

**Aberdeenshire**  
COUNCIL



# ARE DIRECT PAYMENTS RIGHT FOR ME?



# INFORMATION BOOKLET

2009 EDITION

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## INTRODUCTION

**WELCOME** to the First edition of the Aberdeenshire Direct Payments Information Booklet. The aim of this booklet is to help you gain a greater understanding of Direct Payments and take you through the process, signposting you to helpful organisations along the way.

In addition to this booklet you can also get help and advice from your local Social Work office.

There are Support Organisations who will take you through the process of setting up a Direct Payment. There are three main areas – payroll, employment law and general support and advice.

This support is provided by Cornerstone.



**CORNERSTONE**

**ATHOLL HOUSE**

**86 – 88 GUILD STREET**

**ABERDEEN**

**AB11 6LT TEL: 01224 256053**

## WHAT IS A DIRECT PAYMENT?

A Direct Payment can be made to you for needs you or your child have. The Social Work Service gives you the money instead of providing or arranging the support for you.

You can spend the money on getting the support that best meets you or your child's needs, such as employing personal assistants (PAs) or buying in care from an agency.

You may get a Direct Payment for all your support, or for part of it. If you only want a Direct Payment for part of your support, Social Work Service will arrange services for the rest.

Receiving a Direct Payment does not affect any entitlement you have to Social Security benefits such as Income Support or Disability Living Allowance. Inland Revenue will ignore it for tax purposes.

*Direct Payments are intended to support independent living.  
Direct Payments will give you more control to arrange and  
decide how your assessed care and support will be provided.*

## CHAPTER 1:- APPLICATION PROCESS

To receive a Direct Payment from the Social Work Service your needs must first have been assessed by a Care Manager / Social Worker or Assessment Officer (Housing Support), and that assessment must indicate you are eligible for a service.

If you do not have a Care Manager / Social Worker you should contact your Local Social Work Office.

### WHAT IS THE ASSESSMENT OF NEED?

**A NEEDS ASSESSMENT** is carried out by a representative of the Social Work Service. Its purpose is to gather information about the help and support you need in everyday life. This information will usually be sought from you and where appropriate your carer and those closest to you. Where you, or your child, have significant needs that are not being met these will be entered into a support plan.

### WHAT IS THE SUPPORT PLAN?

**THE PLAN** is where we record what help and support you or your child need. It also details how we plan to meet those needs. Where you are eligible, some of the planned actions will be to provide, or arrange, practical support (services) to help you meet those needs.

## DOES SOCIAL WORK SERVICE ASSESS MY ABILITY TO MANAGE A DIRECT PAYMENT?

**YES.** If you're interested in receiving a Direct Payment and are eligible for a service, Social Work Service must then consider your capacity to manage a Direct Payment and ability to understand the responsibilities involved.

SWS will consider the following:

- ✓ **ABLE:** you must have the ability to express a preference about the way in which you wish to have your services provided.
- ✓ **WILLING:** you must agree to and understand what a Direct Payment means and the conditions attached to it.
- ✓ **CAPABLE OF MANAGING:** some of the responsibilities that Direct Payment recipients undertake. These include the day to day management of personal assistants, payment of bills, managing a bank account and making arrangements to cover for emergencies.

In all the above the Social Work Service must consider if you can manage and consent to a Direct Payment with support, and that support can be unlimited.

## CAN I RECEIVE SUPPORT TO APPLY FOR A DIRECT PAYMENT?

**YES.** Many people find it helpful to have access to advocacy support.

What advocacy can do:

- ✓ Provide independent and accurate information
- ✓ Help you work out what you want to do
- ✓ Help you make your views known or tell others for you
- ✓ Help with problems

### **NORTH EAST ADVOCACY**

Unit 2  
Dalfling Business Centre  
Inverurie  
AB51 5LA  
Tel: [01467] 651604



[advocacyne@btconnect.com](mailto:advocacyne@btconnect.com)

*An advocate is someone who can speak up on your behalf or help you speak up for yourself.*

## HOW IS A DIRECT PAYMENT COSTED?

**FOR** The principle for all Direct Payments is to provide a payment at the same cost as a directly provided service.

Some service users may have to contribute to the cost of the care.

The Direct Payment will be paid in total (gross) and you will be told if you have a contribution to make after an appropriate financial assessment has been carried out. This will not be the case in children's services.

The Direct Payment will be under your control; but it will need to go towards a number of costs.

You may decide to employ a Personal Assistant. You will have wages and other employment costs. You may decide to employ an agency. Aberdeenshire Council funds agencies to provide support for you to do this.

