, design and support ways they can achieve their personal goals.
Decision support	Assistance available to a person with disability, their family or carer to enable them to exercise choice and control over support and service arrangements.
Direct Payment Agreement (DPA)	The Agreement that comprises your DPA Letter, Individual Plan and this Handbook. The DPA is a contract that you enter into with FACS.
Direct payments	All financial assistance provided to you by us under the Direct Payment Agreement.

Word	Meaning
DPA Coordinator	Your primary contact person for the DPA at FACS. Their responsibilities include assisting with and reviewing applications for the DPA, receiving progress reports and addressing any compliance issues.
DPA Handbook	This Handbook.
DPA Letter	The Agreement letter you sign.
FACS	The NSW Department of Family and Community Services. You might be used to calling us Ageing, Disability and Home Care or ADHC. ADHC is now part of FACS.
Individual Budget	The total amount of funding that has been approved by FACS as a direct payment.
Individual Plan	The plan (including your Individual Budget) that is agreed between you and FACS. It is attached to the DPA Letter, and is an essential part of the Direct Payment Agreement.
Individualised funding	<p>Individualised funding is funding allocated to a person, rather than to a program, place, support or service. It provides the person with choice and control over how funds are managed and supports are purchased.</p> <p>The funding is portable which means the person can change providers if they want to.</p> <p>The person may choose to manage their funding themselves, get help from a service provider or establish their own fund holding arrangement. A fund holding arrangement is when a service provider manages the money for you.</p>

Word	Meaning
Informal support	Supports that are provided by a variety of people, such as family, close friends or neighbours, or by organisations, such as the faith community, volunteer networks or service organisations, without requiring payment for services.
Mainstream services	Services that are available to all people in NSW. Examples include hospitals, general practitioner services, preschool, primary and secondary schooling, transport, housing, sport, leisure and recreation, and aged care services.
Nominee	A family member, carer, friend or other supporter who has been nominated by the person with disability to help them make choices about what supports they require and who will provide them. The nominee can also assist with support arrangements and managing funding.
Obligations	The duties or things that people must do as part of an agreement.
Person centred approach	A way of supporting and working with people with disability that makes sure they are the focus in all planning, funding, support and service arrangements.
Person centred planning	A planning process that keeps the focus on the person with disability when making decisions about their support and service arrangements.

Word	Meaning
Person with disability	<p>In the DPA Handbook, a person with disability includes anyone who has a disability regardless of how it arose and whether or not it is of a chronic or episodic nature. The disability:</p> <ul style="list-style-type: none"> • is attributable to intellectual, cognitive, neurological, psychiatric, sensory, physical or physical, or a combination of any of those impairments • is permanent or is likely to be permanent • results in significantly reduced capacity in one or more major life activity areas, such as communication, social interaction, learning, mobility, decision making or self-care, and self management, and • results in the need for support, whether or not of an ongoing nature.
Plan manager	<p>The plan manager (or intermediary service provider) holds funds and makes payments at the direction of the person with disability or their family/carer and sometimes also coordinates these services.</p>
Safeguards	<p>Safeguards are ways of managing and minimising risk to a person with disability, protecting their right to be safe and enabling them to have more choice and control over their lives.</p>
Support Planner	<p>A person who can assist with the DPA application and/or the development of an Individual Plan, including assisting to identify support options.</p>

About the information in this Handbook

We have put this Handbook together to provide you with useful information about using the Direct Payment Agreement.

However, we might not have covered every rule about using the DPA, or everything that will be relevant to your circumstances.

Instead, we suggest that you treat this Handbook as a general guide to the things you need to know and the things you need to do when using the DPA.

Please do not rely on this Handbook as legal advice. We suggest that you talk to a lawyer about your situation. FACS has an arrangement with the legal firm Ashurst who can provide free legal advice to people interested in using the DPA. You can find out more about this on page 4.2.

At the time of printing, the information shown is correct but it may change over time.



Your privacy

The Department of Family and Community Services (FACS) respects your privacy. All the different parts of our organisation respect your privacy, including:

- Aboriginal Home Care Service
- Aboriginal Housing Office
- Ageing, Disability and Home Care
- Land and Housing Corporation
- all FACS districts and directorates, including housing and child protection services.

When you need our support, we will need to collect some information about you. Some of the information may be about the support you are getting at home. Sometimes, this includes details about your family and carers.

Sometimes, we need a lot of information to help you. Tell us if there are some things you don't want to share.

How we collect information

Most of the time we will ask you directly for the information. We can also collect it from another person, if we ask you first, and you say that's OK. Sometimes we are allowed to collect information without telling you.

Privacy laws

In Australia, we have laws about privacy. These laws say:

- we must keep information about you safe
- we must tell you how we will use the information about you
- you can ask to see information about you and ask to change it
- you can tell us if you are not happy with how we have used your information.

How we use your information

Sometimes, we need to share information about you with other people who work in FACS. We may also use your information to help us to work out how we provide services and how we can provide services better.

The rules about sharing information

We can share information about you:

- so that we can give you the help you ask for
- if you ask us to
- so that we can prevent problems from happening, or stop people from being hurt
- if we are asked to provide information by the courts or police.

In some cases we can share your information with:

- other parts of the NSW Government
- other state governments
- the Commonwealth Government
- the National Disability Insurance Agency
- other organisations that provide services.



You can visit the FACS website for more information about privacy. There is also a useful FACS privacy factsheet (PDF) that is available online.



(02) 9377 6000



TTY 9377 6167



privacy@facs.nsw.gov.au



Notes

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2

Understanding direct payments

This chapter explains what direct payments are and what you need to do to manage them. We explain the steps you need to take to apply for direct payments and what is in the Direct Payment Agreement – the Agreement you need to sign in order to use direct payments. We also describe what a nominee is, explain who can be a nominee and what they need to do.

What are direct payments?	2.2
The benefits of direct payments	2.3
Your responsibilities when you receive direct payments	2.4
What is the Direct Payment Agreement?	2.5
What is in the DPA?	2.6
How do you get direct payments?	2.8
Using a nominee	2.12

What are direct payments?

Direct payments are a way of paying for disability support. FACS will work with you to agree on the type of support you need and what you want to achieve. Then, we make the agreed payments straight into your bank account. We explain more about bank accounts on page 4.4.

Once you receive these payments, you can start to purchase and manage the supports and services you need.

Direct payments are not income – they are for your disability supports. This means that your eligibility for Centrelink payments is not affected when you receive direct payments. And direct payments are not considered to be part of your taxable income by the Australian Taxation Office (ATO). This means you do not have to include your direct payments as income in your annual tax return (if you do one).

There is more information about taxation and social security on page 7.3.



The benefits of direct payments

With direct payments, you are responsible for:

- managing your own money
- purchasing the supports you need
- telling FACS how you spent your money.

The benefits of direct payments are:

- being able to purchase supports from more than one service
- having more flexibility to purchase supports from mainstream services
- having the flexibility, choice and control to change where you purchase supports from
- choosing the supports that best meet your needs.



Your responsibilities when you receive direct payments

When you receive direct payments, you will be responsible for:

- entering into a contractual agreement with FACS to receive direct payments
- completing an Individual Plan that shows how you will spend your money
- choosing and arranging your supports and services
- organising and coordinating your supports
- managing emergency situations
- checking the quality of the supports you receive
- managing your budget and making sure you do not spend more than you have
- paying the bills for your supports
- checking that all invoices received by you are correct
- paying the invoices and keeping receipts
- keeping records of purchases and bank statements so they can be reviewed by FACS
- providing reports to FACS on how the money is spent.

You can also decide to employ your own staff, such as a support worker. Being an employer means that you will have certain legal, financial and employment responsibilities.

We explain more about what it means to employ staff in Chapter 6.

What is the Direct Payment Agreement?

To start receiving direct payments, you must enter into a Direct Payment Agreement (DPA). This is a contract, called an Agreement, that both you and FACS need to sign.

If you have a nominee who will act on your behalf, then it will be your nominee who enters this Agreement.

Under the Agreement:

- FACS agrees to pay the funding directly to you or your nominee.
- The payments will be made according to a regular schedule that both you, or your nominee, and FACS have agreed on.
- You, or your nominee, agree to spend the funding according to the terms and conditions of the Agreement.

The arrangements between you and the people or organisations that you employ or use for services are separate to the DPA. Once you have signed the DPA, you will choose and manage all of your support, independently of FACS.

You, or your nominee, cannot assign or transfer any of your rights or obligations under the DPA. This means that you, or your nominee, need to do the things you agreed to when you signed the DPA.

We explain more about nominees on page 2.12.

We explain more about your rights and responsibilities on page 9.2.

The term of the DPA is for one year. It will be reviewed before the end of this period, at which time we can decide to extend the agreement with you for a further 12 months.

What is in the DPA?

The DPA is made up of three documents:

1. The DPA letter
2. The Individual Plan
3. The DPA Handbook.

We explain each of these documents in more detail below.

The DPA letter

This document explains:

- how long you will receive direct payments for
- how much money you will receive
- how often payments will be made
- how the money should be used
- any special conditions on how you can or can't spend the money
- how to make changes to the Agreement
- how to tell us which bank account you will use
- how either you or FACS can end the Agreement including what happens when or if you start using the NDIS instead of our funding.

The DPA Letter also has a section for you to sign that shows you agree with the contents of the Agreement.

The Individual Plan

This is a personal plan that you include with your application to receive direct payments.

Your individual plan provides a short description of the type of supports and services you will buy with your direct payments.

The Individual Plan must include:

- your goals, or the outcomes, you want to achieve with the supports and services you intend to purchase
- your support needs
- the supports and services you will purchase
- where your supports will come from
- any safeguards that you will put in place – these will have been identified during the safeguard assessment
- the estimated cost of each support
- the total amount of your Individual Budget, that FACS will provide to you, as a direct payment.

The DPA Handbook

This document is the DPA Handbook. It explains how the DPA works, along with the things that you need to do and who to talk to if you have any questions or problems.

What if these three documents say different things?

Please note that, if there are any differences between the information provided to you in any of the documents listed above, you can assume that the letter is the correct source of information, followed by the Individual Plan. The Handbook has been written in a general way, so the information included in it may not be specific to you.

What about other support that I receive?

The DPA Letter and Handbook do not apply to any other support you may receive from FACS. These documents only relate to payments paid to you under the DPA.

What if these documents change?

Changes to the DPA Letter must be agreed between you and FACS, documented in writing, and signed by you and us. If FACS makes any changes to the Handbook we will notify you in writing. If we do not hear from you within ten business days of making the changes, we will assume that you have accepted these changes.

All changes to this Handbook will be posted on FACS' Ageing, Disability and Home Care website, www.adhc.nsw.gov.au.

How do you get direct payments?

Getting direct payments involves four steps:

- Step 1: Express your interest
- Step 2: Develop your Individual Plan
- Step 3: Have a safeguards assessment
- Step 4: Receive approval for direct payments

You may also want to seek independent legal advice at any stage while you are considering if direct payments are right for you and while preparing your application. Information about seeking legal advice is provided on page 4.2.

Step 1: Express your interest

In order to express your interest, you must already be receiving, or be told that you will receive, individualised funding.

At the moment, only people with funding from these programs can apply:

- Community Support Program
- Direct Payment Pilot in Southern Region
- Services Our Way
- Supported Living Fund
- Younger Onset Dementia program.

To express your interest in using a DPA, you can contact your local DPA Coordinator. If you are not sure who your local DPA Coordinator is, you can contact your local FACS office (listed on page 1.5) and they will be able to give you the contact details for your DPA Coordinator.

