

Freedom of Information – Response – 27443

Please provide SCC's written Direct Payments Policy and the specific rationale or evidence of "risk" that justifies an audit frequency well above the national standard I am subjected to?

Please find attached SCC's Direct Payments Policy.

Please note that we are unable to provide you with "*the specific rationale or evidence of "risk" that justifies an audit frequency well above the national standard I am subjected to?*" under the Freedom of Information Act 2000. This is because it would constitute personal data that relates to yourself as an identifiable, living individual and all responses to FOI requests become public documents available for anyone, anywhere to access.

If you are dissatisfied and wish to pursue this matter in relation to your personal circumstances, you may wish to raise a formal complaint via our Customer Rights process: [Compliments and complaints - Suffolk County Council](#).



Adult Social Care

Direct Payments Policy

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The following policy has been developed from Care Act 2014 Sections 31-33 [Care Act 2014 \(legislation.gov.uk\)](#) and Care and Support Statutory Guidance (Paragraph 12) [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](#)

The legislative context for direct payments is set out in the Care Act, Section 117(2C) of the Mental Health Act 1983 and the Care and Support (Direct Payments) Regulations 2014 [The Care and Support \(Direct Payments\) Regulations 2014 \(legislation.gov.uk\)](#)

Introduction

A direct payment is one way in which a person who is eligible for social care services can receive some or all their personal budget. It is money from Adult Social Care which is given in lieu of commissioned care and support services.

Adult Social Care has a duty to offer the option of a direct payment to anyone who is eligible (with the exception of people who are currently under the order of a Court to attend a drug or alcohol treatment programme).

Practitioners must ensure that individuals are given relevant and timely information about how the direct payments process works, so that they can make a decision as to whether the direct payment option is appropriate for them and whether to request a direct payment. Individuals must not be forced to take a direct payment against their will, but instead be informed of the choices available to them.

Direct payments are designed to be used flexibly and innovatively and there should be no unreasonable restriction placed on the use of the payment, as long as it is being used to meet the documented eligible care and support needs as detailed within the Care Act Assessment and Care and Support Plan. The amount of the direct payment awarded has been calculated to take into account the local care market and the cost of care services in the local area.

Practitioners are encouraged to use leaflets and information produced by the SCC Financial Inclusion and Advice Service (FIAS) to assist in the provision of advice and information for those wishing to know more about direct payments.

1. Who may receive a direct payment?

The adult is the assumed direct payment recipient if they have the capacity to agree to a direct payment and understand the terms and conditions outlined in the Direct Payment Agreement. This document forms a contract which the adult must adhere to, any breach of the agreement may result in a suspension or termination of the direct payment.

If an adult has the mental capacity to agree to a direct payment and sign the Direct Payment Agreement but wishes the payment to be made to a *nominated agent* (who will help them manage it) a 'nominated agent form' must be signed by the adult.

If the person in need of care and support has been assessed as lacking capacity to request the direct payment, an *authorised person* can request the direct payment on the person's behalf.

1.1 What is a nominated person?

If the person with care and support needs has the mental capacity to agree to a direct payment and understand the terms and conditions but does not wish to/or is not able to manage the direct payment for themselves, then they are able to nominate a third party to do so on their behalf.

The third party (nominated person) does not however have legal liability (that remains with the adult who is the direct payment recipient). In this situation the person with care and support needs remains responsible for how the direct payment is used and has to sign the Direct Payment agreement which would be in their name, together with the nomination form.

1.2 What is an authorised person?

In cases where the person in need of care and support has been assessed as lacking capacity to request the direct payment, an authorised person can request the direct payment on the person's behalf. In this situation the authorised person is responsible for how the direct payment is used and has to sign the Direct Payment Agreement.

2. What can the direct payment be used for?

Direct payments can only be used to spend on items identified in the Care and Support Plan, so it is vital that these are detailed and accurate as possible; based on identified eligible needs; and the adult has a copy of their plan.

Without accuracy and a clear breakdown of how the direct payment is going to be used within the Care and Support Plan it leaves the adult at risk of breaching the Direct Payment Agreement and Suffolk County Council less likely to recover unauthorised use of Direct Payments.

Direct payments can only be used to pay for goods and services agreed and recorded in the care and support plan; and may include:

- employing someone, such as a personal assistant (including costs for PPE)
- paying a care agency to provide support
- paying to attend a day care service or activity
- paying for some respite care services (which are unable to be commissioned)
- paying for leisure activities if necessary to meet eligible care outcomes
- purchasing equipment (excluding equipment which should be paid for by health, PIP / other benefit, or by a grant from the district / borough council).
Servicing/maintenance of equipment should remain the responsibility of the adult.

Direct payments cannot be used for anything that does not contribute to meeting assessed needs or achieving the outcomes agreed in the care and support plan, including:

- residential or nursing care
- ordinary household expenses such as utility bills, rent or mortgage payments
- food or drink
- gambling
- anything illegal
- employing a family member (unless this has been authorised as being necessary)
- anything which should be funded by alternative government funded resources, such as mobility components of PIP used to fund transport costs etc

Direct payments cannot be used to pay for long-term stays in residential or nursing care. Wherever possible, respite should be commissioned directly by the local authority rather than paid for via a direct payment. This enables the local authority to ensure that the costs of respite are within the local authority's agreed rates and ensures the adult is financially assessed for residential services in a timely manner. Where it is not possible to commission respite, consideration should be given to whether it is calculated as a one off or as part of an ongoing direct payment.

The direct payment should not automatically be suspended while an individual is in hospital. Practitioners should explore with the individual, their carer and the NHS the options to ensure that the needs of the person are being fully met in the best way possible.