## DO I GET EXTRA MONEY FOR START UP COSTS?

**IF** employing staff you may be eligible to receive an extra amount of money. This is called Start up Costs. This is a one off payment to cover the initial costs associated with employing staff.

Initial costs associated with employing staff may include:

- ✓ Advertising costs
- ✓ Disclosures
- ✓ Training costs
- ✓ Employer and public liability insurance
- ✓ Indemnity Insurance
- ✓ Payroll set up costs



## WHO DECIDES IF A DIRECT PAYMENT IS TO BE MADE?

**THE PRINCIPLE** is that everyone has the right to a Direct Payment as an alternative to services which would have been directly provided, or purchased, by the Social Work Service. You should be treated no better or worse than anyone who has not received a Direct Payment.

The Social Work Service uses a number of ways to allocate its resources. Where someone is eligible for a service, and when a Direct Payment is suitable then the request for the Direct Payment to be made will be processed.

It will be the responsibility of the Social Work Representative to do this.

*Resources are allocated only to people who are eligible for a service. They are only allocated when Social Work Service has enough money.*

## CHAPTER 2: CONTRACTING WITH SOCIAL WORK SERVICE

### IS THERE A CONTRACT I MUST SIGN?

**ONCE** your Direct Payment has been approved you will be sent a letter telling you the amount of your Direct Payment and what it is for.

Social Work Service and our Support Organisation will arrange to have a meeting with you when it is convenient. At this meeting we will explain how we expect you to run the Direct Payment. When you feel comfortable that you understand everything we will both sign an agreement. The Direct Payment will then be started.



The Direct Payment agreement sets out the responsibilities and duties that both you and Social Work Service must fulfill when the Direct Payment starts. We ask that you keep a copy of the agreement, as we do, because this is a legal document.

## WHAT RESPONSIBILITIES AM I AGREEING TO TAKE ON?

**BY** signing the Direct Payments agreement form you will have agreed to do the following yourself or with help.

You have agreed to:

### ENSURE THAT YOU HAVE STAFF TO MEET YOUR NEEDS

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Whether you employ your staff directly, through an agency or have self employed staff it is your responsibility to ensure that you have staff when you need them. You must recognise that things can go wrong and prepare for this by having good back-up arrangements.

### FULFILL YOUR OBLIGATIONS TO YOUR STAFF

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If you employ a Personal Assistant you are responsible for:

- Income tax
- Employers National Insurance contributions
- Employers Liability Insurance/Public Liability Insurance/Indemnity Insurance
- Obtaining an enhanced disclosure
- Issuing Contracts of Employment
- Making it clear when Personal Assistants are required to work, and that they are treated properly with adequate breaks etc.

## AVAILABLE SUPPORT

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Aberdeenshire Council has contracted with agencies to help with payroll, employment law and general advice and support.

## KEEP SUFFICIENT FINANCIAL RECORDS

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We need to know that you are using your Direct Payment in the way that we agreed with you. You must keep proper records of all payments made and expenses incurred. At the end of March, June, September and December we will ask you to send a Direct Payment Quarterly Return to the Finance officer. We will ask you to include all invoices/receipts and bank statements. The Finance Officer at the Council may reduce the frequency of these returns after the first year if both parties agree.

If your funds accumulate and the balance is greater than 12 weeks payment we may seek repayment of this excess balance. If your Direct Payment funds seem likely to or exceed the 12 week limit please discuss with your Social Worker / Care Manager and your Finance Officer, who will take into consideration any exceptional circumstances.

You need to ensure that you have a separate Direct Payment bank account which comes with a cheque book as all payments from that account must be made by cheque or direct debit.



## WHAT RESPONSIBILITIES DOES SOCIAL WORK SERVICE HAVE?

**THE** Social Work Service must ensure that your assessed needs are being met. The help and support purchased by the Direct Payment is reviewed at regular intervals, or as and when a change occurs. If you have any concerns about the adequacy of your payment, you should contact your Care Manager/Social Worker or Assessment Officer as soon as possible.

*To summarise, you must be sure how to use your Direct Payment, how it is going to meet your needs, how you will pay for this and how you will keep financial records.*

## CHAPTER 3: HOW TO GET A PERSONAL ASSISTANT

**YOU** can secure the services of a Personal Assistant in different ways.

### EMPLOY YOUR OWN STAFF

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You can become an employer taking on the responsibilities of employing and paying your own staff.

Aberdeenshire Council has contracted with agencies to provide you with support. If you choose to do payroll yourself the Inland Revenue can send you software to do it on your computer.

### AGENCY

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If you decide to use an agency you can use any agency that best meets your needs. That means an agency who will provide staff to do what we have agreed you need, at the times you need and at the price that we have set.