If you have another type of funding and would like to apply for a direct payment, you can register your interest by:

- contacting ADHC on 1800 605 489
- emailing livinglifemyway@facs.nsw.gov.au
- completing an online registration form
- contacting your local FACS district office (Information and Pathways).

The Executive Director Community Access can approve requests to apply for a DPA on a case by case basis from people with approved individual funding.

Step 2: Develop your Individual Plan

Developing an Individual Plan is an important part of preparing for the DPA.

However, if we ask you to develop an Individual Plan, it does not mean that you have been approved to receive direct payments. Instead, we are asking you to submit an Individual Plan that shows how the direct payments will be used to achieve your personal goals.

If you already have an Individual Plan in place, you can use it. However, we may ask you to revise your Individual Plan to meet the requirements of the DPA.

If you are asked to develop or revise your Individual Plan, a FACS officer can help you to do this or help you find a service that can assist with this. There is more information about this on page 3.4.

You can also choose to develop your own Individual Plan. There is more information about how to develop your Individual Plan on page 3.2. When completed, you must send your Individual Plan to your local DPA Coordinator for review.

Step 3: Have a safeguards assessment

A safeguards assessment is our way of working out whether or not you will be able to do all the things you must do as part of the DPA.

We want to make sure that the DPA is suitable for you.

Wherever possible, we will use information we have already collected about you for other support you have received from us. This will simplify the safeguards assessment process for you.

Your safeguards assessment may also involve a discussion with you about the real or possible risks to you in managing direct payments. We may talk to you about things that could be difficult or that could go wrong, and what we can do to stop these things from happening.

Your safeguards assessment will be completed by a FACS officer in your area. To complete it, we may ask you to provide more information that shows you meet all the requirements of the DPA.

This may include a request to:

- meet with us to discuss your expression of interest
- develop or revise your Individual Plan.

You should tell us anything that you think is important to explain why you want a DPA, including anything relevant about your background or life circumstances, and how you think you can reduce any risks. Things that may be relevant include:

- Your cultural identity – if you are from an Aboriginal or Torres Strait Islander community, or from a particular culture or religion, are there things that are relevant to your culture or religion that you want to explain to us?
- Where you live – do you live in a country area where there are not many support providers? How will you buy services if there is no-one providing them in the local area?
- Your network of family and friends – are there people regularly involved in your life? Can they work with you to reduce risks?

However, after the safeguards assessment has been completed we may decide not to progress your request for direct payments any further. This decision will be based on reasons given in Step 4 below.

If this happens, we will give you the reasons for our decision in writing. You can apply to have this decision reviewed. There is information about how to do this on page 9.8.

We might decide that we can progress your request for direct payments, but that you will have to meet certain conditions. If we put conditions on your funding, we will give you the reasons for our decision in writing. You can apply to have this decision reviewed. There is information about how to do this on page 9.6.

Step 4: Receive approval for direct payments

After your safeguards assessment has been completed and you have submitted your Individual Plan, we will decide whether or not you can receive direct payments.

In making a decision, FACS will consider whether there is evidence that:

- the approval of direct payments could result in any harm (including financial harm) to you
- you are at risk of physical, mental or financial harm, exploitation or undue influence

- you are able to make decisions
- you are able to manage finances
- you are not able to manage finances because the court has appointed a decision maker to manage funds on your behalf
- any risks we discussed that could be reduced by getting help from your informal support network, or putting safeguards in place, such as:
 - reviewing your Individual Plan more often
 - setting out regular contacts between you and us (FACS)
 - referring you to supports such as budgeting training, that would help you manage the direct payments and achieve the goals in your Individual Plan.
- providing direct payments is consistent with the principles of the *Disability Inclusion Act 2014* (NSW).

In making the decision about whether or not you can receive direct payments, FACS will carefully think about your preferences. We may talk to members of your family, including any carer or guardian, and any other person who is important in your life.

FACS will write to you confirming our decision. This might be in a letter or an email.

If your request for direct payments is approved, we will tell you what the next steps are, including what information you need to give us before your direct payments can begin. We explain more about what you need to start to receive your direct payments in Chapter 4.

If your request for direct payments is not approved, we will give you the reasons for our decision in writing. You can apply to have this decision reviewed. There is information about how to do this on page 9.8.

If we decide that your request for direct payments is only approved if you have a nominee, we will also give you the reasons for our decision. You can apply to have this decision reviewed. There is information about how to do this on page 9.8.

Using a nominee



To enter into a DPA, you must be able to understand your rights and responsibilities under the Agreement and this Handbook. You can ask for support to help you understand your rights and responsibilities, but in the end you are the person who must meet all the requirements set out in your DPA.

You can also ask someone to act on your behalf. The person you ask to act on your behalf is called a 'nominee'. A nominee could be a parent, family member, friend, carer or other trusted person. People who have a court-appointed decision maker to manage funds on their behalf cannot elect to have a nominee at the current time.

If you have elected to have a nominee, FACS will need to check whether they can or should be your nominee. A person acting as your nominee will be responsible for managing your direct payments, and they must comply with the responsibilities set out in your DPA. Your nominee will need to sign the DPA Letter so that they can act on your behalf. FACS will not enter into a DPA with a nominee who:

- has a conflict of interest in entering into the DPA, because:
 - they will be directly employed by the person with disability
 - they are likely to receive a direct or indirect financial benefit from the provision of services or supports to the person with disability
- is bankrupt
- is an incorporated entity (including a company or a non-government organisation).

FACS may also consider whether or not your nominee has a criminal record. If the criminal record includes certain offences, like serious assault or fraud, we may decide that the person is not suitable to be your nominee.

There may also be times when your health changes and you temporarily need help to manage your supports. We strongly recommend that you plan ahead and appoint a person or group of people to take over management of your supports if you are unable to.

You must tell us about these arrangements when you make them.

What if someone can't request their own nominee?

Some people may have communication barriers or other issues relating to their disability that may prevent them from requesting their own nominee.

In this case, FACS will try and find out what the person wants to happen. They may be able to communicate their wishes with some support from us. We can also talk to members of the person's family, any carer or guardians, and/or any other people who are important in the person's life.

In some cases, FACS will appoint a nominee on the person's behalf.

FACS will consider the following when deciding whether or not to approve someone as a nominee:

- whether the person would be able to take part effectively under the DPA without having a nominee appointed
- the principle that a nominee should be appointed only when necessary, as a last resort, and subject to appropriate safeguards
- any formal guardianship arrangements that might be in place
- whether the person has supportive relationships, friendships or connections with others that could be:
 - relied on or strengthened to assist the participant to make their own decisions
 - improved by appointment of an appropriate person as a nominee
- whether there is another way of providing the funding, such as plan-managed individualised funding (intermediary option) provided under the *Living Life My Way* guidelines.

What can a nominee do on your behalf?

Your nominee can:

- express an interest in receiving direct payments
- take part in the safeguards assessment
- support you to complete your Individual Plan or complete it on your behalf (where it is not possible for you to complete the plan or be supported to complete the plan)
- sign the DPA
- set up a separate bank account for which, where possible, you are a joint signatory to the account, but in the name of your nominee where required
- manage your direct payments
- coordinate your supports
- report back to FACS.

Your nominee must be prepared to provide their own personal information for the safeguards assessment.

Responsibilities of a nominee

Your nominee will be acting for you. They must comply with the DPA responsibilities in the same way that you would if you were acting on your own behalf. Your nominee must also:

- find out what you want and what your preferences are, where possible
- facilitate or make decisions that reflect what you want and your preferences, where it is possible to find out what these are
- act in your best interests, or what they reasonably believe to be in your best interests
- not do anything under the DPA unless they are satisfied that it is not possible for you to do this yourself, even when you are supported to do so
- keep accounts and records of things they do on your behalf.

Your nominee cannot use your direct payments for themselves. All direct payments must be used to pay for the supports outlined in your approved Individual Plan.

Direct Payment Agreement Handbook

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Developing your Individual Plan

Planning is an important part of receiving direct payments. Everyone who receives a direct payment must have an Individual Plan. The Individual Plan identifies the goals you want to achieve and the supports that you need to achieve these goals.

In this chapter, we explain how to develop your plan, who can help you to develop your plan and how to work out if your plan is going well.

What is an Individual Plan?	3.2
Who can help you with your Individual Plan?	3.4
Reviewing your Individual Plan	3.5
Getting more information about planning	3.6

What is an Individual Plan?



When you apply to receive direct payments, you will need to develop an Individual Plan. Your Individual Plan is part of your DPA with FACS.

An Individual Plan shows how you want to use your disability funding to achieve your personal goals. By stating what you want to achieve, you can identify what support you will need to do this. The Individual Plan also contains your Individual Budget and shows how you will use the total amount of money that we provide to you as direct payments.

You can prepare your Individual Plan using any format you like, but your Individual Plan must include:

- your goals, or the outcomes, you want to achieve with the supports and services you intend to purchase
- your support needs
- the supports and services you will purchase.
- where your supports will come from
- any safeguards that you will put in place – these will have been identified during the safeguard assessment
- the estimated cost of each support
- the total amount of your Individual Budget, that FACS will provide to you, as a direct payment.

You can get help to develop your Individual Plan, or you can do the planning on your own if you want to.

There is more information about developing your Individual Plan on the next page.

Setting goals

The goals in your plan should be specific and clearly describe what you want to achieve.

Your goals need to also be aligned with the purpose or objectives your current

disability support. This might include things like taking part in the community, getting a job or learning new skills.

There should also be a clear relationship between your disability support needs and your goals and supports.

Making changes to the Individual Plan

As long as your goals remain the same, in most cases, you can change the following things without asking FACS:

- the supports you use or the activities you do
- the budget for each type of support (remembering that you need to stay within your total funding amount)
- the support provider.

One of the benefits of the DPA is that you can change your support provider without having to seek approval from FACS.

So, if you are currently with one service provider, but you are not happy with their service, you can move to another provider. More information about changing service providers is included in Chapter 8.

You can change the goals in your Individual Plan, but you must talk to FACS about this first so that we can agree on the changes to your goals. Changing your goals means that a new Individual Plan will be developed.

Also, if you have 'specific supports' funded and listed in your Individual Plan, you must talk to us before you make changes. Specific supports are funded for a specific purpose and usually include a description of how they are to be provided. An example of a specific support is one-off funding for a home modification.

If you have any specific supports in your Individual Plan, they must be there to help you meet your goals, and they must be purchased in the way described in your Individual Plan.

There is more information about making changes to your Individual Plan in Chapter 8.

How long does the Individual Plan last?

Your Individual Plan will last for the term of the DPA, which is usually 12 months. Most people will make occasional changes or updates to their plan during this time.

Who can help you with your Individual Plan?

You can develop your Individual Plan on your own or with the help of other people, such as your family or friends. You can also ask a FACS officer to help. As part of their role, the FACS officer will:

- help you to look at your goals and disability support needs as an individual and as part of your family, culture, community and/or your stage of life
- include you and any other support people you wish (including family members and carers) in the planning
- help you to work out which supports and services will meet your disability support needs and help you to achieve your goals, including how they would be funded
- explore other support options, if requested
- listen to and respect your views and the views of your supporters about choosing between different support options or services
- encourage you to direct the planning process and coordinate your supports to the fullest extent possible.

