



**WOKINGHAM  
BOROUGH COUNCIL**

**Policy and Practice Guidance  
for Direct Payments (Adult  
Social Care & Disabled  
Children's Short Break Services)**

Public

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## Purpose

To set Wokingham Borough Council's (WBC) policy and practice in relation to decision-making and operation of Direct Payments.

## Scope

This document explains how WBC adheres to relevant legislation and provides guidance and instructions for all staff on how to offer and set up Direct Payments.

## Roles as they relate to Direct Payments

### Assessment (Statutory) Service:

Where customers are eligible for social care funded services under relevant criteria, a Self-Directed Assessment is completed with the individual and their carer. This is to identify needs which are then evaluated against the Eligibility Criteria. From this exercise the Resource Allocation is determined, and the Council confirms to meet the need and a Personal Budget is notified to the Customer. The Assessment service is ultimately responsible for authorisation of care or support plans and expenditure via the delegated budget holders.

### Assessors/social care practitioners and Support Service:

Assessors/social care practitioners work with customers to decide what support they need to meet their Social Care agreed outcomes and how to spend their Personal Budget to achieve this. Assessors/social care practitioners are responsible for providing initial advice and discussing the option of Direct Payments with the Customer/Third Party/Authorised Person including their roles, responsibilities, and initial advice on recruitment, and identifying a suitable person for nominating for help to manage. They are not able to provide advice on Employment Law.

### Direct Payments and Payments Team:

This Team is responsible for setting up, suspending, and stopping of Direct Payments and undertaking a financial risk assessment. Other responsibilities include preparing the relevant Direct Payment agreement and the on-going financial monitoring of Direct Payments in line with the authorised and agreed care or support plan.

The team specialist(s) can support and prepare customers, Authorised Persons, nominated helpers, and staff using the Direct Payments Process by making them aware of their roles and responsibilities when using a Direct Payment.

### Financial Assessment Team:

Complete financial assessments for services to work out how much a customer should pay towards their Direct Payment and offer benefit advice if necessary.

## PROCEDURE

### 1. Introduction

1.1 Direct payments are monetary payments made to individuals who request to receive one

to meet some or all their eligible care and support needs (or the needs of a person for whom they will act as Authorised Person). The legislative context for Direct Payments is set out in sections 30-33 of the Care Act, Section 117(2C) of the Mental Health Act 1983 (the 1983 Act)

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and the Care and Support (Direct Payments) Regulations 2014. Further detail is provided in Chapters 10 to 12 of the 'Care and support statutory guidance' (Department of Health, 2017) and The Care and Support (Direct Payments) Regulations 2014. The legal framework for short breaks for children and their carers is found in the Children Act and Regulations from 2011 on Breaks for Carers. [The Breaks for Carers of Disabled Children Regulations 2011 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

1.2 Direct Payments enable people to have greater choice, control, and flexibility as to how their support needs are met.

1.3 This Direct Payments procedure for a Personal Budget is integral to the Social Care Pathway and is not designed to cover every eventuality. A direct payment is not necessarily appropriate to meet needs in all situations or for all customers. Where further advice or guidance is required your line manager, or the relevant Direct Payments Officer should be consulted.

1.4 Direct Payments is money paid to customers by WBC to enable them to purchase the support that will help them achieve the statutory outcomes (enabling them to achieve across the eligibility domains or otherwise reducing the impact on wellbeing or inability to achieve, to less than significant impact) and their own desired outcomes arising from their eligible needs.

1.5 Direct Payments can be a regular amount of money, a one-off payment, or an irregular payment according to the needs they are intended to fund.

1.6 A customer can have a mixture of Direct Payments and Council arranged services. For example, a person may wish WBC to arrange their homecare but would like to access alternative day opportunities via a Direct Payment.

1.7. A customer who wishes to spend their Direct Payment on something other than what is in their support plan, must contact social care to confirm that it is an acceptable spend.

1.8. WBC is not obliged to give a Direct Payment to all customers. If there is a reason why a customer, who would like to have a Direct Payment, is not eligible, this needs to be noted on their file and a letter sent to them to advise why they are not eligible for the Direct Payment at this time.

1.9. Discretionary payment to informal carers for complex administration only in exceptional circumstances at the discretion of the budget manager approval.

## **2. Who can receive Direct Payments**

2.1 To reflect the government's expectation that Direct Payments should be encouraged, – Assessors/Assessors/social care practitioners will offer Direct Payments as a way to manage their Personal Budget at every assessment and review. A person cannot receive a Personal Budget (and therefore a Direct Payment) unless they meet the eligibility criteria for assistance from WBC under s18/19/20 of the Care Act (more about eligibility is on our website).

2.2 Direct Payments can be offered to:

- I. A customer with eligible needs who has capacity to request that they receive Direct Payments. Customers may choose to nominate a third party to assist them with the management of funds and the obligations that go with a Direct Payment
- II. An Authorised Person where a customer has been assessed as lacking capacity to

request the receipt of Direct Payments

- III. A carer who wishes to purchase services they have been assessed as needing to support them in their caring role, including maintaining their own health and well-being
- IV. Children otherwise eligible for children's social care services in accordance with relevant legislation such as the Children Act 1989, Chronically Sick and Disabled Persons Act 1970, Children and Families Act 2014 and guidance.

### **3. Who cannot receive Direct Payments**

3.1 Whilst most people are eligible to receive Direct Payments there are some exceptions:

- I. An offender on a drug- or alcohol-related community order or suspended sentence
- II. An offender on a drug-related rehabilitation order
- III. An offender released from prison on license with a non-standard drug- or alcohol-related condition or subject to a drug-testing regime
- IV. A person subject to a court order for a drug or alcohol appointment or treatment program or similar scheme.
- V. A person with drug or alcohol dependency, unless identified as appropriate with a risk assessment to meet eligible needs.
- VI. A person who is in debt to the Council, unless WBC are satisfied that the person has a set plan to pay back the debt and is able to manage the Direct Payment with support where necessary
- VII. A person who has previously mismanaged a Direct Payment.

### **4. Refusal of Direct Payments**

4.1 Anyone who is refused an offer of Direct Payments has the right to receive a reasoned decision so that they can ask for the decision to be reviewed by way of management reconsideration. If still refused after a management reconsideration, the person could either complain using the complaints procedure with the help of a Care Act advocate ([Advocates - someone to speak on your behalf - Wokingham Borough Council](#)) if entitlement to one has been triggered for care planning purposes, make a referral to the Monitoring Officer, or use judicial review. More detail is available on our website.

4.2 Any refusal to offer a Direct Payment must be given to the customer/nominated helper/Third Party/ Authorised Person in writing. This should set out which of the conditions have not been met, the reasons as to why they are regarded as not having been met, and what the person may need to do in the future to obtain a positive decision. The decision should be recorded in the relevant social care electronic information system and the identity of the person who made that decision must be available to the above.