Many Direct Payment users like to use agencies as they have their own payroll service, Public and Employer Liability Insurance, fully disclosed staff and also back up staff when needed. The agency will invoice you for the care you have contracted them to provide. Aberdeenshire Council sets a maximum agency rate. If you buy from a more expensive provider you will either have to pay the difference yourself or buy less hours than originally assessed for.

The Care commission ensures that agencies behave responsibly. Many Direct Payment users find this gives them peace of mind.

#### CONTRACTING WITH SELF-EMPLOYED PERSONAL ASSISTANTS

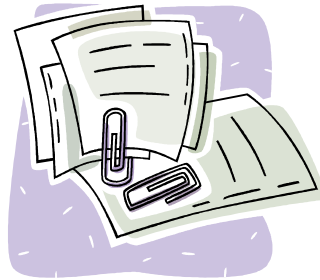
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If you contract with a self-employed person you must make sure that they **are** self employed before they begin to work for you. You can read about the rules in IR56 “employed or self employed”. You can get this from your local Tax Office.

If you do take on a Personal Assistant who is self-employed, you must retain copies of the following documents as proof of their status:

- ✓ Self assessment registration number
- ✓ Documentation from the Inland Revenue saying that they are self-employed for care work
- ✓ A completed Enhanced Disclosure form (the cost of this must be borne by the self employed worker)
- ✓ Copy of their Public Liability Insurance
- ✓ Birth Certificate or Passport as evidence they are permitted to work in the UK

Self employed Personal Assistants set their own terms and conditions such as wage, hours of work and the duties they will perform in a contract. From this you can then decide whether or not to ask them to work with you. The contract is between you and the Personal Assistant and details of wage, working hours and conditions are agreed between you.



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*Remember that Self employed PAs do not get holiday or sick pay.*

## WHERE WOULD I FIND MY PERSONAL ASSISTANT?

### WORD OF MOUTH

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Probably the best way to employ a Personal Assistant is through word of mouth as it is often on recommendation from someone you know and trust.

### NEWSPAPERS

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The cost of placing an advert will vary but the cost is included in start up payments. All adverts should include some important details, job title, location, hours, wage, brief description of the job and how to apply. The Support Agency can help you with this. They can give you a standard advert which can be changed for your needs.

### JOBCENTRE PLUS

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Placing a vacancy / advert in Jobcentre Plus is free. You can use a service called Employer Direct. It deals specifically with employers who wish to place vacancies either on-line or over the phone. Jobcentre Plus will also send out application forms, sift applicants and arrange for interview premises if you need them.

### LOCAL SHOPS

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Many shops have customer adverts. A small fee may be charged but it will target local people. These adverts will be similar to the newspaper advert, concise with contact details included.

## HOW WOULD I EMPLOY MY PERSONAL ASSISTANTS?

Support can be provided by our support agency to help you throughout this process.

### JOB DESCRIPTION

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Before placing an advert it's vital that you have prepared a job description prepared. A job description allows potential employees to know about the duties that will be required of them when deciding to apply for the job.

Essential points to cover in any job description are:

- ✓ Job title
- ✓ Employer
- ✓ Where the job is based
- ✓ Hours of work including any irregular hours
- ✓ Who the Personal Assistant will be caring for
- ✓ What duties the job entails
- ✓ What qualities the person will need to possess
- ✓ What qualifications the person will need to have

### APPLICATION FORM

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Application forms enable you to ask potential Personal Assistants a set of questions enabling you to screen unsuitable applicants and set aside more qualified ones to interview. Normally the application form is sent to the potential Personal Assistants with the job description.

## THE INTERVIEW

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A normal interview will run for about half an hour depending on what is asked and will start with information on the job detailing the wage, hours and duties involved.

You should think about where you want to hold the interview and who, if anyone, you would like present and their role during the interview. For example a family friend or advocate may not only provide moral support but can take notes or deal with any interruptions to the interview.

It's valuable to remember that the applicant may also have questions, so allow time either during or at the end of the interview for these.



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*An important tip is to make sure that all interviewees are asked the same questions so you can compare their answers fully.*

## CAN I EMPLOY A RELATIVE?

**NO**, other than in exceptional circumstances relatives are not to be employed as personal assistants irrespective of where they live.

## WHAT SAFETY PRECAUTIONS SHOULD I TAKE?

**YOU** cannot be completely protected when employing staff. There is always some element of risk but using some straightforward measures can reduce these.

## ADDRESS AND TELEPHONE NUMBERS

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When placing an advert in Jobcentre Plus it's possible to ask that your address and telephone number not be disclosed. Jobcentre Plus will also hold and collect application forms that they will forward onto you. If using the press, a box number can be used.