You don't have to use a FACS officer to help you with planning. However, your DPA Coordinator may recommend that you develop your Individual Plan with the assistance from someone who works for FACS. One of the reasons to do this is that, sometimes, risks can be reduced by strong support planning. Therefore, we might recommend support planning assistance to a person who has:

- limited experience making lifestyle or financial decisions
- limited skills or experience in managing funds or acting as an employer.

Reviewing your Individual Plan

As part of your request for direct payments, your Individual Plan will be considered and reviewed. Your request for direct payments will be approved by a person who works for FACS. This person is called a *delegate*. When considering your Individual Plan, the delegate will look at whether:

- the key requirements for the Individual Plan have been met
- the goals you want to achieve are aligned with the purpose or objectives of your current disability supports.
- there is a clear relationship between your disability support needs, goals and requested supports
- your requested supports fit with our purchasing requirements (that they provide value for money and are expected to be effective and beneficial) – there is more information about this on page 5.2
- the cost of your support is within your Individual Budget
- your plan is consistent with the requirements of this Handbook and the ***Disability Inclusion Act 2014*** (NSW).

If you already have an Individual Plan in place, you can use that plan. However, if your current plan does not meet the DPA requirements, we may ask you to revise it.

Not all requests for direct payments will be approved. If your request for direct payments is not approved, we will give you the reasons for this decision in writing. You can apply to have this decision reviewed by FACS. There is information about the way decisions are reviewed on page 9.8.

If we approve your request for direct payments on the condition that you have a nominee or that your plan meets special conditions, we will give you the reason for this decision in writing. You can apply to have this decision reviewed by FACS. There is information about the way decisions are reviewed on page 9.8.

Getting more information about planning

You can find more information on what supports can be purchased with your direct payments on page 5.2.

Direct Payment Agreement Handbook

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Receiving payments

This chapter explains how to go about receiving payments. It includes information about receiving your offer of direct payments, how to seek legal advice and returning the DPA Letter to us. It also explains how to set up a bank account for receiving direct payments and getting the right kind of insurance.

Receiving an offer of direct payments	4.2
Setting up your bank account	4.4
Signing and returning your DPA Letter	4.5
Getting insurance	4.6
When will you get your money?	4.7

Receiving an offer of direct payments

If we approve your application for direct payments, we will send the DPA Letter to you.

You should read the DPA Letter carefully. You also need to read this Handbook and your Individual Plan.

Together, these three documents form the DPA.

We need you to sign the DPA Letter and send a copy back to us. There are instructions for doing this on page 4.5.

We won't start providing direct payments to you until we receive your signed DPA Letter.

When you sign the DPA Letter, you are agreeing to all of your responsibilities listed in the Letter, the Handbook and the Individual Plan.

We recommend that you seek legal advice about the DPA before you sign the DPA Letter. Seeking legal advice will help you to make sure that the DPA is right for you and that you fully understand what you are agreeing to when you sign the DPA Letter.

Free legal advice

FACS has an arrangement with a legal firm called Ashurst. They can provide free, independent legal advice to you in the period from when you express an interest in the DPA through to when you accept the DPA. Please note that only people eligible to apply for the DPA can seek this free advice.



You can contact Ashurst on (02) 9258 6000.

Other services that may be able to help you are LawAccess NSW, the Law Society of NSW's Solicitor Referral Service and the Aboriginal Legal Service (NSW/ACT) Ltd.

LawAccess NSW

LawAccess NSW is a free government telephone service that provides legal information, referrals and, in some cases, advice for people who have a legal problem in NSW.

The lawyers at LawAccess NSW can provide legal advice over the telephone. However, your enquiry must meet LawAccess NSW's guidelines and be suitable for discussion over the telephone.



Phone: 1300 888 529



Website: www.lawaccess.nsw.gov.au

Solicitor Referral Service, Law Society of NSW

If you need legal help and are looking for a law firm, the Solicitor Referral Service can provide free, personalised assistance. The Law Society of NSW also operates a service that helps people find solicitors who specialise in a particular area of law.



Phone: (02) 9926 0300



Email: ereferral@lawsociety.com.au



Website:

www.lawsociety.com.au/community/findingalawyer/solicitorreferralservice/index.htm

Aboriginal Legal Service NSW/ACT

Aboriginal and Torres Strait Islander people can receive free legal advice and information from the Aboriginal Legal Service.



Phone: 1800 765 767



Website: www.alsnswact.org.au

Setting up your bank account

You must have a separate bank account to receive direct payments and for reporting on how your direct payments are being spent. While the bank account may be with the financial institution of your choice, it must be:

- A savings or cheque account or combination of the two.
- In your name only, unless, due to a lack of capacity to manage finances, you cannot open a bank account. In this case, your nominee can open an account in their name to receive your direct payments.
- Used exclusively to receive direct payments and pay expenses related to the fulfilment of your Individual Plan. Your account statement or expenditure log should indicate the reason for each debit.

Your bank account must not:

- be attached to a credit card
- have an overdraft facility
- be linked to any other bank account.

If you have a nominee, you and your nominee will need to complete some extra paperwork for the bank to ensure that your nominee can manage your direct payments on your behalf. Your nominee will need to be able to do things like check your account balance, pay bills and withdraw money. You should talk to your bank about this.

You cannot make 'top up' contributions to your direct payment account from personal funds to purchase supports.

If your bank account statements do not provide information on the purpose of your debits, you must complete an expenditure log as part of your reporting. Further information about expenditure logs can be found on page 7.11.

Any interest you earn in your bank account becomes part of your funds, which you can use to buy your supports. Any unused funds must stay in this account.

Signing and returning your DPA Letter

Your payments will not start until you have signed and returned the DPA Letter to us.

You must sign two copies of the DPA Letter and return one copy to us. You should keep the other copy for your own records.

You can give or post the signed letter to your DPA Coordinator.

When you return the letter to us, you must also provide:

- your bank account details
- the proposed start date for your direct payments.

You should allow at least one month between the date of approval for direct payments and the proposed start date for receiving payments. This is required to give you and FACS enough time to make arrangements for your direct payments to start.

It may be easier for you to list the start date as the first day of the month, but you don't have to do this. For example, a person who has been approved to receive direct payments in the middle of March 2014 may choose 1 May 2014 as the start date for direct payments.

If you would like to receive an automatic email notification when a payment is made to you, you can also provide your email address in the copy of the DPA Letter you return to us.

The DPA will take effect after:

- both you and FACS have signed the DPA Letter
- FACS has received a copy of the DPA Letter signed by you
- FACS has agreed on a start date with you.

Getting insurance

One of the rules about receiving direct payments from FACS is that you must have public liability insurance.

Public liability insurance protects you against the financial risk of being found responsible for something that happens to someone else, including death or injury, loss or damage of property or economic loss as a result of your negligence.

Your public liability insurance policy can be purchased with funds from your direct payments.

You may be able to obtain public liability cover as part of your home and contents insurance policy. You will need to check with your insurance provider about this.

If you need assistance in locating an appropriate insurance provider, please go to the Find an Insurer website at www.findaninsurer.com.au.

If you decide to directly employ staff, you will need additional insurances, including workers compensation. It is also recommended that you get personal accident insurance. More information about insurance when employing staff can be found on page 6.12.

You must provide FACS with proof of the insurances you are required to have in managing your direct payments. You must also provide us with the relevant certificate(s) of currency upon request. If any of your required insurance policies lapse or are cancelled, you must notify us in writing of your new insurance arrangements.



When will you get your money?

After you give us the details of your bank account, we will pay the first direct payment instalment into that account.

We will generally pay you on a monthly basis, in advance. You will have the option to request a different payment frequency, such as quarterly payments or a one-off payment.

If you ask us for a different payment frequency, we will consider:

- whether the new payment frequency would pose an unreasonable risk to you
- the amount of funding to be processed in each payment
- the benefits of using a different payment frequency
- the type of supports you receive
- the number of years you have been receiving direct payments
- whether there have been any previous compliance concerns in relation to direct payments under the DPA or otherwise.





Notes

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5

Managing your supports

Under direct payments, you will have more choice and flexibility about the supports that you use. While this is an exciting opportunity, there are also many questions to consider. You will also want to make sure you are getting good quality services.

What can you purchase with your supports?	5.2
Who can you purchase supports from?	5.4
How to choose a good service provider	5.6
Making sure you get good quality services	5.8
How to share your supports	5.9
Work health and safety laws	5.10
Where can you get help to manage your supports?	5.12

What can you purchase with your supports?

The types of supports you can purchase will depend on your individual goals, needs and circumstances. These will all be outlined in your Individual Plan.

FACS does not have a list of things that can be purchased with your direct payments.

However, we do need to approve the things that you want to spend the money on and we will do this as part of the planning process.

In deciding whether to approve the funding for your chosen supports, FACS will consider the following:

- 1. Do the supports represent value for money?**

The cost of the support must be reasonable, taking into account both the benefits achieved and the cost of finding or using other supports.

- 2. Are the supports effective and beneficial?**

The support must be of good quality. There should be evidence that the support is effective for people in similar circumstances, for example people with a similar type(s) of disability, or similar support needs.



Is there anything the money cannot be used for?

Direct payments cannot be used for the following purposes:

- income for you, your carer or family members
- supports likely to harm you, be ineffective or pose a risk to others
- supports that are normally provided or funded by another government service or agency
- anything that is against the law
- employment of family members, unless written approval has been given by FACS
- costs that any other community member would reasonably be expected to pay for from their own money, and not related to your disability support needs. For example, these costs include electricity bills, mobile phone plans or home renovations.

In some cases you may need a particular piece of equipment to help you achieve your goals. This might include equipment that will help you improve your mobility or continue to live independently.

When you cannot obtain this equipment from another government funded program, or the program waiting times are too long, you can buy the equipment as a one-off support using your direct payments.

The supports to be purchased will be reviewed as part of your request for direct payments.



Who can you purchase supports from?

You can use your direct payments to purchase services and supports from a range of providers. However, these service providers should be able to meet your individual needs and provide the supports which you have asked them to provide.

The service providers from whom you can purchase support from will tend to fall within the following categories:

- specialist disability service providers
- general providers
- direct employment.

Specialist disability service providers

Specialist disability service providers only provide services to people with disability.

FACS currently funds hundreds of service providers to deliver disability services across NSW. As part of their Funding Agreement with FACS, these providers must meet the **NSW Disability Services Standards** (NSW Standards) under the **Disability Inclusion Act 2014** (NSW).

These Standards ensure that your service provider:

- has good systems in place to make sure the services in their organisation are working well
- can give you assurance about the quality of their services
- will support you to make informed decisions about the services you need.

You'll find a list of what you can expect under the Standards on page 5.8.

If you want to know whether a disability service provider is funded by FACS you can either:

- ask the provider
- contact your local DPA Coordinator and ask them for a list of disability service providers who are funded by FACS in your area.

There are also providers of disability services in NSW that are not funded by FACS. You can choose one of these organisations if you want to, but you need to know that they don't have to comply with the NSW Standards.

You can also find a disability service provider near you by using the National Disability Services (NDS) online tool 'Find a Service Provider', located at www.nds.org.au/links. This lists NDS member organisations, government providers and other agencies.

General providers

General providers offer services that are available to everyone in the community. This may include:

- businesses providing cleaning or gardening services
- shops selling technology such as computers
- community services delivering community based programs
- other private service providers.

Direct employment

Direct employment is when you use your direct payments to employ a person (such as a support worker) to provide your support. By doing this, you can employ the worker you think best meets your needs or requirements. As an employer you will have certain responsibilities. Chapter 6 of this Handbook has detailed information about your responsibilities when you employ staff.