4.3 If it is determined that a Direct Payment cannot or should not be made, arrangements must still be made to meet any eligible needs as appropriate.

4.4 People have the right to withdraw their request to receive Direct Payments at any time.

## 5. Types of Direct Payments and how they can be used

There are two different types of Direct Payments:

### 1. One-Off Direct Payments:

A single payment made to the recipient to purchase one-off services or product to meet an eligible need.

### 2. On-Going Direct Payments:

On-going Direct Payments are paid monthly in advance, once the customer contribution has been deducted other than exceptionally as to which see section 12 below. These monthly payments are designed to enable a customer to purchase the care services required on a monthly basis. There could be circumstances agreed in the care or support plan where one-off additional amounts are paid in advance or irregular payments are made for specific outcomes.

## 6. Direct Payments are not permitted to be used for:

### 6.1

- Long term residential/nursing care in a registered environment
- Medicines, alcohol, or tobacco products such as wine, beer, and cigarettes
- The purchase or subsidising of household items and daily living costs: utility bills, household maintenance, food and drink, day to day clothing unless these are specifically identified in your support plan or eligibility letter; <sup>1</sup>
- Gambling - such as horse racing, bingo, or lottery
- Participating in or promoting illegal activities
- Equipment that will be provided by the NHS to a suitable standard for the appropriate meeting of assessed need
- As a substitute for a Disabled Facilities Grant. A one-off payment can be considered for adaptations that are not eligible via a Disabled Facilities Grant.
- To meet the needs of other individuals who are not in the care or support plan.
- To enter into a Hire Purchase Agreement or Loan, which attracts interest payable by the Local Authority and can confuse ownership
- To gain a profit from any activity, which has been paid for using Direct Payments
- To purchase services provided by a local authority, for example transport, or Council commissioned block arrangements
- Payment to spouse, civil partner, or other specified close family members as specified in the regulations, where the latter relatives are living in the same household unless specifically agreed by WBC as necessary (see below).
- To pay for the services of anyone without any right to live and work in this country
- To meet the needs of any person not named in your care or support plan or eligibility letter (other than in the case of a child obtaining benefit from funding to support an eligible adult's ability to achieve the outcome of caring for a child);
- Any activity which WBC deem to be unsafe even after careful assessment and the application of mitigating adjustments (refer to the 'Positive Risk Enablement Plan')
- To supplement or pay for housing costs for example rent, mortgage, council tax.

6.2 Direct Payments may not be used to employ services directly from the people, listed below, unless it is considered vital to the customer's wellbeing and the needs cannot be met in any other way. In individual cases where it can clearly be demonstrated that proceeding in this way will achieve the best outcomes for the customer, discretion may be exercised. If it is considered necessary that a person be permitted to employ someone listed below using Direct



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Payments, an Allocated Worker must obtain authorisation from a Senior Operational Manager (Statutory Services).

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<sup>1</sup> Items associated with activities a person might arrange as part of their support are considered specialist, not day to day. For instance, if undertaking a new hobby or sport that requires specific clothing, the personal budget could be used for this.

- The spouse or civil partner of the customer
- A person who lives with the customer as if their spouse or civil partner
- A person living in the same household who is the customers –
  - parent or parent-in-law
  - son or daughter
  - son in law or daughter in law
  - stepson or stepdaughter
  - brother or sister
  - aunt or uncle
  - grandparent
- The spouse or civil partner of any person specified above who lives in the same household as the customer
- A person who lives with any of the people specified above as if they were that person's spouse or civil partner.
- Direct Payments allowing payment to above members to provide management and/or administrative support to the direct payment holder are permitted but must also be approved by the Senior Operational Manager.

## 7. Mental Capacity – Requesting Direct Payments

7.1 There should be a presumption of capacity to request and to receive the payments, regarding the essence of the consequences of using one's budget in this way. However, if there is any professional doubt as to a customer's capacity to request Direct Payments, in lieu of WBC commissioning to meet ones need as per the care or support plan, a mental capacity assessment about this specific issue must be completed – see section 8 below.

7.2 To request Direct Payments a customer must be able to understand the principle that WBC will not be making arrangements to purchase the care or support they are assessed as needing but will instead be providing him or her with money to purchase that care or support.

7.3 Requesting Direct Payments should not be confused with the ability to manage the finances. A customer may be able to understand the principles of Direct Payments and being their own commissioner but require assistance to manage the money and the making of those arrangements.

7.4 Where a person is able to request Direct Payments, they may choose to nominate a Third Party. This person is nominated to assist with the on-going management of Direct Payments. It could be a person or a company. The assistance given can vary according to

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the customer's wishes and needs. A Third Party could potentially manage all of the finances and obligations arising from the means chosen to meet needs or offer occasional support. There are Money Management Services available (refer to DP team for details) but a person does not have to choose one of those.

7.5 To ensure that the Third Party is fit to manage the roles and responsibilities of helping someone to manage a Direct Payment they will have to be regarded by WBC as capable and appropriate and be willing to sign the Direct Payment Agreement as well as the customer. This will be discussed by the Allocated worker and monitored by the Direct Payment Team.

## **8. Mental Capacity – Unable to Request Direct Payments**

8.1 If a customer has been assessed as lacking the capacity to request Direct Payments there should be a best interest meeting to consider the advantages and disadvantages of a commissioned service in comparison to a Direct Payment. Where it is determined that a Direct Payment may be in the best interest of the individual, an Authorised Person who can receive Direct Payments for their benefit should be identified. A person putting themselves forward as appropriate for that role must be considered in accordance with the rules in the regulations.

### **A suitable Authorised Person could be:**

A statutory agent (any person who is a court appointed deputy or holds Lasting Power of Attorney (LPA) or an EPA with authority for securing care services) who is willing to receive Direct Payments in their own name.

Or

Anyone WBC regards as a suitable person to whom to make direct payments, having complied with s32(4) of the Care Act regarding discussion with any deputy or attorney as to the candidate's suitability.

WBC will consider a family member or friend who is currently involved in the provision of care for the Customer and is known to them.

Any person wishing to act as an Authorised Person who is not the Customer's legal representative (LPA/EPA/Deputy) must have a Disclosure and Barring Service (DBS) carried out prior to any assessment of suitability. It is the responsibility of the Direct Payments Team to arrange this. This service is paid for by Wokingham Borough Council.

8.2. The Assessors/social care practitioners must be satisfied that the choice of an Authorised Person is appropriate, and that the arrangement is in the best interests of the person lacking capacity and must obtain the authorisation from a Senior Operations Manager (Statutory Services).