## REFERENCES

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You should always ask for two references and always take them up.

## SECOND INTERVIEW

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It's acceptable to ask a prospective employee to attend a second interview at which you can undertake some practical tasks and spend more relaxed time with them.

## TRIAL / PROBATIONARY PERIOD

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It can be a good idea to engage the applicant for an initial period e.g. three months. During this time you can decide if the person is right for job.

## ENHANCED DISCLOSURE

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An Enhanced Disclosure must be completed for all Personal Assistants employed through a Direct Payment regardless if they already work in the care sector, or have recently completed one for another post. A Personal Assistant cannot start work under the Aberdeenshire Direct Payments Scheme without this being done.

Our Support Organisation will help obtain an enhanced disclosure. You must contact the Support Organisation with your contact details and your potential employee's name. The Support Organisation will send you out the disclosure form to be completed by your potential Personal Assistant. A minimum of three forms of identification one of which should be photographic and including an original Birth Certificate will need to be verified by the Support Organisation. Therefore the potential employee must arrange a suitable date to meet with the Support Organisation bringing their identification, Birth Certificate and completed disclosure form. The Support Organisation will verify the identification and you will be informed of the Enhanced Disclosure result.

## WHAT WOULD MY EMPLOYER RESPONSIBILITIES BE?

### EMPLOYER / PUBLIC LIABILITY

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When you become an employer it is essential that you have appropriate insurance. You must insure yourself against claims in the event of your employee having an accident.

You are advised to have the following types of cover:

**1. EMPLOYERS LIABILITY:** This covers you against claims if a Personal Assistant is injured whilst working for you. This type of policy is a legal requirement.

**2. PUBLIC LIABILITY:** This covers you against claims from a third party in the event of a Personal Assistant damaging someone else's property while working for you. It's strongly recommended that you obtain this type of policy also.



Several Companies offer Employers and Public Liability. Details are found at the back of this booklet.

### 3. INDEMNITY INSURANCE:

Our Support Organisation will advise on how you can insure against employment and contractual disputes.

Aberdeenshire Council will pay the cost of insurance cover.

#### PRIVATE PAYROLL SERVICE

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As an employer you are responsible for ensuring that Income Tax and Employer National Insurance Contributions are deducted from your employees wage and paid to the appropriate bodies.

Some employers will wish to do handle all of this work themselves but usually people do not want to deal with the tax and national insurance. You can engage a private payroll service to handle the payroll. Aberdeenshire Council now has an approved payroll list. You can choose any company on this list. Aberdeenshire Council will fund this. You will find details of these payroll companies on page 29.

Private payroll services ensure that your Personal Assistants tax and national insurance are deducted and therefore you and your Personal Assistant are safeguarded against demands from the Inland Revenue (IR).



## WRITTEN STATEMENT OF EMPLOYMENT

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A Written Statement of Employment is a legally binding agreement between you and your employee when they agree to work for you in return for pay.

You are required by law to give your employees a written statement within two months of them starting their employment – ideally on their first day. You may provide the written statement in the form of a letter of engagement and / or a written contract. Advice and support will be provided.

## CHAPTER 4: DIRECT PAYMENT MONITORING AND REVIEWING

### WILL MY DIRECT PAYMENT BE FINANCIALLY MONITORED?

**YES.** You must complete a Direct Payments Quarterly Return every three months.

You must complete the form provided including the total income from your Direct Payment, any personal contribution you have to pay and interest (if applicable). The total expenditure on care and other costs is subtracted and the balance carried forward.

Original monthly bank statements for the periods must be included, along with all original paperwork relating to transactions, such as pay slip summaries, invoices from agency providers and all receipts.

The return will be checked and filed by the Finance Officer and if no problems arise, a copy will be returned to you along with your original documents.

The frequency of these returns may be reduced after the first year if you agree this with the Finance Officer at the Council.

*You must keep proper financial records of all transactions relating to the Direct Payment account in line with current IR requirements if directly employing your own staff. These must be kept for six years.*

## HOW OFTEN WILL MY DIRECT PAYMENT BE REVIEWED?

The Care Manager/Social Worker/Housing Support Officer is responsible for reviewing the services purchased with your Direct Payment. The aim is to check that the needs and outcomes identified in your Care Plan are still being met and that the quality of the service is adequate.

When a Direct Payment is first set up, the first review will be after six weeks. Reviews will then be six monthly or annually when requested by either Social Work Service, you or your representatives. If a problem arises you can ask for one sooner.