How to choose a good service provider

When choosing a service provider you should look at the skills, qualifications and experience of the people who will provide the support.

Before contacting a service provider, it is important to be clear in your own mind what support you are looking for.

Remember that you are the customer. If a provider is not able to meet your needs or is too expensive, you may be able to find another that can offer what you want.

Here are some suggested questions that you may want to ask the service provider when you talk with them to see if they can offer what you need.

- What supports can they provide you with?
- Can they provide those supports at the times you want?
- What is the cost and what are the payment options?
- Is everything included in the price or are there extras to consider? For example, do they charge set up or exit fees? If so, what are these?
- Are there conditions on providing the support?
- What are your responsibilities?
- Can you choose the staff member who provides the support?
- Will other staff members be available if the usual one calls in sick?



- How does the service provider recruit staff? It's a good idea to confirm that they check their staff members' references or undertake a criminal record check before employing someone. If you have children or young people under 18 years in your house, it's a good idea to also check that the service provider undertakes a Working With Children check before they employ someone. Where staff are required to work with children they **must** have a Working With Children check.
- What training do staff receive?
- Does the service provider have adequate insurance arrangements? For example, are workers covered if they are providing support in your home?
- Can the service provider be contacted at any time, including for out-of-hours emergencies?
- What happens if the service provider postpones or cancels your support?
- Does the service provider need to comply with the NSW Disability Service Standards or another professional code of practice?
- Does the service provider use an accreditation process? When were they last accredited? Were there any areas that needed to improve?
- How does the service provider monitor services to make sure they are of good quality?
- How does the service provider seek feedback from users and what do they do with the feedback they receive?



Making sure you get good quality services

When purchasing supports under the DPA, you – or your nominee – are responsible for checking and monitoring the quality of the support you receive from a service provider.

The **NSW Disability Service Standards** (NSW Standards) may help you in assessing the quality of your supports. While only disability services funded by FACS under the **Disability Inclusion Act 2014** must comply with the NSW Standards, you can use these Standards to help you in making an assessment of quality.

The NSW Standards are:

- **Rights** – you are made aware of your legal and human rights and can expect to have them respected, upheld and promoted.
- **Participation and inclusion** – you are encouraged and supported to take part in your community in ways that are important to you, and the provider has the community connections to help make this happen.
- **Individual goals** – decision making is person centred.
- **Feedback and complaints** – you are provided with information and support when making a complaint, are treated fairly by the provider when you do so, and the provider can effectively handle your complaint.
- **Service access** – the provider makes information available about their supports and works with others to increase your support options.
- **Service management** – you receive quality supports that are delivered by skilled staff with the right values, attitudes, goals and experience.

A full description of the NSW Disability Service Standards is available at:
www.adhc.nsw.gov.au/sp/quality/standards_in_action

There are also other service providers who are funded by the NSW and Australian Governments. As part of their funding arrangements, these service providers have to tell you what quality standards or quality management systems they have in place. They must provide good services to you.

A range of other resources and supports on quality, including the document called *Quality Policy for Ageing, Disability and Home Care Funded Services*, can be found at www.adhc.nsw.gov.au/sp/quality

How to share your supports

You can share your support with other people if you want to.

Shared support delivery is when two or more people put some or all of their direct payments together to buy support from the same service provider or providers.

There are some things that you should think about before you decide to share, such as:

- Who will make sure the supports are delivered?
- Will sharing change the level or quality of support that you receive?
- Who will be responsible for managing payments to the provider?
- How will the administrative costs be shared?
- What will happen to the support if one of you wants to stop sharing?

You may want to have a written agreement with the other person about these things, including what will happen if there are any changes.



Work health and safety laws

All the people that work with you – whether you employ them directly or use a service provider – must be safe while they are at work. You have a legal duty to ensure the health and safety of anyone carrying out work for you. This includes:

- staff you employ directly
- self-employed people or contractors
- employees of service providers while they are working for you
- volunteers.

We explain the different types of workers, including contractors, in more detail in the next chapter.

You also have to make sure that your home, which is their workplace, is safe and free from risks.

If you do not comply with this obligation, you can be prosecuted and be given a significant penalty. You can find more information about your obligations under the work health and safety laws at the WorkCover NSW website, www.workcover.nsw.gov.au

If you are thinking about using a service provider or a self-employed person using your direct payments, you must ask them about how they will manage risks to the health and safety of their workers and to you.

You should only use a service provider or self-employed person using your direct payments if they have arrangements in place for managing risks to health and safety.

Common risks can include:

- manual handling
- fatigue
- slips and trips.

You may find the Code of Practice, *How to manage work health and safety risks* useful. It can be found at: www.workcover.nsw.gov.au/formspublications/publications/Documents/how-manage-work-health-safety-risks-code-of-practice-3565.pdf

Your work health and safety obligations to FACS

You must tell us if you are planning to employ your staff directly. FACS will visit your home to assess whether it is a safe working environment for your staff. This is because FACS is required by law to make sure that people employed by you have a safe working environment.

We may require you to make some changes to your home where these are reasonable to reduce or remove health and safety risks to your staff.

You must tell FACS immediately if any of the following happens in connection with the supports funded by the DPA:

- any accident
- an incident that must be reported to WorkCover NSW under the work health and safety laws
- any injury (either to you or to your workers).

You must, as soon as possible, tell FACS of any enforcement action taken by WorkCover NSW in connection with any activities funded with your direct payments. This includes, for example, if you are issued with a notice under the work health and safety laws.

If requested by FACS in writing, you must:

- consult, cooperate and coordinate with FACS to make sure the activities funded with your direct payments are safe
- provide FACS with information about the health and safety arrangements in place for activities funded with your direct payments.

Note, FACS does not influence, control and supervise the work carried out by workers funded with your direct payments.



Where can you get help to manage your supports?

One of the best ways to find out about managing your supports is to talk to other people who are also using direct payment arrangements. This is called peer support, and it's a great way to share ideas, get help and find information.

The Direct Payments: Peer Support Network is an online forum hosted on the [Human Services Network](#) (HSNet). Using this forum, you and other direct payment recipients can exchange ideas and learn from each other's experiences.

If you are not already a member, you can ask your DPA Coordinator how you can register.

You can also get help to manage your supports by asking your family, friends or other people in your circle of support.

You may wish to seek advice from your DPA Coordinator if you:

- have a limited circle of support
- find it hard to negotiate with service providers
- have complex needs.

If you continue to have problems managing your supports, you may need to consider another way of managing your individualised funding.



Direct Payment Agreement Handbook



6

Employing staff

Having the option to employ staff is one of the great benefits of using the DPA. However, there are a lot of legal requirements and paperwork involved in employing staff. This chapter summarises the things you need to do and offers tips on where to get more information.

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What is direct employment?

Direct employment is when you employ your own support worker or workers using some or all of your direct payments.

This might be different to the way you are used to working with support workers. You may currently use support staff who are employed by your service provider.

It's important to note that, under the DPA, you don't have to employ people directly. However, if you decide that direct employment is right for you, you can choose to employ people in this way.

Employing people directly means you can:

- select the support worker or workers that will best meet your needs
- negotiate employment conditions directly with each support worker
- agree with your support workers about the work you want them to do and how that work should be done
- negotiate directly with your support worker about any changes to the hours they work, or the work they do
- address and manage any concerns you have about the quality of their work directly with them.

If you choose to employ people directly, you will have the legal responsibilities of an employer.

These responsibilities include (but are not limited to):

- Making sure that you comply with all legal, financial and industrial obligations associated with being an employer.
- Meeting the costs associated with being an employer. These costs will be covered by your direct payments and will include things like paying wages, advertising for staff and providing training.
- Keeping records about anyone you employ. This will include things like their conditions of employment, days and hours worked, salary and superannuation paid, tax withheld from salaries and the amount of leave owed (such as holiday or sick leave).

The main piece of law regulating employment in Australia is the **Fair Work Act 2009** (Cth). This Act sets out minimum terms and conditions of employment, known as the **National Employment Standards** (NES), and provides guidance on a range of issues.

It's important to note that a Modern Award may apply to your employees. A Modern Award is a document that explains the rules about working in a particular type of employment or job.

In many cases, direct employment will involve the employment of 'home carers'. Usually, home carers will fall under the **Social, Community, Home Care and Disability Services Industry Award 2010**, a Modern Award that sets out terms and conditions that are additional to the NES.

If you are unsure whether a Modern Award applies to your staff, you can contact the Fair Work Ombudsman Infoline on 131 394.

You will also need to be aware of the various laws you need to comply with that deal with things such as workers compensation, work health and safety, superannuation and long service leave.

There is information on work health and safety on page 5.10.

The **Fair Work Ombudsman** and the **Fair Work Commission** provide information on employment matters for employers and employees.

Employing someone is different from hiring someone who is self-employed. More information on this difference is provided on page 6.16.

You should also seek your own legal advice when considering being an employer.



How do you employ someone?

As an employer, hiring staff will be your responsibility. When hiring staff, you need to think about a range of things, including:

- what you want them to do (perhaps outlined in a position description)
- the skills and experience required to do the job
- how will you find them, noting that you may need to advertise, conduct interviews and check references
- what information you need to give or receive from them.

What type of employee should you hire?

You can employ a support worker on either a full-time, part-time or casual basis. Here is a brief description of the different types of employment:

- A full-time employee generally works a minimum of 38 hours per week over five days (usually weekdays).
- A part-time employee generally works regular set hours that are less than a full-time week.
- A casual employee usually works on an irregular basis. A casual employee may or may not be offered work from day to day, depending on what you have available. In turn, a casual employee has the right to refuse a shift of work if it does not suit them.

You may also like to consider using a contractor or self-employed person to provide some of your support. We explain the rules about using a contractor on page 6.16.

Another option is to find a volunteer who can support you to achieve your goals.

How many workers?

While you may have a worker in mind who you trust to turn up every time at the right time, it's a good idea to think about what would happen if that person gets sick and can't support you. What about support you might need outside normal working hours? How will you manage these things?

It's always a good idea to have back-up options, so you may need to employ a few people on a casual basis instead of only one full-time person.

Things to check before you employ someone

During the recruitment process, you should tell the applicant that before you employ them and/or they can start work with you that they need to provide you with:

- a National Police Records Check that has been done within the last six months
- a current Working with Children Check if the person with disability is a child.

A Working With Children Check is required for child-related work in NSW, and anyone who works or volunteers with your child should hold a clearance. A fact sheet for parents on Working with Children Checks is available on the NSW Office of the Children's Guardian website at: <http://www.kids.nsw.gov.au/Working-with-children/New-Working-With-Children-Check/For-parents>

The cost of the Working With Children Check is covered by the potential employee. It is up to you whether you ask the employee to arrange to provide you with the results of a National Police Record Check, or whether you ask the employee to give you consent to do this check for them.

For the National Police Records Check, contact the Criminal Records Section of the NSW Police Force.



Phone: (02) 8835 7888



Website:

www.police.nsw.gov.au/about_us/structure/specialist_operations/forensic_services/criminal_records_section

For further information about the Working with Children Check, contact the NSW Commission for Children and Young People.



Phone: (02) 9286 7219



Website:

www.check.kids.nsw.gov.au

Hiring your staff

Employee contract

Once you have decided who to employ, you can offer them the job. It is a good idea to provide your preferred candidate with written terms of employment. These can be set out in a letter or a formal contract.