8.3 Before making a Direct Payment for someone lacking capacity, the Allocated worker must first obtain the request and consent of the Authorised Person who will receive the Direct Payment for the benefit of the person lacking capacity. In addition, if the person lacking capacity has a Lasting Power of Attorney, Enduring Power of Attorney or a Deputy appointed by the Court of Protection the Allocated worker must obtain their consent to the appointment of the Authorised Person for the receipt of Direct Payments.

8.4 Before agreeing to make a Direct Payment to an Authorised Person the Allocated worker

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(a) so far as is reasonably practicable and appropriate, consult and take into account the views of—

- (i) anyone named by the adult as someone to be consulted on the matter of whether direct payments should be made to the authorised person;
- (ii) anyone engaged in caring for the adult or interested in the adult's welfare; and
- (iii) any person who is authorised under the Mental Capacity Act 2005 to make decisions about the adult's needs for care and support; and

(b) so far as is reasonably ascertainable, consider—

- (i) the adult's past and present wishes and feelings (and, in particular, any relevant written statement made by the adult when the adult had capacity to request the local authority to meet his or her needs by making direct payments);
- (ii) the beliefs and values that would be likely to influence the adult's decision if the adult had such capacity; and
- (iii) other relevant factors that the adult would be likely to consider if he or she were able to do so

8.5 An Authorised Person will not be permitted by WBC to receive Direct Payments in order to pay themselves to provide care under any circumstances. If WBC is willing to take a proportionate attitude to risk, because the nominee's role is merely to help the person in whose name the Direct Payment will have been made, to manage the employment or engagement of that other Third Party, not to BE the employer/contractor

8.6 Where a customer is unable to request Direct Payments and no appropriate Authorised Person is identified no Direct Payments can be made.

## 9. Safeguarding

### Working with vulnerable adults or children

9.1 It is a requirement in law, and a condition of receiving a Direct Payment from WBC, that anyone working with or around children has an enhanced Disclosure and Barring Service (DBS) check.

Although it is not a legal requirement for vulnerable adults, it is considered to be best practice for this to be done as part of safe recruitment and recommended by WBC.

9.2. If the intending Employer/Authorised Person/PA/carer refuses a DBS check, they must either be accredited by the Support with Confidence Scheme or they must complete a DBS Refusal Document (Appendix 5). The Employer/Authorised Person must sign to signify that they are aware of and accept the risk of no DBS check been carried out. The Assessors/social care practitioners then must carry out a risk assessment before any Direct Payment is made. If the person has already been recently screened by WBC or another Local Authority and is still employed in that type of service, then there is no need to repeat the process.

**All recommended / required DBS checks are paid for by WBC outside of the person's Personal Budget.**

**NOTE:** Where Children are in the home a Direct Payment will only be made to pay a CQC registered provider until such times as all the DBS checks are completed.

9.3 In cases where the recommendation is taken up, or where a Child is in the home, if the response to the DBS check indicates the proposed employee has a criminal record, the Allocated worker must discuss the case with their Operational Manager and the Customer or their representative. Consideration must be given as to whether the offences are relevant to

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the Customer/Child's welfare i.e., a Schedule 1 offence – violence, aggression, drug-related. If they are relevant, a risk assessment would need to be undertaken with the Customer/Child or other vulnerable people in the home. Any further identified safeguarding risks should be referred through the Children's or Adults' Safeguarding Procedures.

9.4 The authority must be satisfied that the proposed care to be purchased is consistent with and proportionate to the need to safeguard and promote the welfare of the Customer/Children. If there is an identified significant risk of abuse then it would not be possible to make or continue with Direct Payments: a condition that the named person is to not be used could be applied, and this should be notified to the Customer/Authorised Person to ensure they have an opportunity to consider their options. It is the responsibility of the Customer/Authorised Person/Third Party to advise the Direct Payments Team of any new employees under conditions permitted by the Regulations in all Direct Payments granted so that DBS issues can be considered. This can take 3 – 4 weeks to process and therefore early notification of new employees is in the best interest of all concerned.

### **Obtaining a Disclosure and Barring Service disclosure**

9.5 WBC will offer to carry out a DBS Check on all Personal Assistants and carers to be employed by the recipient of a Direct Payment - unless this has been done through the Support with Confidence Scheme.

9.6 If the person receiving the service indicates that they do not wish their proposed PA/carers to undergo a DBS check then they must complete a refusal document (Appendix 5) and a risk assessment must be carried out by the Allocated worker and recorded on Mosaic/EDRMS. In some instances, it is acknowledged that this could be due to a family member being a preferred employee.

9.7 If the potential employee refuses a DBS check, this must be clearly recorded, and a risk assessment should be undertaken ('Positive Risk Enablement Plan'). The Customer should be advised not to employ this person. If in light of anything known or following its own investigations or a risk assessment the Allocated worker, consider there to be a high-risk element then WBC will consider using its power to make conditions against the use of this named person and will do so unless this follow-up indicates the service can still be provided by the person concerned without risk to the welfare and wellbeing of the Direct Payments user.

9.8 Before a DBS check is carried out the potential employee must give their consent to a DBS check to the Customer/Authorised Person.

9.9 Where a DBS check is to be carried out, the Direct Payments Officer will arrange for the potential employee to be sent an appropriate form which should be completed. Upon completion the potential employee needs to contact the Direct Payments Team to make an appointment for the purpose of having their identity and documents verified. Once this is done and the form countersigned it will be sent to Employee Services for further action.

9.10 Where WBC acts as an umbrella body for processing a check for a customer wanting a direct payment, the response from DBS will be sent to both WBC and the potential employee of the check (the checks normally take 3 to 4 weeks).

9.11 Because of Data Protection considerations, WBC cannot share full information with the Direct Payments user.

9.12 We are able to advise when the disclosure is returned and whether the status is clear or unclear. In the event of an unclear status the Customer should contact their employee for full details of their DBS disclosure.

***Note that a DBS check is only valid for 6 months to 3 years***

### Adult and Child Protection Procedures

9.13 In any situation where it appears that a vulnerable adult or a child is at risk from, or subject to, abuse by a person employed through Direct Payments the relevant Safeguarding (Adult or Child protection) procedures will be followed in accordance with Making Safeguarding Personal, even though the victim may be the employer of the individual presenting the risk/abuse. This also applies where any relative or carer of the customer suspect that the person receiving the service may be subject to any form of abuse by a person providing a service to them. Further information on adult safeguarding is available on our website. See also Berkshire Child Protection Procedures and Adult Safeguarding procedures' in the Safeguarding Adults category.

### Other criminal/abusive behaviour

9.14 If we become aware of behaviour which appears to be criminal or abusive, we will take appropriate action, including liaising with the police or other statutory agencies, regardless of the decision about terminating the employment relationship being for the employer. We will also notify the customer in writing of our concerns and make arrangements for advice /support /training /assistance to address the issue.