Following a review, the amount of the Direct Payment may need to be increased or decreased.

## CHAPTER 5: STOPPING A DIRECT PAYMENT

### HOW AND WHEN CAN MY DIRECT PAYMENT BE STOPPED?

**YOU** can decide to stop your Direct Payment at any time so long as you inform Social Work Services, in writing, with at least eight weeks advance notice. Social Work Services can stop a Direct Payment either immediately or with eight weeks notice, depending on your circumstances, although we understand you will have to comply with employment law in terms of redundancies etc.

Examples of such circumstances include:

- ✓ Where you are placing yourself at an unacceptable risk, e.g. you are unable to employ or purchase sufficient care to meet you, or your child's, needs.
- ✓ Where you use the Direct Payment for a purpose other than meeting your, or your child's, assessed needs, without the agreement of Social Work Service.
- ✓ Where you are no longer able to manage your Direct Payment or care arrangements and no one else, who is deemed appropriate by Social Work Service, is available to carry this out on your behalf.

Arrangements will be made for care services to be provided directly by Social Work Service when a Direct Payment is stopped.

## USEFUL CONTACTS

### LIST

#### SUPPORT ORGANISATION

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Cornerstone

Atholl House

86 – 88 Guild Street

Aberdeen AB11 6LT

[www.cornerstone.org.uk](http://www.cornerstone.org.uk)

#### INSURANCE PROVIDERS

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Information available from Cornerstone.

#### EMPLOYMENT LAW SUPPORT

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Peninsula Business Services Limited

Riverside

New Bailey Street

Manchester

M3 5PB

24 hour advice line number: 0844 8922772

#### PAYROLL COMPANIES

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1. Accountability

Nautilus House

Durham Road

Birtley

County Durham DH3 2PA

Tel: 0191 4109178 or 0191 4921222

Email: [payroll@accability.com](mailto:payroll@accability.com) or [mark@accability.com](mailto:mark@accability.com)

2. Direct Payments Caledonia  
Drumdevan Cottage  
Torbreck  
Inverness IV2 6DJ  
Tel: 01463 224740  
[www.dpcaledonia.org.uk](http://www.dpcaledonia.org.uk) / [cm@dpcaledonia.org.uk](mailto:cm@dpcaledonia.org.uk)
  
3. Johnston Carmichael Business Services Limited  
Commerce House  
South Street  
Elgin IV30 1JE  
Tel: 01343 542202  
Email: [Fiona.Robertson@jcbsl.co.uk](mailto:Fiona.Robertson@jcbsl.co.uk)
  
4. Nicolson Accountancy  
49/50 Bayhead  
Stornoway  
Western Isles HS1 2DZ  
Tel: 01851 700362  
Email: [angus@payrollscotland.co.uk](mailto:angus@payrollscotland.co.uk)
  
5. The Scottish Training Foundation  
Bristol & West House  
82 Union Street  
Glasgow G1 3QS  
Tel: 0141 572 4328  
Email: [andrew\\_weir2@btconnect.com](mailto:andrew_weir2@btconnect.com)

## INLAND REVENUE

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**NEW EMPLOYER HELPLINE** can help with a range of questions about being an employer and issue an employer starter pack.

Tel: 08459 154515 : [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

**HELPLINE FOR NEWLY SELF-EMPLOYED** persons enables the self employed to register for National Insurance, Tax and VAT

Tel: 08459 54515 : [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

## THE ADVISORY CONCILIATION AND ARBITRATION SERVICE (ACAS)

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Provide information services for employers on a wide range of employment matters, through its public enquiry points (listed under ACAS in local telephone directories). ACAS also provides a number of helpful publications and have a very useful website.

Tel: 020 739 65100 : [www.acas.org.uk](http://www.acas.org.uk)

## THE DEPARTMENT OF TRADE AND INDUSTRY (DTI)

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Produce a number of fact sheets aimed at small employers, which give a basic introduction to some aspects of employment law, including fair and unfair dismissal, maternity rights, itemised pay and written statements of employment terms. Again they have an excellent website that gives very useful information.

Tel: 0870 150 2500 : [www.dti.gov.uk](http://www.dti.gov.uk)

## ADVOCACY NORTH EAST

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*“Advocacy is about speaking up for and with people who are not being heard, helping them express their views”*

Unit 2

Dalfling Business Centre

Inverurie

AB51 5LA

Tel: [01467] 651604

[advocacyne@btconnect.com](mailto:advocacyne@btconnect.com)



## VSA

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VSA is a source of advocacy for carers and also a good source of information and advice.

VSA

24 – 28 Belmont Street

Aberdeen

AB10 1JH

Tel: 01224 646677