You must give your employee a copy of the **Fair Work Information Statement**. Copies of the Statement, as well as template letters on employing staff, can be found at the Fair Work Ombudsman website at www.fairwork.gov.au.

House rules

House rules can form part of the arrangements between an employer and employee working in their home. For example, house rules can explain how your workers can address you and which parts of your home they can and can't go into.

If you decide to develop some house rules, it's important to know that these cannot override any of the rules set out in the National Employment Standards (NES) or the relevant Modern Award.

Probation

When you hire someone new, you might decide to have a probation period for the first few weeks or months of the job. During the probation period, you should closely supervise, train and assess your new employee to see if they are suitable to do the job. The **Fair Work Ombudsman** has further information about employee probation periods, including template letters that you can use.



You can also contact the Fair Work Infoline on 131 394 for further advice.

Support Plan

If you have particular support needs, such as personal care, you must have a documented Support Plan. This should be developed before the person starts working with you. The Support Plan should outline the tasks and duties that staff need to do to meet your care needs.

If you require physical assistance with transfers and mobility, you must also document manual handling procedures. These procedures are best developed by an occupational therapist and should be regularly reviewed.

You can use your direct payments to engage a suitably qualified professional to help you develop a Support Plan and manual handling procedures.

Once you have these procedures documented you must make them available to all of your staff.



Can you employ a family member?

In general, you cannot use your direct payments to employ, contract or pay family members to provide your supports and services. In general, this is because we want to make sure that:

- people with disability are supported to live independently
- people can create wider networks in the community
- family members get a break from their caring role.

However, there may be times when this is the only option available to you due to your unique circumstances. If this is the case, then FACS will need to agree:

- that there are not any other options available
- employing a family member is not likely to put you or the family member at risk of harm, exploitation or undue influence.

For example, if you are unable to find a service provider or staff member to provide support services to you, FACS may approve the employment or payment of family members.

You need to speak to your DPA Coordinator if you want to employ or pay a family member.

If you have received written approval from FACS to employ a family member, you must ensure that you comply with all the obligations and responsibilities of an employer that are outlined in this chapter, even though the person is a member of your family.

FACS has the right to suspend direct payments or end the DPA and your direct payments if you employ, contract or pay a family member to provide your supports and services without receiving approval, or if you purchase supports from a business or other legal entity that you, your carer or family member have a financial interest in.

Training staff

You will need to consider the skills and duties of the position when deciding if staff training needs to be provided.

Training can involve:

- on-the-job learning
- access to resources
- attendance at external courses.

Other options include using your direct payments to hire a suitably qualified professional, such as an occupational therapist, to assess the position's tasks and train your support workers on the job.



Paying staff

As an employer, you must ensure that your employees are paid what they are entitled to. They must also receive all the minimum standards of employment that they are entitled to under the law.

The Fair Work Ombudsman's **Pay Rates Calculator** can help you work out the pay rates for your employees, and is available at www.fairwork.gov.au.

Salary on-costs

Salary on-costs are the additional costs (above the annual salary) incurred in employing someone to do a job. These costs might include:

- paid leave, such as annual leave and sick leave
- annual leave loading
- superannuation
- long service leave, and
- workers compensation.

You need to ensure that you set aside enough funds from your direct payments to cover these costs. You should also consider how you will cover the cost of replacement staff when one of your regular workers is on paid leave.

The **Fair Work Ombudsman** has a range of tools to help you work out the leave entitlements for your employees.

Superannuation

As an employer, you will need to pay superannuation for your employees.

From 1 July 2013, all employers must pay 9.25% of an employee's earnings into a superannuation fund or retirement savings account. These payments are based on what an employee earns on a day to day basis and does not include overtime. The payment has to be made at least every three months. By 2019, the superannuation rate will gradually have increased to 12%.

Detailed information about the superannuation you must pay can be found on the Australian Taxation Office (ATO) [website](http://www.ato.gov.au).

You should always seek professional advice when dealing with superannuation entitlements and your obligations.

Dealing with tax

Taxation obligations are generally complicated, especially when dealing with employees. We have provided a brief summary here but we recommend that you seek advice from an accountant or other taxation specialist about this.

There are organisations that can help you and provide useful templates and planning tools to work with. Ask your DPA Coordinator about organisations in your area that can help you.

Tax File Numbers

A Tax File Number (TFN) is a number that the government uses to keep track of the amount of tax people have paid. You may need to declare your own TFN to the government. You may also need to pass on your employees' TFN to their superannuation fund or retirement savings account.

You can get TFN Declaration Forms by ordering them online from the ATO or calling the number below.



Phone: 1300 130 072



Website: www.ato.gov.au

PAYG withholding

Pay As You Go (PAYG) withholding tax is the amount you set aside from your employees' wages for tax. You need to pay this to the government, usually on a quarterly basis.

The ATO website at www.ato.gov.au has examples and detailed instructions about PAYG withholding for employers, including a [Tax Withheld Calculator](#) to help you work out how much tax to withhold.

Note that you do not have to pay tax on your own direct payments as long as you do not establish a legal entity, such as a company, to employ your workers.

Fringe Benefits Tax

Fringe Benefits Tax is paid on certain benefits employers offer to their employees or their employees' associates (such as family members) in place of, or in addition to, salary or wages. Fringe Benefits Tax is separate from income tax and is based on the taxable value of the fringe benefit. Further information about this can be found on the ATO [website](#).

Getting the right insurance

Like taxation, insurance is very complicated and we highly recommend that you seek independent, professional advice on how to best meet your insurance requirements.

If you employ workers, or use volunteers, you will need to arrange your own insurance. You can purchase the required insurance policies using your direct payments. Generally, you must have workers compensation insurance that covers your employees. To take out a workers compensation policy, contact a WorkCover-appointed insurer (Scheme Agent).

You do not need to cover volunteers and work experience students with your workers compensation insurance policy. They should be encouraged to get their own policy (such as a personal accident and illness policy).

If you pay \$7,500 or less in annual wages, you are not required to obtain workers compensation insurance unless you employ an apprentice or trainee. You are 'deemed' to hold a policy and have the same obligations as other employers and if someone who works for you is injured, the injury must be notified to the WorkCover Claims Assistance Service (telephone 13 10 50).



Further information on workers compensation insurance can be found at the WorkCover NSW website:

www.workcover.nsw.gov.au



WorkCover Claims Assistance Service – 13 10 50

We also recommend that you have personal accident insurance to cover the risk of personal injury to you and/or damage to your property caused by your employees (by negligence or some other reason). However, this cover may not be available to you or may be very expensive, depending on your circumstances.

If you cannot get personal accident insurance, you need to consider the risk of not having it when you employ people.

Making sure staff are trained and having fully documented manual handling and day-to-day procedures can help you reduce this risk.

If you need assistance in locating an appropriate insurance provider, please go to the Find an Insurer website at www.findaninsurer.com.au.

As part of your reporting obligations to FACS, you must provide us with proof of insurance for each type of insurance that you are required to have for managing your direct payments. You must also provide us with the relevant certificate(s) of currency upon request. If any of your required insurance policies lapse or are cancelled, you must notify us in writing of your new insurance arrangements.

What happens if you don't pay for insurance?

If you have not paid the required workers compensation insurance premium, we may cancel your DPA to minimise the risk to you, your employee(s) and FACS.

Cancellation of the DPA would only occur after we have made reasonable attempts with you to have the insurance premium paid. Cancellation of your DPA will generally mean that you will have to choose another way of managing your individualised funding. See page 8.9 for further information on ending a DPA.

If you choose not to purchase personal accident insurance, or if you are unable to obtain it, you will need to consider this risk when taking up direct employment.



Do you have to keep records about your staff?

As an employer, the **Fair Work Act 2009** requires you to keep and maintain records, including:

- the dates and hours your employees work for you
- how much they are paid.

It also requires you to give employees regular payslips that include these details, in hard copy or by email.

The Fair Work Ombudsman's website (www.fairwork.gov.au) has free templates with easy-to-follow explanations of what to do. It also has a detailed section on payslips including all the information that must be on a payslip and when it must be given to an employee.

We recommend that you check the Fair Work Ombudsman's **website** for full details about your record keeping obligations.



Treating your staff fairly

In NSW, discrimination in employment is generally illegal under both Commonwealth and NSW legislation, namely the:

- **Age Discrimination Act 2004** (Cth)
- **Disability Discrimination Act 1992** (Cth)
- **Racial Discrimination Act 1975** (Cth)
- **Sex Discrimination Act 1984** (Cth), and
- **Anti-Discrimination Act 1977** (NSW), which includes discrimination on a number of grounds including disability, sex, age, transgender, homosexuality and a person's responsibilities as a carer.

Anti-discrimination legislation applies to all employees. Job applicants and probationary employees are also covered by the law. In short, all workers have the right to be treated fairly in the workplace.

You need to take reasonable steps to make sure your employees' workplace is free from discrimination and harassment.

You can seek advice about discrimination matters from the following organisations who have responsibility for the Commonwealth and NSW anti-discrimination laws.

Australian Human Rights Commission



Phone: (02) 9284 9600



Website: www.humanrights.gov.au

Anti-Discrimination Board of NSW



Phone: (02) 9268 5555



Website: www.lawlink.nsw.gov.au/adb

Employing contractors

Contractors are different to employees. You need to know the difference between a contractor and an employee as your legal obligations are different for each. Contractors, or self-employed people, work for themselves instead of for an **employer**. They draw income from a **business** that they operate.

Someone who is self-employed will have an Australian Business Number (ABN); however, this does not automatically make the person an independent contractor.

Some of the conditions that make someone a contractor are:

- a contractor is paid fees instead of a wage or salary, and they will submit invoices to you for the services they provide
- a contractor is usually permitted to substitute another person to perform the services, whereas an employee is not
- a contractor usually has more scope to determine how services will be provided, whereas an employee is usually directed as to both what work needs to be done and how to do that work.

When you engage a contractor, you do not need to deduct tax, provide superannuation or workers compensation insurance, or accrue for holidays, sick leave or long service leave.

However, the difference between an employee and an independent contractor is not always clear, and care needs to be taken when working with a self-employed person to ensure that they are not in fact your employee. If a contractor is deemed to be an employee, you may find that you have additional obligations, such as paying their superannuation.

The Australian Government website for small business (www.business.gov.au) provides information about these issues and has a **Contractor Decision Tool** you can use to identify whether a self-employed person should be considered a contractor when you purchase services from them.

The ATO website (www.ato.gov.au) also provides information on these issues. It is recommended that you seek legal advice when contracting with self-employed individuals.

It's also a good idea to make sure that the contractor has the right insurance.

Sometimes, you might want to work with a contractor for one project, or a specific job.

Here are some examples of working with contractors:

- You hire someone to help you with chores in the garden, like mowing and weeding, and they come to work for you every two weeks.
- You need some help setting up accounting software on your computer, so you hire a bookkeeper for a few sessions to get you started.
- You need to have some approved modifications made to your house so that it's more accessible, so you hire a contractor to do the work.



How do you dismiss your staff?

An employment contract may be brought to an end either because you want your employee to leave, or they may want to leave.

There are three basic reasons that a person's employment may come to an end:

1. The employee resigns and ends their employment.
2. The employer (you) ends the employment because the person has had an unsatisfactory work performance, a poor attitude towards the job or similar problem.
3. The employment ends as a result of other events, for example because the task for which the employee was specifically hired is completed, a fixed term contract has come to an end or you have stopped using direct employment and/or direct payments.