9.15 Where a customer who chooses not to accept or put into practice the advice /training, etc. provided, the Allocated worker will review the situation taking into consideration the person's capacity in choosing to decline to accept or put into practice the advice/training. A review of the deployment route for the eligible person's budget will need to be completed and a decision made on what action to take. It may be that WBC decides that Direct Payments are not an appropriate way to meet the needs, in view of the circumstances, despite support and guidance, and that WBC after due consideration of all relevant circumstances, article 8 of the European Convention on Human Rights, and the Mental Capacity Act, needs to apply a condition that a named person no longer be used, after which, a Customer/Authorised Person may no longer be able to receive their budget in this form in such cases the Allocated worker would arrange directly provided services to meet the assessed needs of the person – refer to the 'Positive Risk Enablement Plan'.

### Summary

9.16 By agreeing to receive a Direct Payment a Customer/Authorised Person also agrees to be responsible for the arrangements for meeting the eligible needs and outcomes to which the

Direct Payment relates the Customer (where necessary) through any nominated Third-Party helper assisting the Customer to manage the payment/Authorised Person receiving it is responsible for ensuring that the cared for person receives services to meet the needs as recorded in their care/support plan and records are kept to demonstrate the proper use of the money.

9.17 The Allocated worker must ensure that the Customer/Authorised Person receives a copy of the Assessment and care/support plan, together with anyone else who the Customer or Authorised Person with a registered Lasting Welfare Power of Attorney or welfare deputyship, consents to being provided with one.

9.18 The Direct Payment Team together with the Allocated worker are responsible for ensuring that the Customer/Authorised Person receives a copy of their Direct Payment Agreement in the correct form and that prior to signing it they fully understand their responsibilities with regards to holding or supporting the holder to manage a Direct Payment.

**Note: No Direct Payment can be made without the Direct Payment Agreement being signed by the Customer (in person or through any nominated Third Party assisting the Customer to manage the payment /Authorised Person receiving it)**

## **10. Health and Safety**

10.1 If a person contracts with an agency for all or part of their service to meet their needs, then the agency is responsible for safeguarding the health and safety of any staff it sends into a person's home.

10.2 Where a Customer/Authorised Person employs staff as housekeepers, some health and safety laws do not apply. There is no definition of that concept and therefore no certainty as to whether a Personal Assistant providing personal care would count as excluded or included by the impression of the role being more than housework. However, Customers will still have a "duty of care" by virtue of the role to act responsibly in safeguarding the health and safety of people employed to assist them or invited to come into their homes. A Risk Assessment should be completed (Appendix 6). WBC is able to arrange advice on good practice if requested. This will include safe working practices, the physical environment, routines, machines, materials/substances to be used, animals (if present), hygiene, moving and handling (including back-care and posture) and assessing and responding to hazards/risks.

10.3 Where a customer (in person or through any nominated Third Party assisting the Customer to manage the payment /Authorised Person) appears to be responsible for using staff in unsafe working practices e.g., dangerous lifting, the Allocated worker must notify the Customer/ Suitable Authorised Person in writing of these concerns and make arrangements for advice, support, training, or assistance to address the issue. The Health and Safety Executive may also be contacted if the situation merits this.

10.4 Where a customer (in person or through any nominated Third Party assisting the Customer to manage the payment /Authorised Person) chooses not to accept or put into practice the advice, training, etc. provided, the Allocated worker must review the assessment and care/support plan and decide what action to take. WBC will not allow public money to be used in an unsafe manner; it will offer support and guidance but ultimately review the deployment route and consider applying a condition, after which if there is still no agreement and after further consideration of the Mental Capacity Act, a decision may be made to terminate direct payments. In these circumstances services would be arranged for the customer directly by WBC. However, where this does not resolve the issues and services cannot safely be provided directly by WBC, due to a position taken by the Customer (in person or through any nominated Third Party assisting the Customer to manage the payment /Authorised Person) a decision may be required as to the circumstances in which directly provided services might be withdrawn – refer to the 'Positive Risk Enablement Plan'.

## **11. Self-Directed Care/Support Assessment/Care/Support Plan**

11.1 The first Self-Directed Assessment should be carried out by the Assessment Service in accordance with WBC Social Care Pathway and eligibility with a referral made to the Financial Assessment Team for a Financial Assessment (when services are chargeable).

11.2 Except in the case where the Customer would be ineligible under Schedule 1 of the Direct Payment Regulations, assessors/social care practitioners must discuss the options of Direct Payments with customers in assisting them in choosing their preferred options for managing their Personal Budget. There may also be occasions when assessors will need to provide such advice, e.g., in the case of one-off or immediate services.

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11.3 If it is the preferred option of the Customers to meet some or all of their needs through Direct Payments, the Allocated worker must arrange for the Direct Payments Officer to make contact and give further advice regarding roles and responsibilities and the Direct Payment Agreement.

11.4 If the Allocated worker/Direct Payments Officer considers that there may be a financial/welfare risk to providing a Direct Payment, the Customers/Third Party/Authorised Person must be informed of this provisional view, and why. They can be given a chance to address this concern. This will include access to a Care Act advocate in particular situation because this is part of the care planning function which includes a duty to involve the customer, and thus gives rise to advocacy rights in cases where the entitlement is generated. This must be recorded on the social care system.

11.5 A Customer should be made aware that they can choose to change from a WBC provided service to a Direct Payment and vice versa to suit their circumstances.

11.6 The care/support plan will clearly identify the outcomes against each budget provision for financial monitoring and charging purposes, so that financial monitoring is flexible but effective.

11.7 When planning for a Personal Assistant the Allocated worker and Customer/Third Party/ Authorised Person should consider (where applicable and in accordance with current legislation) the following when calculating costs and planning – the Direct Payment Officer will be able to assist in this but cannot give detailed advice about Employment Law issues; however, they can signpost to an appropriate professional body. A copy of the terms and conditions of employment should be held wherever possible by the Direct Payment Team to ensure that WBC are not put at risk of residual or vicarious liability and that services being purchased are in line with the authorised and agreed care/support plan.

- Advertising and recruitment costs
- Rate set in accordance with the local market rate for employee or agency staff of the requisite level of skill, experience, and suitability, providing for compliance with any current minimum wage rates and maximum working hours legislation
- Employers' National Insurance and pension contribution where payable
- Minimum statutory holidays and public holiday pay
- Sick Pay
- Notice Periods
- Maternity, paternity, adoption, or dependents' care rights to pay and cover
- Employers' liability insurance unless you are confident that you are covered under your contents policy
- Training costs
- Emergency cover for staff absence and holidays
- Protective clothing for P As including PPE if Guidance requires it
- Payroll fees
- Health & Safety
- Contingency Plans such as when care arrangements fail, or redundancy arises

WBC will consider assisting with the funding of unforeseen circumstances with regards to the employment of a Personal Assistant. Additional funds will have to be authorised by the relevant Budget Holder in Statutory Services. Note: legal advice may need to be taken to ensure that individual statutory rights have been exercised.



## **12. Financial Assessments, Calculation for paying Direct Payments and Frequency of Payments**

12.1 All Direct Payments users must be referred for a Financial Assessment as soon as it is known that the individual is eligible to receive chargeable social care support.

12.2 The following services are currently not chargeable under WBC Policy and therefore do not require a financial assessment:

- Carers' Services
- Sitting Services
- Short term Employment Services
- Bespoke Equipment
- Services provided under S117 of the Mental Health Act 2005
- Transport
- Communications support under the Equality Act 2010

12.3 Once the financial assessment is completed and the charge known, this is passed to the Direct Payment Team by the Financial Assessment Team through the social care system so that charges can be applied.

12.4 The Direct Payment Team will take the annual budget amount outlined in the care/support plan and divided by 12 to calculate a gross monthly payment and where applicable allocate to the relevant budget code.

12.5 The Direct Payment Team will then calculate the net figure to be paid monthly in advance into a Customer's Wokingham Card Account.

12.6 WBC pay Direct Payments net of the customer contribution and they will reach the account no later than 1<sup>st</sup> of the month for which it is intended.

12.7 The Direct Payments Team will provide a complete breakdown of monthly/annual payments in the Direct Payment Agreement (Appendix 2).

12.8 Customer/Third Party/ Suitable Authorised Person will be required to pay into their Wokingham Card Account their financially assessed contribution. This sum of money forms the first part of any payments to meet eligible support needs.

12.9 One-off payments will be paid as and when needed to meet assessed eligible needs and outcomes determined in the care/support plan.

## **13. Bank Accounts for Direct Payments**

13.1 In order to make Direct Payments as easy as possible for Customers, WBC will offer a Wokingham Pre-Paid Card for the Customer/ Authorised Person/Third Party helper to receive the funds which must be managed as outlined within their care/support plan. The nominated helper will be added to the Customer's account to enable authorisation of transactions using the card. Where the payment is being made to an Authorised Person, they will be the named account holder.

One-off payments will also be offered by way of a Wokingham Card Account.

The offer of a 'traditional' direct payment paid into a bank account should always be available if this is what the person requests and this is appropriate to meet needs.



## 14. Direct Payment Agreements (Appendix 2)

14.1 Before receiving Direct Payments, each Customer/Third Party or Authorised Person must sign the Direct Payment Agreement in the correct format. A copy of the fully signed agreement must be stored on IT systems electronically and a copy given to the Customer/Third Party/ Authorised Person.

14.2 Direct Payment Agreements must be signed by the recipient and the Direct Payments Team. The expenditure is already authorised by the care or support plan.

14.3 Changes to the amount of Direct Payment will be notified to customers/Authorised Person or their Third-Party helper in writing. It should also be noted on the care or support plan and the Social Care IT system.

**Note: No payments will be made until the Direct Payment Agreement is fully signed and authorised**

## 15. Processing Direct Payments in relevant systems

15.1 Once the Direct Payment Team receives relevant instructions about the customer's services to meet eligible assessed needs they will produce the Direct Payment Agreement.

15.2 The Direct Payment Agreement is then sent to the Customer/ Authorised Person/ Third Party helper for signature – a letter accompanies this (Appendix 2).

15.3 Once the signed Direct Payment Agreement is returned, the Direct Payments team will:

- Ensure a copy of the fully signed and authorised Direct Payment Agreement is saved electronically
- Set up an account on the payments system (BWO) to facilitate payment
- Open up the provision on Adult Social Care IT system and send to the budget holder for authorisation
- Set up the financial monitoring records
- If a Personal Assistant is being employed, the Direct Payments team will work with the recipient to follow the protocol outlined previously regarding carrying out DBS Checks as required/requested

## 16. Financial Record Keeping

16.1 Persons receiving Direct Payments are required to maintain records of how they have spent their Direct Payment Money. These records will:

- Demonstrate that the Direct Payment has been used to meet the outcomes from the care or support plan that have been identified as being met through a Direct Payment
- Satisfy the legal requirements of the Inland Revenue HMRC tax and national insurance bodies, pension regulator etc.
- Show that any assessed Customer contribution towards their care costs has been paid into the Wokingham Card or nominated bank account and towards the Direct Payment

The types of financial records a person should be keeping are listed below.

- Receipts or invoices for purchases

## **Policy and Practice Guidance for Direct Payments**

- Payroll summary of payments / timesheets
- Tax and national insurance records
- Pension payments
- Any other relevant records related to Direct Payments expenditure

16.2 All records must be kept for a minimum of 3 Years. In the case of payroll records, these should be kept for the current year and the three whole prior years as a minimum.

16.3 If a person has failed to maintain adequate records but has successfully used their Direct Payments to purchase the care/support to meet their assessed eligible needs as outlined in their care/support plan, they can be visited by a Direct Payments Officer if needed, who can give further assistance and guidance on records management.

16.4 If it is suspected that the person has intentionally destroyed or failed to keep records because they have not used their Direct Payments in the appropriate manner, a referral must be made to Allocated worker Duty Team in order that Direct Payments can be suspended immediately, and commissioned services put in place while an investigation is conducted into the issue. The matter should be referred to Fraud where appropriate, and any recovery of funds would be considered in line with the statutory Guidance.

## **17. Stopping/Suspending Direct Payments**

17.1 A person can choose to stop receiving Direct Payments at any time and the reason for this must be recorded. Every effort should be made to provide support to manage Direct Payments but if the person feels they are unable to manage due to lack of support, or they would like further training, then contact with the Direct Payments Team should be made.

17.2 Direct Payments may also need to be suspended or stopped due to pending investigations or as a result of an investigation or a change of circumstances.

17.3 The Assessors/social care practitioners must arrange commissioned services in place of Direct Payments, if required, to meet the person's assessed eligible needs. Where there is one or more employees involved in the care, the recipient may be required to delegate temporary management responsibility in respect of those employees.

17.4 The Assessors/social care practitioners must inform the Direct Payments Team of the date the Direct Payment is to stop so that payments can cease, and relevant systems can be updated.

17.5 When stopping Direct Payments, the Direct Payments Team will contact the Customer/Authorised Person/Third Party to inform them that they must send in any outstanding evidence so their account can be reviewed and any unspent or misspent monies will be reclaimed, subject to due process safeguards.

17.6 In the event that a Direct Payment needs to be suspended, the Direct Payments Team will contact the Customer/Authorised Person/Third Party helper to arrange for updated receipts and bank statements to be provided. However, consideration will be given by the Direct Payments Team to an individual's circumstances and the extent of the financial risk involved, regarding the information required, and when e.g., long term hospitalisation may be a reason for deferring the obligation.