Broadly speaking, there are two ways that you can end a person's employment with you:

1. Dismissal with notice

In this situation, you must give the employee written notice of your intention to end their employment. Notice periods generally range from one to four weeks, depending on your employee's period of continuous service. However, notice periods do not apply to some categories of employee, such as casuals and those who have done something seriously wrong, like breaking the law.

2. Summary dismissal

This type of dismissal occurs when an employee is immediately dismissed as a result of serious misconduct. An act of serious misconduct may include assault, theft, fraud and being drunk at work.

If you unfairly dismiss or unlawfully end someone's employment, they may have rights under the law. You need to carefully consider the way you end a person's employment with you.

The requirements on how to properly end a person's employment are outlined in the **National Employment Standards**. Information about unfair dismissal and unlawful termination can be found at the Fair Work Ombudsman's (FWO) website at www.fairwork.gov.au.

You can also call the FWO on 131 394 to clarify any questions you might have.

Ending direct employment

You can choose to stop being an employer at any time. For example, you may find that the workload and responsibilities of being an employer are no longer acceptable to you. You can choose to stop directly employing your staff at any time. However you must make sure that you stop your employment arrangements properly. This means:

- giving the required amount of notice to your employees
- paying out any outstanding salaries and leave entitlements
- meeting all requirements of relevant authorities, such as the ATO.

If during our monitoring of your direct payments we identify areas where you are not complying with your legal, financial and/or employment-related obligations this must be immediately addressed. FACS can assist you to find ways to meet your obligations.

If you continue to not meet your obligations, it may be necessary to suspend your direct payments or end the DPA.





Notes

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7

Managing your direct payments

This chapter offers a helpful guide to managing the financial side of your direct payments. It explains how direct payments relate to Centrelink payments, income tax and GST. It also explains what you must do to manage your budget and what records you must keep.

Centrelink payments	7.2
Income tax	7.3
Goods and Services Tax (GST)	7.4
Managing a budget	7.5
What is indexation?	7.6
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What happens to the money if you stop using direct payments?	7.8
What happens if you get into difficulties with direct payments?	7.9
Record keeping and reporting	7.10

Centrelink payments

Direct payments are separate to any **Centrelink** benefits you might receive.

The **Department of Social Services** has made a Ministerial Determination that exempts direct payments from being considered as income for the purpose of the social security income test.

This determination, which commenced on 20 December 2013, is available to read on the on the Comlaw website at:

<http://www.comlaw.gov.au/Details/F2013L02152>

This means that receiving direct payments won't change your eligibility for Centrelink payments.

Because DPA payments cannot be used as income, any Centrelink payment that you already receive, such as the Age Pension, Disability Support Pension or Carer Payment, will not change when you receive direct payments.

Income tax

The Australian Taxation Office (ATO) will not regard direct payments as part of your taxable income.

The ATO has approved a Class Ruling for direct payments from FACS:

CR 2014/20 Income tax: NSW Disability and Home Care, Department of Family and Community Services (FACS), Direct Payment Agreement (DPA)

This Class Ruling states that direct payments will not be considered assessable income. This includes any interest earned in the bank account you use to manage your direct payments.

The following are conditions of the ATO Class Ruling:

- you cannot establish a company to receive and manage your direct payments
- you cannot claim a tax deduction for goods or services purchased with direct payments
- you cannot claim a rebate on medical expenses paid for with direct payments.

When completing your tax return, you are not required to provide the details of the bank account you use for direct payments. If questioned by the ATO, refer them to the Class Ruling CR 2014/20.



Goods and Services Tax (GST)

Direct payments are GST free. There is no need for you to register with the ATO for GST purposes. Direct payments cannot be considered a business for GST or other tax purposes. GST paid for out of your direct payments cannot be recovered from the ATO.

Managing a budget

Budgeting is a way of planning how much you can afford to spend on your approved supports within the amount of money you receive under the DPA.

When planning your budget, it's a good idea to list of all your expenses, including:

- day-to-day expenses of hiring staff or using supports
- other costs that may come up, such as advertising for replacement workers or addressing a work health and safety issue.

Using accounting software may help you record and process your transactions, and help you manage your budget and reconcile your accounts.

You can also use your direct payments to hire a bookkeeper or accounting professional to assist you with budgeting, accounting, payroll and reporting.



What is indexation?

Indexation is an adjustment to compensate for inflation. Every year, wages and prices tend to rise, usually by a small percentage. When planning for future spending, it can be a good idea to consider these small price rises. FACS will work with you to determine whether your annual budget needs to take indexation into account. However, FACS is not obliged to apply indexation to the money that you receive.

What if you don't spend all your money?

You might find that you do not spend all of your direct payments by the end of the financial year. This might happen if:

- your support needs were met in another way
- you were unable to get the support you needed
- you were unwell for a period of time.

If you do not spend all of the money you have received for direct payments, you can request to keep or 'roll over' some of it into the following year. This will be either \$1,500, or 5% of the total amount of money you received during the financial year, whichever is the greater amount.

If you have more than \$1,500, or 5% of the total amount of money you received during the financial year the difference must be paid back to FACS. We may also recover the difference in the unspent funding by reducing any future payments to be made to you under your new annual DPA.

The request to retain unspent funds is made as part of the end of financial year report. There is more information about the financial year report on page 7.10. If you have any money left over and you have not specified if you want to return or retain it, then we will contact you to identify what your request is.



What happens to the money if you stop using direct payments?

If you decide, or if FACS decides, to end your DPA before the end of the financial year, you must pay any outstanding invoices, wages or entitlements related to your approved supports. Any money that is left over after that must be paid back to us.

Usually FACS will ask for the money back straight away. If you don't pay it back quickly, we can take a range of actions, including commencing legal proceedings against you. Or, we may get the money back by reducing the amount of any future payments you are due to receive from us.

What happens if you get into difficulties with direct payments?

You must contact us immediately if you are having difficulty:

- getting services you need
- keeping track of your money
- managing the responsibilities of direct payments.

You can ask us to:

- temporarily stop your direct payments because of illness, a change in circumstances or other factors
- end your direct payments.

If you decide to end your direct payments you must tell us in writing. If your direct payments are temporarily stopped or ended, it does not necessarily mean that we will stop providing support for you. We may, for example, organise alternative funding arrangements so you continue to receive the supports you need.

Record keeping and reporting

Under the DPA, you must report back to us on how you spend the money. This means providing us with:

- monthly, quarterly or six-monthly progress reports, depending on what we agree with you
- a report at the end of the financial year
- documents to support the reports, such as bank statements
- information about any changes to your personal details, such as your address or phone number
- any additional information requested by us.

Templates are available for the progress report and end of financial year report. You can get these on the Ageing, Disability and Home Care website and you can complete them electronically. Or, you can ask your DPA Coordinator to send a copy of the templates to you.

For each report, you must attach (where relevant):

- bank statement(s) for the reporting period
- invoices or receipts for all expenses you paid for your supports, including:
 - service provider fees
 - insurance premiums
 - taxes
- any other documents requested by us.

Where you employ your own staff you must also attach information on the number of staff employed and whether they are employed on a full-time, part-time or casual basis.

Both the progress report and end of financial year report must be submitted to FACS within 30 days of the end of the reporting period.

Expenditure log

An expenditure log must be kept for items listed on your bank account statement that do not have an adequate description of the purchases made. The expenditure log will help us to check that the purchases are for your disability related supports and are in line with your Individual Plan.

For example, if you purchase a new wheelchair, the debit item in your bank account statement may show the name of the company you purchased it from rather than what you purchased (wheelchair). In this case, you must add the wheelchair to your expenditure log so that you can show us what support you purchased with your direct payments.

If your bank account statement includes a description of what was purchased (wheelchair) you do not need to include it in your expenditure log.

An expenditure log template is provided with the other templates on the Ageing, Disability and Home Care website.

Cash withdrawals

You should try to minimise cash withdrawals from your bank account, as it may make it more difficult for you to know what you bought when reporting. When cash withdrawals are unavoidable, you should keep receipts of your cash purchases from the service provider.

There may be times when you need to make a payment out of your own money for your supports. For example, there may be part of your phone bill that relates to managing your support. In this case, you can make a cash withdrawal to pay yourself back. You may be able to provide a receipt for your original purchase. If not, you will need to record the cash withdrawal in your expenditure log including the amount and what it was for.

Where do I send my reports?

Completed reports can be emailed or posted to your local DPA Coordinator. The contact details for your DPA Coordinator are on page 1.5.

What happens if I have problems completing the required reports on time?

If you cannot complete a report on time, you must contact us in writing to request extra time to complete the report, before the report is due. We will consider and agree to these requests on a case by case basis.

If you find it difficult to complete your reports, you can use your direct payments to pay someone to help you do this.

When you do not complete the required reports on time, it means that you are not meeting your obligations under the DPA. This may cause a delay in receiving your direct payments, or your payments may stop. When direct payments are stopped, we will work with you to make other arrangements to have your service needs met.

How long do I need to keep the records for?

You must keep records of how you have used your direct payments. These records must be kept for seven years after the end of the DPA.

The records you must keep are:

- your Individual Plan and any changes to this that have been approved by FACS
- receipts and invoices
- bank account statements
- copies of direct debit authorisations
- cheque butts
- expenditure logs.

You may also be required to keep records under NSW and Commonwealth law. For example, the *Fair Work Act 2009* says that employers must keep records about their employees for seven years.

Make sure you file your invoices and receipts regularly. This will make it easier for you to keep to your Individual Budget and will help you prepare your reports.

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Making changes

This chapter explains how to make changes to the DPA. It has lots of information about changing your supports, what to do if you move to another state or go overseas, and how to stop using the DPA if it is no longer right for you.

Can you change your supports?	8.2
How to make changes	8.3
What do you do in an emergency?	8.5
Moving to another part of Australia	8.6
Travel	8.7
Reviewing your Individual Plan	8.8
When direct payments can stop	8.9
What happens after you stop getting direct payments?	8.12

Can you change your supports?

During this Agreement, some things in your life may change. You may want to change your goals, the type or amount of support you require, or the way you receive your funds. Situations may also come up that you had not planned for or you may decide to move to another state.

If your circumstances change, you must notify your DPA Coordinator. This includes changes to your:

- contact details
- capacity to manage direct payments and associated responsibilities
- support needs.

You can make some changes to your Individual Plan without our approval. Other changes require you to get our approval first. Both types of changes are explained on the following pages.

If you want to change your Individual Plan, including your Individual Budget, we recommend that you contact your DPA Coordinator and talk about this.

FACS may decide to review your Individual Plan if there are concerns about changes in your circumstances or your capacity to manage direct payments.

How to make changes

As long as your goals remain the same, in most cases you can change the following things without asking FACS:

- the supports you use
- the budget for each type of support (remembering that you cannot exceed your total funding amount)
- the support provider.

This means that you can change from:

- one service provider to another
- one type of support to another.

When making these changes, you must:

- Tell your service provider that you want to stop receiving support from them. You will need to give the service provider enough notice of your intention to stop using their service. Some service providers may have a minimum notice period before your service can stop.
- Consider any legal obligations you have to a service provider or employee when making this decision.
- Talk to the new service provider about when services can start.



Changing general and specific supports

Most of the supports you identify will be considered 'general supports' such as personal care or domestic assistance. You can change general supports without our approval.

Some supports are 'specific supports', meaning that they are for a particular purpose to ensure that you can achieve your goals. Specific supports must be purchased in the way described in your Individual Plan.

If you want to change the goals or 'specific supports' identified in your Individual Plan, you must first get our approval. This is because, when you signed your DPA, you agreed to use your direct payments to achieve those goals by purchasing those supports.