## 18. Financial Reviews

### Initial Review

18.1 Assessors/Assessors/social care practitioners must contact the Direct Payment Team prior to any care/support outcomes review to ensure that there are no financial issues that need to be addressed. If there are any problems which may require a joint visit this will be arranged.

18.2 Where the payment is being made via the Wokingham Card, this review will be done by the Direct Payments team. Where the payment is being made into a dedicated bank account, the Allocated worker will need to combine the financial review regarding the paperwork with the Care or Support and Outcomes review. The Assessors/social care practitioners must consult with the Direct Payments Team before they carry out any care review to ascertain if there are any problems which may require a joint visit.

18.3 The Direct Payments Team will carry out any desk-based financial review (on the 13th month following the first payment). For Children's Direct Payments, these will be reviewed within a month of the customer's birthday.

18.4 Where a care/support outcomes review is combined with a direct payment review, the Allocated worker will ensure that the Customer is in receipt of quality care and that the Direct Payment money is being spent in accordance with the care or support plan and that they are still eligible to receive care or support.

18.5 Assessors/Assessors/social care practitioners must contact the Direct Payment Team prior to any review to ensure that there are no financial issues that need to be addressed.

18.6 The annual financial review done by the Direct Payments Team will:

- Check that the monies for the 12 months have been spent on the services to meet the outcomes outlined within the care / support plan
- Check that the Wokingham Card or nominated bank account has been managed appropriately
- Check that receipts and expenditure are in accordance with the care / support plan
- Check that all legal requirements are in place i.e., insurance and payroll
- Review the frequency of the financial returns (if in place)
- The Direct Payment Team will consider the balances in the Direct Payment account and any unused or uncommitted monies may be reclaimed taking account of ongoing care planning conversations. A small surplus may be retained to meet needs in a flexible way in line with national guidance on Direct Payments. The amount normally allowed is 4 weeks and 10%, or more if the Customer has been noted to have specifically fluctuating needs.
- Monthly payments will remain the same unless there are changes to the care or support plan or Customer Contributions.
- The annual financial review must be signed off by:
  - The Senior Direct Payments Officer for Direct Payments of £15,000 per

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annum and below with a low/moderate financial risk

- The Financial Assessment and Payments Team Manager for Direct Payments of in excess of £15,000 per annum or with a high financial risk

A copy of the Review will be saved electronically (Appendix 3).

## 19. Outcomes Reviews of Care or Support Plans/Re-assessments

19.1 It is not the role of the Allocated worker to conduct full financial audits at each review where use of the card has been provided for remote inspection by the Direct Payments team. If the customer has a separate Direct Payment bank account, bank statements and receipts for the review period will need to be provided in a timely manner to the Direct Payments team for inspection. However, the Allocated worker must assess whether a person is receiving a sufficient amount of money to meet their assessed needs, and this needs to be discussed with the recipient. Surplus funds and reasons should be explored to make sure that overpayments are not made going forward and the budget adjusted accordingly.

19.2 At review the Allocated worker should check that a person has been using Direct Payments to meet their needs and outcomes expressed in their care or support plan. It is important to ensure that the person's needs are being met to an appropriate and adequate extent and that the person is satisfied with the arrangements currently in place. Staff should be trained to exercise professional judgment and be familiar with public law rules regarding justification and an evidence base for their views.

19.3 Any changes to the care or support plan that are relevant to Direct Payments must be notified to the Direct Payments Team immediately in order that amended payments are made.

### Concerns Raised at Reviews:

19.5 If, at a financial review or care/support outcomes review, concerns are raised relating to the use of Direct Payments which cannot be resolved by providing support: e.g., safeguarding issues, inappropriate use of funds, etc., these should be reported to the appropriate Senior Operational Manager immediately and the appropriate action taken under the Safeguarding Policy. A Direct Payments Officer will provide help and support to WBC staff relating to any Direct Payments concerns.

## 20. Financial Monitoring

20.1 Financial Statements will be required as follows:

Level of Weekly Payment	Evidence	Risk Level	Support Package
<£50 per week	Evidence that record keeping is competent	LOW	Monthly Review for the first 3 months, thereafter annually
	Evidence that record keeping is difficult	LOW	Monthly Review for the first 3 months, thereafter 6 monthly
£50 - £300 per week (£2601 - £15,600 per annum)	Evidence that record keeping is competent	LOW – MODERATE	Monthly Review for the first 3 months thereafter six monthly
	Evidence that record keeping is difficult	MODERATE - HIGH	Monthly Review for the first 6 months, thereafter quarterly

### Policy and Practice Guidance for Direct Payments

>£300 per week or where the recipient acts as an employer	Evidence that record keeping is competent	MODERATE	Monthly Review for the first 6 months, thereafter quarterly
	Evidence that record keeping is difficult	HIGH	Monthly Reviews

The above table represents the recommendations for review subject to the Direct Payments Team being satisfied that the Direct Payment is being managed appropriately. The Direct Payment User may also request to have their records reconciled more frequently to suit their needs. Variations to the above table, with the reasons, must be recorded electronically and authorised by the relevant Manager.

20.2 Where records are not being kept in an appropriate manner, the Direct Payments Team will give further advice and training on how to keep records. Should the situation not improve the Direct Payments Team will refer to relevant worker or Duty Allocated worker for consideration to be given to withdrawing Direct Payments – see section 17 for guidance.

20.3 The Direct Payments Team will check the following when monitoring a Direct Payment Account:

- That all transactions have been processed via the Wokingham Card or nominated bank account
- Payroll records are accurate
- Timesheets are comprehensive
- Employers' liability insurance (including redundancy) is valid
- Receipts match the bank transactions
- Expenditure is in line with the care/support plan
- Customer contribution has been paid into the account
- Check under/overspends

20.4 Where the expenditure is not in accordance with the care or support plan the Direct Payment Officer will refer the matter to the relevant Duty Team or nominated Allocated worker for investigation – which could lead to suspension or cancellation of the Direct Payment and provision of commissioned services, or an amendment to the care or support plan. If the care or support plan is to be amended, then a new section three of the Direct Payment Agreement needs to be signed and authorised.

20.5 Each care or support plan will have a summary sheet and budget amounts will be allocated to outcomes for financial monitoring purposes, but it is acknowledged that this needs to be used flexibly. For example, if a customer is too unwell to go out, they may need more personal care at home until they have recovered.

20.6 The Direct Payments team will check the last transactions from the Direct Payments account to ensure that there is no shortfall of funds.

20.7 The Direct Payments Team have the facility to pay up to 2 months in advance on specific occasions to facilitate paying for a service in advance i.e., to accommodate holidays and carer breaks. The Customer will need to contact the Direct Payments Team to arrange this, giving 1 months' notice where possible.