Changing your nominee

If you want to change your nominee arrangements for the DPA you must also notify FACS first so that we can determine whether a new DPA needs to be made. Typically the new nominee will need to have a safeguards assessment and sign a new DPA Letter.

Talk to your DPA Coordinator

If you are thinking about making changes, a good place to start is to talk to your DPA Coordinator. They will tell you if the change you want to make needs our approval.

What do you do in an emergency?

It is important that you think about what might happen in an emergency, and what you can do to make sure your needs are met in such circumstances.

Emergencies can include:

- your support worker not arriving
- your support or activity being cancelled
- extreme weather
- your own illness.

You should discuss this with your supporters. It may help to prepare and document an emergency plan. Or you could nominate a person, or group of people, who have your permission to manage your supports if you are unable to.

Arrangements that you might make to deal with emergencies include:

- having a prior understanding with your service provider for emergencies
- recruiting staff who are prepared to work shifts at short notice.

If you cannot arrange emergency support, you can contact your local DPA Coordinator for advice.



Moving to another part of Australia



In Australia, all states and territories have agreed that any person who has individualised funding and wishes to move interstate can have 12 months of their funding transferred to their new place of residence.

This agreement, called the National Interstate Portability Protocol, is there to make sure that your support continues when you move to another state.

Arriving in NSW

If you have come to NSW with individualised funding from another state, you may not automatically be eligible for direct payments. You may, however, be able to manage your funds through another arrangement. A FACS officer in the area where you are going to live will help you plan and talk about what is possible.

Leaving NSW

If you will be moving to another state, you must tell FACS. When you leave NSW, your direct payments will stop.

We will, however, talk to the new state to tell them how much funding you will have for the next 12 months and send this funding to them. FACS cannot tell the other state what needs to happen with the transferred funds. Your new package will be managed according to the policies of the state you move to.

For more information about the National Interstate Portability Protocol, please contact FACS on the details below.



Phone: 1800 761 030



Email: nswnipp@facs.nsw.gov.au.

Travel

You may leave NSW for a short period without affecting your direct payments. This period is known as the grace period and it is usually for a short break or holiday. The grace period is generally six weeks beginning from the time you leave NSW.

If you are still away from NSW after the end of the grace period, your payments will be suspended for 28 days from the end of the grace period. FACS may also consider ending your direct payments completely.

FACS may agree to make the grace period longer, but this will be considered on a case by case basis. You should talk to your DPA Coordinator if you are planning to travel outside NSW including overseas.



Reviewing your Individual Plan

You can request a review at any time if:

- you want to change the goals in your Individual Plan
- your Individual Plan, or parts of it, are not meeting your needs
- there are changes to your circumstances
- you want to enter a new DPA.

A review involves looking at the goals you have achieved using your direct payments and may result in:

- no changes to your supports or Individual Plan
- changes to goals in your Individual Plan
- a change to the way in which your funds are managed.

FACS reserves the right to review the way you have met your responsibilities under the DPA or your Individual Plan. We may also review your Individual Budget.

FACS may review your Individual Plan if:

- you fail to comply with the terms of the DPA, following notification by us
- we have reasonable grounds to believe that you are unable to manage direct payments and this is placing you or others at risk.

FACS will work with you to identify and address any problems you may have in meeting your responsibilities under the DPA. However, if this is unsuccessful, we may consider transferring your funds to another funding arrangement.

When direct payments can stop

You may decide that you no longer wish to receive funds under the DPA. If this is the case, you must let FACS know straight away and we will support you to choose another arrangement that is suitable for your circumstances. FACS has the right to suspend direct payments or end (or terminate) the DPA and your direct payments. We may suspend your payments if we reasonably believe that you:

- are no longer using the supports or services set out in the DPA
- are getting supports and services through some other means, and do not need the money provided through the DPA.

We may also either suspend direct payments, or end the DPA, if we reasonably believe that you have not been complying with any of the rules or conditions of the agreement, including that you:

- do not use your direct payments to achieve the agreed goals in your Individual Plan
- use your direct payments for anything that is illegal (including fraud)
- purchase supports that you know to be, or should reasonably know to be, ineffective or harmful
- purchase supports from a business or other legal entity that you, your carer or family member have a financial interest in
- have difficulty meeting your legal, financial or employment related obligations
- do not keep records in accordance with the obligations outlined in [Chapter 7](#) of this Handbook, or do not provide these records when FACS requests them
- experience a change in circumstances that temporarily or permanently affects your capacity to manage direct payments
- do not pay money back when required
- move interstate or overseas
- become insolvent under administration (bankrupt)
- break any special conditions of your DPA

- do not comply with the DPA.

If we believe that you have not met your responsibilities under the DPA, we will contact you. In most cases, if it is practical to do so, we will talk to you about the issues. You might simply have made a mistake.

We can also end the DPA if you start receiving support under the NDIS. When this happens, you will move out of the NSW Government's disability system and into the national disability system, so FACS will no longer assist you.

Notice of decision to suspend payments

If we decide that we need to suspend your direct payments, we will write to you by email or post and tell you:

- the reason why we are suspending your direct payments
- how long we will suspend them for – this can be up to 90 days
- how you can ask for a review if you are unhappy with this decision.

If we then decide we need to suspend your direct payments for a longer time, we will write to you before the current period of suspension has ended and confirm the further period of suspension (also up to 90 days).

Notice of intention to stop part or all of your direct payments

Before ending part or all of your direct payments, we will notify you by email or letter advising that we intend to end the payments and explain:

- the reason why we intend to end part or all of your direct payments
- the day that the payments will stop.

If you don't think the payments should stop, you will need to tell us why. This won't apply if the reason for stopping the payments is because you have moved, or will soon move, onto the NDIS.

Notice of decision to stop part or all of your payments

If you provide a reason for why you think we should not stop your payments, we will consider this (unless the payments are stopping because you are moving onto the NDIS). If we decide to still go ahead and stop payments, we will write to you by email or letter and advise you:

- the reason for the decision, and
- that you are entitled to apply for a review of the decision

- how to apply for a review (unless the reason for stopping the payments is because you are moving to the NDIS).

If FACS decides to suspend your direct payments or end the DPA, it does not necessarily mean that we will stop providing support for you. For example, we may organise alternative funding arrangements.

If we end your DPA, our obligation to provide direct payments to you will end and you must pay us back any money left over. There is more information about this on page 7.8.

What happens after you stop getting direct payments?

After you stop receiving direct payments, you may need to do further work to complete your obligations under the Agreement.

This includes:

- reporting as required – so, even if the payments end, you will still need to report on what has been spent
- paying back any money that is left over
- any legal obligations you still have to FACS and to your workers, which are explained on page 9.11.

You must submit a final report to FACS within 30 days of the end of your DPA. This report will confirm if any funds are to be returned to us.

In the event of your death, your family, nominated representative, executor or other person must refund any unspent funds from your direct payments and must not use them to pay for your funeral or related expenses.

However, any unspent funds should be used to pay outstanding invoices, wages or entitlements related to your approved supports. Any money that is left over after meeting these costs must be paid back to FACS.



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Understanding your rights and responsibilities

This chapter explains all the things that both you and FACS must do to make sure that the DPA is working well. There is information on the relevant laws that apply, using an advocate if you need to and how to go about making a complaint. We also explain liability and indemnity.

Laws	9.2
What you can expect from FACS	9.5
Your personal information	9.6
What is advocacy?	9.7
What if you disagree with a decision that we make?	9.8
Making a complaint	9.10
What will happen if you disagree with FACS	9.13
Liability and indemnity	9.14

Laws

Everyone has the right to be treated fairly. Under the DPA you have certain rights. There are also laws you should know about.

The following state (NSW) and national (Cth) laws, and an international agreement, exist to protect your rights.

NSW laws that apply

- ***Disability Inclusion Act 2014*** (NSW)
- ***Anti-Discrimination Act 1977*** (NSW)
- ***Health Records and Information Privacy Act 2002*** (NSW)
- ***Privacy and Personal Information Protection Act 1998*** (NSW)
- ***State Records Act 1998*** (NSW)

Commonwealth laws that apply

- ***Competition and Consumer Act 2010*** (Cth)
- ***Disability Discrimination Act 1992*** (Cth)

International agreement

- ***United Nations Convention on the Rights of Persons with Disabilities*** – this is an international agreement that Australia has signed. It says that people with disabilities must be treated fairly.

The Disability Inclusion Act 2014 (NSW)

The *Disability Inclusion Act 2014* started on 3 December 2014 and replaces the old law, which was called the *Disability Services Act 1993*. Some parts of the Act, including the principles (see below), apply to all government departments and are ongoing.

Other parts of the Act, for example, in relation to FACS' role in providing disability supports or funding, will only be relevant until the NDIS takes over funding all disability supports and services in NSW. This is expected to happen from July 2018 onwards.

The Act contains some important principles relating to people with disability. These principles have to be followed by FACS when it makes decisions about providing you with financial assistance, including when entering into a DPA with you.

These principles say that all people with disability have the right to:

- be respected and treated with dignity
- participate in and contribute to the broader society and the economy
- be supported to develop skills and experience
- be enabled to reach their full potential
- make decisions that affect their life – just like other people in the community – even where the decision may involve some risk
- be supported in making decisions if they want or need support
- have their culture, language, age, gender, sexual orientation and religious beliefs respected
- privacy and confidentiality
- live free from neglect, abuse, and exploitation
- get access to information that they can understand, given their disability or cultural background, so they can make good decisions and choices
- make a complaint – for example, about FACS or service providers
- have the role, relationships and support of their family, carers and other important people in their life treated with respect and consideration
- have respect for the way their abilities, strengths, goals and needs change as they get older.

There are also principles in the Act recognising the needs of particular groups, and supports and services are to be provided to these groups recognising and addressing those particular needs. The groups are:

- Aboriginal and Torres Strait Islander people with disability
- people with disability who are from a culturally diverse background or from a linguistically diverse background (those who speak a language other than English)
- women with disability
- children with disability.

All the principles in the Act are reflected in the NSW Disability Service Standards, and in the disability policies used by FACS.

These principles should also guide us when we make decisions about your DPA. However, sometimes making a decision in relation to a particular person can mean balancing one principle against each other. For example, you have the right to make decisions that affect your own life, even where the decision may involve you taking some risks. But what if there is a risk that a particular decision is likely to cause you harm, or allow you to be exploited by another person? We need to balance these rights and principles when we make decisions about your DPA.

Also, the NSW Government cannot help every single person who seeks assistance. This is because there is not enough money to help all the people with disability who need or want services and supports, or want access to direct payments. As with the spending of all Government money, those with the greatest need will be given priority first.

What you can expect from FACS

As someone who is receiving direct payments, you have the right to expect the following from FACS:

- that your requests will be treated in a fair and equal manner
- that decisions will be communicated clearly to you, including in writing

- that you have the option to exercise choice and flexibility
- that you can have reasonable support to make decisions if you want or need it
- that you can make changes to your supports if required
- that you can make a complaint – we explain how to make a complaint on page 9.10
- that we will explain what kind of information we collect about you, and that we store this securely and protect it from unauthorised access. There is more information about this on the following page.

Your personal information

For the purposes of undertaking, monitoring and reviewing your direct payments, and to undertake service planning, we may collect and record the following information about you:

- personal information such as your name, address, age and gender
- health information such as the disabilities or impairments you may have and your medical and associated needs
- financial information related to your bank account, records and the use you make of the funding
- information about your support people
- any feedback you give us about direct payments.

We will retain your information for the period required under the [State Records Act 1998](#), and make that information available to you at your request, subject to any relevant law. You have the right to request that we correct any information you think is not correct.

What is advocacy?

An advocate is someone who acts on your behalf in order to promote and protect your interests and welfare.

Advocates do this by being:

- on your side and no one else's
- primarily concerned with your best interests
- accountable to you in a way that is empathic and vigorous.

You might need an advocate because you:

- think you are not being listened to
- think your beliefs and feelings are not being respected
- do not fully understand what your rights are
- find it hard to make decisions
- need help in meeting your responsibilities.

Advocacy services can assist you to achieve and maintain your rights as a citizen and an equal member of the community.

FACS's Ageing, Disability and Home Care supports a number of organisations to provide free advocacy services. You can access a [directory](#) of these organisations by visiting the Ageing, Disability and Home Care website at www.adhc.nsw.gov.au

What if you disagree with a decision that we make?

If you do not agree with a decision that we make, you can ask us to review that decision.

You must do this within 28 days of being told of the decision.

You can do this by writing to us at the following address:

Email: directpaymentagreement@facs.nsw.gov.au

Mail: Direct Payments Team, Community Access
Department of Family and Community Services
Level 5, 83 Clarence Street
SYDNEY NSW 2000

If you have documents or information that you think we should have considered when making the decision, you can send these in with your letter or email requesting a review.

Internal review

We will then undertake an internal review. This means that a FACS officer who was not involved in the original decision will look at all the documents, the law and relevant FACS policies including this DPA Handbook. The FACS officer will then decide if they support the first decision. This means the decision is upheld.

In reaching this decision they will have considered a range of questions such as the following:

- Was the decision correctly made under the *Disability Inclusion Act 2014*?
- Was the decision made correctly according to the DPA Handbook or other relevant FACS policies?
- Do the facts of your circumstances support the decision?
- Was the person who works for FACS who made the first decision unfairly biased against you?
- Did you have the opportunity to provide a response to any concerns expressed by FACS staff?

The FACS officer doing the internal review must make the new decision within 21 days of receiving your request for a review.

We must then write to you and explain the new decision.

This is the process for the review of all decisions about DPAs.

Appeal to the NSW Civil and Administrative Tribunal

If you are not happy with the results of an internal review, you may be able to ask the New South Wales Civil and Administrative Tribunal (the Tribunal) to review the decision again. However, the Tribunal can only review some decisions.

The decisions that can be reviewed by the Tribunal are:

- where FACS refuses your request for direct payments and says funding will instead go to a plan manager or a service provider to manage for you
- where FACS approves your request for direct payments but places a special condition or restriction on the DPA that you disagree with
- where FACS approves your request for direct payments but only if you agree to use a nominee
- where FACS suspends your direct payments
- where FACS ends your DPA – this can be reviewed by the Tribunal unless the reason for termination is due to the fact that you are moving onto the NDIS (see page 8.10).

The Tribunal is an independent body (like a court but not as formal) that can look at certain government decisions and decide if they were right or wrong. The government then has to follow what the Tribunal says.

You can read more about the New South Wales Civil and Administrative Tribunal, including how to make an application to review a decision at: www.ncat.nsw.gov.au/ncat/about_us.html.

You can also get free legal advice about your rights to review from LawAccess NSW. You can call them on 1300 888 529.

Making a complaint

About a service provider

If you have a complaint to make about a service provider it is usually best to talk to the provider first. If you need support to make a complaint, you could ask a family member, carer, friend or advocate to help you.

If you are making a complaint against a service provider that is funded by FACS, they should provide you with information on how to make a complaint and respond to you in a way that reflects your individual and cultural needs. You should have support and the opportunity to take part fully in the process of fixing the problem.

If you are unable to resolve the complaint directly with your service provider you can find out if your provider is monitored by a professional association. If so, you can explain what the problem is to them and they will listen to you. Otherwise, you may be able to take your complaint to one of the organisations listed on the following page.



NSW Ombudsman

The NSW Ombudsman has the power to deal with complaints about NSW public authorities, including FACS, and service providers who are funded by FACS.



Phone: (02) 9286 1000



Email: nswombo@ombo.nsw.gov.au



Website: www.ombo.nsw.gov.au

NSW Fair Trading

NSW Fair Trading safeguards the rights of all consumers and advises business and traders on fair and ethical practice.



Phone: 133 220



Website: www.fairtrading.nsw.gov.au

Making a complaint about a service provided by FACS

If your complaint is about FACS, or a service provided by FACS, you should contact your local DPA Coordinator to discuss your concerns.

You can do this by phone call, fax, email, letter, or by making an appointment for a personal visit.

FACS also has an online complaint form if you don't want to talk to your DPA Coordinator about your complaint. It is available at the following website:



Website:

www.adhc.nsw.gov.au/contact_us/make_a_comment,_enquiry,_complaint_or_compliment

If you make a complaint to FACS you can expect us to:

- treat you with respect
- tell you what to expect while your complaint is being looked into
- carry out the complaint handling process in a fair and open way
- provide reasons for decisions that are made
- protect your privacy.

Until your complaint has been resolved, you must continue with your responsibilities under the DPA. We must also continue with our responsibilities.



What will happen if you disagree with FACS

We will make every effort to resolve enquiries, concerns or complaints you may have. You can also ask for a review of a decision we make, as explained on page 9.8.

You and FACS (the parties) might disagree about:

- what the parties are allowed to do under the DPA
- what the parties are required to do under the DPA
- whether the parties are complying with the DPA.

Under the DPA, both you and FACS agree to deal with any dispute (disagreement) in the following way:

1. The party who thinks there is a dispute will give the other party a written notice setting out what the dispute is about.
2. The parties will then try and resolve the dispute by negotiation within 20 business days from when the notice is given (or a longer time if the parties agree).

If the dispute is not resolved within the agreed timeframe, a party may choose to take the dispute further. One way of doing this is to make a complaint to the NSW Ombudsman (see page 9.11), or by taking the dispute to a form of alternative dispute resolution, such as mediation.

In some cases, the dispute will need to be resolved by a court. However, neither of the parties can start legal proceedings unless the alternative solutions have failed within the agreed timeframe.

This dispute resolution procedure will not apply in relation to criminal allegations, or if one of the parties is seeking an injunction. An injunction is a legal process asking a person to stop an action or behaviour that breaks the law, such as harassment or abuse.

Whether or not a dispute exists, each party must continue to meet its obligations under the DPA, unless agreed otherwise by both parties.

Liability and indemnity

Liability is a legal word for responsibility. In the context of the DPA, it means the things that we have a responsibility for, and the things that you have a responsibility for.

Under the Agreement – and to the extent permitted by the law – when you sign the DPA Letter, you agree that we have no liability in relation to you, other than to make direct payments in the way we have agreed.

This includes tort liability. Tort liability relates to your liabilities as an employer for any negligent acts of an employee, or in some cases, a self-employed person or contractor.

Otherwise our liability is limited to the maximum extent permitted by law.

When you sign the DPA Letter, you agree to indemnify FACS in relation to any claims made against us by third parties in relation to this Agreement. Third parties are the people, organisations and services that provide you with a service using your direct payments. This includes indemnifying us in relation to your use of the direct payments. This means that any claims relating to this Agreement would not be passed on to FACS.

We recommend that you seek legal advice before signing the DPA. It's important that you know what you are responsible for and what the consequences will be if something goes wrong. You can find information about seeking legal advice on page 4.3.

One option is for you to get liability and indemnity insurance which can protect you against risk in these areas. There is information about insurance on page 4.6.



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Getting help

This chapter explains where you can go for further information and additional support.

You can ask your DPA Coordinator for help	10.2
Community support	10.3

You can ask your DPA Coordinator for help

The first place to go to get help is your DPA Coordinator. If you do not know the name and contact details for your DPA Coordinator contact your local FACS office, see page 1.5 and ask for their contact details.

You may also like to contact a community organisation to see if they can support you. We've listed these organisations on the following pages.

Community support

Aboriginal Disability Network NSW

This is a network of Aboriginal people with disability, their families and carers living in NSW. Its work includes systemic advocacy, capacity building, community development, research and individual advocacy.



Phone: (02) 9519 5005



Email: enquiries@adnnsw.org.au



Website: www.adnnsw.org.au

Anti-Discrimination Board of NSW

The Board administers the anti-discrimination laws of NSW and promotes anti-discrimination and equal opportunity policies throughout NSW.



Phone: (02) 9268 5555



Email: adbcontact@agd.nsw.gov.au



Website: www.lawlink.nsw.gov.au/adb

Australian Human Rights Commission

The Commission is an independent, statutory organisation whose responsibilities include education and public awareness, dealing with discrimination and human rights complaints, human rights compliance, and policy and legislative development.

The Commission leads the implementation of the *Disability Discrimination Act 1992* (Cth), which makes disability discrimination unlawful and aims to promote equal rights, opportunity and access for people with disability.



Phone: (02) 9284 9600



Website: www.humanrights.gov.au

Australian Taxation Office

The Australian Taxation Office (ATO) can provide advice about any tax related issue. You can download publications and obtain other general tax information from the ATO website.



132 861 (personal tax enquiries)



132 866 (business tax enquiries)



131 020 (superannuation enquiries)



Website: www.ato.gov.au

Centrelink

Centrelink delivers a range of payments and services for retirees, the unemployed, families, carers, parents, people with disability, Indigenous Australians, and people from culturally and linguistically diverse backgrounds. The number listed below is for the Disability Support Pension, Mobility Allowance, Sickness Allowance, Carer Payment and Carer Allowance enquiries.



Phone: 132 717



Website: www.humanservices.gov.au

Multicultural Disability Advocacy Association of NSW (MDAA)

MDAA is the peak organisation in NSW for people from non-English speaking backgrounds with disability, their families and carers. Its role includes education and information dissemination, systemic advocacy, industry development and individual advocacy.



Phone: (02) 9891 6400



Email: mdaa@mdaa.org.au



Website: www.mdaa.org.au

National Relay Service (NRS)

The NRS is an Australia-wide telephone access service provided for people who are deaf or have a hearing or speech impairment. It is also available to anyone who wants to call a person with a hearing or speech impairment.



24 hour relay call numbers

TTY: 133 677

Speak and listen: 1300 555 727



Helpdesk

TTY: 1800 555 630

Phone: 1800 555 660

SMS: 0416 001 350



Email: helpdesk@relayservice.com.au



Website: <http://relayservice.com.au>

NSW Fair Trading

NSW Fair Trading safeguards the rights of all consumers and advises business and traders on fair and ethical practice.



Phone: 133 220



Website: www.fairtrading.nsw.gov.au

NSW Ombudsman

The NSW Ombudsman is an independent and impartial watchdog body. Its job is to make sure that the public and private sector agencies and employees it watches over fulfil their functions properly. Its role extends to people with disability and disability service providers.



Phone: (02) 9286 1000



Email: nswombo@ombo.nsw.gov.au



Website: www.ombo.nsw.gov.au

Translating and Interpreting Service (TIS) National

The TIS National interpreting service is for people who do not speak English and for the English speakers who need to communicate with them.



Phone: 131 450

(Telephone Interpreter Service, 24 hours, 7 days per week)

1300 655 082 (On-site Interpreter Enquiry Line)



Website:

www.immi.gov.au/living-in-australia/help-with-english/help_with_translating

Direct Payment Agreement Handbook