20.8 If excess funds have accumulated (more than 10% contingency) and there is no planned expenditure this should be reported to the Allocated worker for review. If there is no Allocated worker, then a referral should be made through the Duty Allocated worker of the allocated team for the review. Following a review, it is possible for the Direct Payments team

## **Policy and Practice Guidance for Direct Payments**

to invoice the individual for the return of this money and adjust the monthly payments accordingly in line with any amendment to the care or support plan.

20.9 If it is necessary to raise an invoice to reclaim unspent or inappropriately used funds the Customer/Authorised Person/Third Party helper will have 28 days' maximum in which to settle the account. Money may be claimed directly from the Wokingham Card by the Direct Payment Team. If additional payments exceeding the balance in the card or any other bank account need to be reclaimed, failure to repay will result in WBC's triggering the recovery of funds via debt recovery. This could include court or criminal action, subject to compliance with the statutory Guidance and use of professional judgment.

20.10 As we have to be accountable for public funds, cash payments are not permitted using Direct Payment Money unless this has been agreed and stated on the care or support plan and following discussion with the Direct Payment Team. Customers required to pay suppliers or services by cash must discuss this with the Direct Payment Team for advice. Payments made to any of the customer's alternative accounts by BACS must be approved by WBC via the Direct Payments Team, before releasing payment.

20.11 Once the account has been reconciled, the Direct Payments Team will confirm this with the Direct Payment recipient and notify the person when the next return is due (Appendix 7).

20.12 If when monitoring the Direct Payment evidence is requested and not returned to the Direct Payment Team within the timescale set, they will contact the person concerned. Failure to respond to the second request will result in a referral being sent to the Allocated worker or Duty Allocated worker of the allocated team for investigation and possible suspension of the payment and set up of alternative services.

## **21. Direct Payments Agreement – Appendix 2**

The Direct Payment Agreement will contain detailed information on the terms and conditions of paying it. The latest copy of the Direct Payment Agreement can be supplied on request and is available from the Social Care system when creating documents.

## **22. Complaints Procedure**

22.1 People considering or using Direct Payments can make comments or complaints using the Wokingham Borough Council website. Staff must ensure people understand their right to comment / complain and that they have access to the complaints procedure if they wish, together with any relevant support. Complaints or comments can also be made in person, writing or by phone. If there is a concern that anything related to policy or practice is not compliant with the Care Act and public law principles, the person concerned should raise it with the Allocated worker/Direct Payments Team and from there onwards escalate it to the Customer relations team via the online complaints form.

22.2 Having made a Direct Payment, WBC is not under any financial obligation to the provider of the service purchased using Direct Payments i.e., WBC is not liable to pay a Personal Assistant or agency if the Direct Payment recipient fails to pay them for their services nor is WBC responsible for involvement in negotiations for proposed variation of the purchase agreement.

## **23. Support for Direct Payments Recipients**

23.1 If a person requires any support, when considering using Direct Payments, or with the ongoing management of their Direct Payments, they should be referred to the Direct

## **Policy and Practice Guidance for Direct Payments**

Payments Team who will assist or signpost accordingly. There is a limit to the extent of the information that can reasonably be expected because the Direct Payment support team acts on behalf of the council in relation to promoting choice and wellbeing, and is not acting as the agent of the individual or Authorised Person / Third Party Nominee

## **24. Support for Staff**

24.1 If staff require support with any aspect of Direct Payments, they should consult their line manager and/or a Direct Payments Officer.

## **25. References**

This WBC Direct Payment's procedure is supplementary to legislation, statutory guidance, and local policy, it is not a replacement. Direct Payments are fundamental to achieving and increasing a person's independence, choice, and control by providing an alternative to services offered and managed by Wokingham Borough Council.

The following documents should also be referred to:

### **Care Act 2014**

Part 1 – (s31 and s32, s33) Direct Payments

### **Care and Support Statutory Guidance (in its entirety)**

Chapter 3 Information and Advice

Chapter 8 Charging and Financial Assessment

Chapter 12 Direct Payments

The Care and Support (Direct Payments) Regulations 2014

### **Equality Act 2010**

This Act makes it unlawful to discriminate against a disabled person in relation to employment and the provision of services, facilities, and goods. The Public Sector Equality Duty applies to WBC's delivery of its Direct Payment service.

### **Mental Capacity Act 1983 & 2005**

This Act provides a statutory framework to protect vulnerable people, carers, and professionals. It starts from the fundamental point that a person has capacity and that all practical steps must be taken to help the person make a decision.

### **Human Rights Act 1998**

### **The Health and Social Care Act 2012**

Further details can be found on <http://www.legislation.gov.uk/>

### **Data Protection Act 2018**

This Act protects individuals with regard to the processing of personal data and sensitive personal data

### **Freedom of Information Act 2005**

This Act gives right to access information held by Public Authorities. Further information can be found: [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

### **Support with Confidence Scheme**

The scheme offers vetted and approved Pas and service providers for personal care,

support, and other tasks.

<http://www.wokingham.gov.uk/socialcare/personalisation/confidence/>

### **Wokingham Information Network**

This is a guide to services and organisations in the Wokingham Borough. Adults, vulnerable adults, families and professionals can use the online directories and telephone services to find local information.

<http://info.wokingham.gov.uk/kb5/wokingham/info/home.page>

### **Carers 'Go Free Card'**

The Cinema Exhibitors' Association (CEA) have a national card that can be used to verify that the holder is entitled to one free ticket for a person accompanying them to the cinema.

<http://www.ceacard.co.uk/>

### **Care Standards Act 2000**

This Act established a major regulatory framework for social care to ensure high standards of care and will improve protection of vulnerable people.

#### **Relevant Sections:**

Part I – Preliminary Introduction including Registration Authorities

Part II – Establishments and Agencies

Part III – Local Authority Services

Part IV – Social Care Workers

Part VI – Childminding and Day Care

Part VII – Protection of Children & Vulnerable Adults

Details of the above Legislation/Regulations can be found on <http://www.gov.uk> or <http://www.legislation.gov.uk/>



## Appendix 1 – Bank Details Form



**WOKINGHAM  
BOROUGH COUNCIL**

### **WOKINGHAM DIRECT PAYMENTS SCHEME BANK ACCOUNT DETAILS**

#### **YOUR DETAILS**

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### **BANK ACCOUNT DETAILS**

(The bank account you are using solely for Direct Payments transactions.)

Bank Account  
Sorting Code \_\_\_\_\_

Bank Account  
Number \_\_\_\_\_

Bank Account  
Name \_\_\_\_\_

Your Bank's  
Name \_\_\_\_\_

Your Bank's  
Address \_\_\_\_\_

\_\_\_\_\_

Post Code \_\_\_\_\_

Your Signature \_\_\_\_\_

Print Name \_\_\_\_\_ Date \_\_\_\_\_

Return to: Direct Payments for Social Care, Shute End, WOKINGHAM, RG40 1WJ

## Appendix 2 – Direct Payments Agreement

Please ask for a copy (available from Social Care System, or Direct Payment Team)

## Appendix 3 – Financial Annual Review

Please ask for a copy (available from Social Care System, or Direct Payment Team)

## Appendix 4 – British Bankers’ Association Letter

Tel: 0118 974 (Direct Line)  
Email:  
Date:  
My ref: [Click here to type reference details]



**WOKINGHAM  
BOROUGH COUNCIL**

[Click here & type recipient's name]

Direct Payments, ASC Finance

ASC Finance Support

Civic Offices

Shute End

Wokingham

Berkshire RG40 1WJ

Tel: (0118) 974 6800

Fax: (0118) 974 6853

**Dear**

You have been approached by (intended DP Recipient's/Holder's Name) who wants to open a new or second bank account.

They need to do so because they/an Authorised Person have decided to request direct (cash) payment from Wokingham Borough Council. A Direct Payment gives individuals money instead of social care services. The Council gives the individual/an Authorised person money on a regular basis so they can arrange their own services or service for the person for whose benefit they have been approved by the council to hold a Direct Payment.

A separate bank account is essential as the money needs to be used for a particular purpose and information given to the council for audit purposes. It is not to be regarded as income or as beneficially owned by the holder or the person. It is held as a grant of public money on statutory conditions as to its use.

The British Bankers' Association have agreed that this letter be used as evidence that we regard the individual as having mental capacity to make this choice, or their Authorised Person as having the capacity to make that choice, in lieu of capacity, following our assessment of (DP Recipient's Name) for a Direct Payment.

Wokingham Borough Council only provides services to people living within its boundaries and so can also confirm the address of (DP Recipient's Name) (Insert Address).

If you have any queries about the content of this letter, please contact the Direct Payment Team

Yours faithfully,

**Direct Payments Team  
Wokingham Borough Council  
Adult Social Care Services  
Shute End  
Wokingham  
RG40 1WN**

Cc: (Insert DP Recipient Name)



## Appendix 5 – DBS Refusal Form

Please ask for a copy (available from Social Care System, or Direct Payment Team)

## Appendix 6 – Risk Assessment

Please ask for a copy (available on Mosaic, or Direct Payment Team)

## Appendix 7 – Direct Payment Review Letter

Please ask for a copy (available from Social Care System, or Direct Payment Team)

**Appendix 8 – Appendix 8 – Paying Direct Payments Gross (TBC)**



## Appendix 9 - What a Direct Payment can and cannot be used for

There are two different types of Direct Payments:

### 1. One-Off Direct Payments:

A single payment made to the recipient to purchase one-off services to meet an eligible need.

### 2. On-Going Direct Payments:

On-going Direct Payments are paid monthly in advance. These monthly payments are designed to enable a person to purchase the care services required on a monthly basis. There could be circumstances agreed in the Support Plan where one-off additional amounts are paid in advance or irregular payments are made for specific outcomes.

*The lists below are not an exhaustive list and if you are unsure, please ask a member of the Direct Payments team.*

### Direct Payments can be used for:

- Payments can be made for day-to-day assessed needs such as dressing, cooking, or help with eating meals.
- Support to facilitate discharge from hospital.
- Care and support to help you live in your own home independently.
- If you need help to access local amenities, you can employ a carer to help you attend activities.
- Transport costs to meet eligible care needs that are over and above the customer's DLA or PIP mobility allowance. You may want to pay for transportation, take part in meaningful social activities or hobbies, or even visit places of interest.
- SES provide travel training so unless it is a Carer via DP specifically providing this service this should be WBC managed.
- Support in college or in a job.
- Up to four weeks of respite and leisure activities.
- Accessing day opportunities to support you to:
  - meet with others
  - participate in a range of social and leisure activities
  - receive personal care
  - give carers a break from caring responsibilities
- You can use direct payments to buy equipment or adaptations that the council could have provided.
- If you need help to reduce your social isolation, you can pay for one-off pieces of equipment, to stay in contact with friends and relatives.
- Assistive Technology for out and about

### Direct Payments cannot be used for:

- Long term residential/nursing care in a registered environment
- Medicines, alcohol, or tobacco products such as wine, beer, and cigarettes
- Drugs of any sort including homeopathic remedies
- The purchase of household items: utility bills, household maintenance, food and drink, day to day clothing.
- Gambling - such as horse racing, bingo, or lottery
- Cash with draws or cash payment for any assessed needs
- Participating in or promoting illegal activities
- Equipment that would otherwise be provided by the NHS
- As a substitute for a Disabled Facilities Grant. A one-off payment can be considered for adaptations that are not eligible via a Disabled Facilities Grant.
- To meet the needs of other individuals who are not in the support plan.

- To enter into a Hire Purchase Agreement or Loan, which attracts interest payable by the Local Authority and can confuse ownership
- To gain a profit from any activity, that has been paid for using Direct Payments.
- It is not a method of paying for holidays
- Payment to spouse, civil partner, or other specified family members living in the same household unless specifically agreed by WBC.
- Any activity which WBC deem to be unsafe even after careful assessment and the application of mitigation (refer to the 'Positive Risk Enablement Plan')
- To supplement or pay for housing costs for example rent, mortgage, council tax
- Paying off loans, however good for a person's wellbeing that would be.
- Legal advice about the legality of the care package
- Hedge funds
- Food for yourself
- Items that seem to benefit other family members rather than you
- Things not in the agreed Care and Support Plan
- Entertainment fees for an event, for a person for whom mainstream recreation is not inaccessible by reason of their disability or condition
- Cannot use a Direct Payment to pay for services from your local Council (WBC) - Local authority provided services.

## Care at home:

If you qualify for local council funding and using direct payments to employ a care worker there are rules around employing family members.

Direct Payments may not be used to employ services from the people, listed below, unless it is considered vital to the customer's wellbeing and the needs cannot be met in any other way or where it can clearly be demonstrated that proceeding in this way will achieve the best outcomes for the customer. If it is considered necessary that a person be permitted to employ someone listed below using Direct Payments, and Social Workers must obtain authorisation from a Head of Service for both long term and short-term services.

- The spouse or civil partner of the customer
- A person who lives with the customer as their spouse or civil partner
- A person living in the same household who is the customer's –
  - parent or parent-in-law
  - son or daughter
  - son in law or daughter in law
  - stepson or stepdaughter
  - brother or sister
  - aunt or uncle
  - grandparent
- The spouse or civil partner of any person specified above who lives in the same household as the customer
- A person who lives with any of the people specified above as if they were that person's spouse or civil partner.
- Direct Payments allowing payment to above members to provide management and/or administrative support to the direct payment holder must be approved by the Head of Service.

## **Appendix 10 - Children's, Short Breaks Direct Payment Guide (includes Factsheets 1-8 and 2 Appendix**

Please ask for a copy (available from Social Care System, or Direct Payment Team)