3. Calculating the direct payment

The amount of the direct payment (and how it is to be used) is set out in the adult's care and support plan. The direct payment must be an amount which is sufficient to meet the needs the Local Authority has a duty to meet or has agreed to use its powers to meet. However the Local Authority must have due regard to the local care market. The amount of the direct payment should be a realistic amount, taking into account the average cost of care and support services in the local area, to how much it will cost to meet the needs identified in the care and support plan, and avoid adding an unnecessary contingency amount which typically results in surplus direct payment accumulating.

Where appropriate, direct payments should be paid as an ongoing arrangement, rather than a one-off, to support financial contribution calculation.

Adult Social Care standardise the way direct payments are calculated and align rates to the National Minimum Wage. By doing this, we achieve greater consistency and transparency – making it easier for practitioners to calculate direct payments, and for adults to understand how we have made our decision.

From April 2025, employing a personal assistant will be calculated at 111% of National Minimum Wage, with on-costs (tax, national insurance etc) added to this. Self-employed personal assistant rate will be calculated at 148% of National Minimum Wage.

From April 2026, new direct payments will be calculated as follows:

		2026-27 hourly rate
To employ a Personal Assistant	A direct payment support provider can support the calculation of tax, national insurance etc. These costs are not included in this rate.	£14.10
To pay a self-employed Personal Assistant (including Community Catalysts)	This rate is set to enable self-employed Personal Assistants to use HMRC tools to calculate tax. They should provide evidence of their self-employed status.	£18.81
To pay for other goods or resources	When completing your care and support plan, you should detail these costs for consideration by the Local Authority, so they can determine whether or not these should be included in the direct payment.	

To pay a care provider	2026-27 hourly rate
The practitioner should ensure the care agency is registered with CQC if regulated activity is to be provided.	
Locality Home Care rate	varies
Waking night	£25.16
Sleeping night	£13.49
Live-in care (low dependency)	£1,191.86 (weekly)
Live-in care (high dependency)	£1,248.17 (weekly)

The practitioner should detail in the Practice and Escalation Forum if they consider an uplift to these rates is warranted due to the complexity of care required necessitating higher skilled care and support than is routinely required. Rates will not be uplifted for bank holidays/weekends. Direct payments will not routinely have an inflationary uplift; any change to rates will be calculated at the time of review of the direct payment.

If it is possible for the Local Authority to commission a service identified by an adult at a lower rate, consideration should be given to whether a commissioned service is more appropriate than a direct payment.

If the adult chooses to use a service or pay a personal assistant more than the identified rates above, and due consideration has been given to whether this is a choice (rather than due to availability or suitability etc) the adult may choose to top-up the direct payment to enable them to meet these higher costs. This will be in addition to any assessed financial contribution. The adult should organise to pay the additional costs directly to the service provider (rather than adding the top-up to the account where they receive their direct payment).

Reasonable employment costs may be paid to support costs associated with employment. These rates are calculated as follows:

Advertising: Typically free, low-cost advertising services are available, using social media etc, however a maximum of £200 to support advertising costs may be added if required.

Disclosure and Barring Service (DBS): If the adult determines they wish to complete DBS checks prior to employing a personal assistant. £50 per employee.

Employers Liability Insurance The adult should confirm if this is included in their home insurance before requesting Adult Social Care to meet this cost. £60 annually.

Personal Protective Equipment (PPE): If the adult is employing a personal assistant, the direct payment should include costs for PPE (if required). Self-employed personal assistants must provide their own PPE.

Training: The adult must have explored training grants available through resources such as Skills for Care before approaching Adult Social Care to meet the costs of training.

4. Paying the Direct Payment

Adult Social Care will pay the direct payment into a pre-paid card account. This is the simplest way to ensure the adult is using their direct payment in accordance with their Care and Support Plan and supports the process of financial monitoring.

For those adults receiving support from a Direct Payment Support Provider (who are unable to support the direct payment via a pre-paid card account) a managed account will be used.

Where it is not possible to deliver the direct payment via a pre-paid card or managed account, the direct payment may be paid into a bank account, however these exceptional circumstances will require prior approval from the Head of Operations and Partnerships.

Direct Payments will be paid four-weekly, in advance, with schedule of payments published on the Suffolk County Council website.

Direct Payments will be paid net, with the adult adding their assessed financial contribution into the account where their direct payment is paid. The easiest way to do this is to set up a standing order into the relevant account.

5. Employing a Personal Assistant

If the individual chooses to have their needs met by directly employing someone, they will be responsible for legal obligations, such as National Insurance contributions / PAYE. This does not apply if the adult chooses to use a self-employed Personal Assistant or chooses to use a registered care provider.

The person in receipt of direct payments may need to register with HM Revenue & Customs (HMRC) as an employer. Becoming an employer carries with it certain responsibilities and obligations, and adults need to be aware of these before agreeing to take up a direct payment. This information will be offered via Direct Payment Support Provider.

Redundancy or employment contingency (such as covering maternity pay or statutory sickness pay) will not be calculated within the ongoing direct payment. The direct payment recipient (or their Personal Representative if it is after the death of the recipient) should be advised to make contact with Adult Social Care if they are considering making a personal assistant redundant or needing to cover statutory employment pay (such as maternity or sickness pay) to ensure a suitable one-off payment is made to support these costs. Adult Social Care will make the payment to the recipient or the personal representative (ie; payment will not be made directly to the personal assistant).

Where it becomes clear that the individual is failing to meet their obligations as an employer, the direct payment should be reviewed and consideration given to alternative arrangements.

6. Paying family members

The Direct Payment Regulations 2009 and the Care and Support (Direct Payments) Regulations 2014 exclude direct payments from being used to pay family members of the individual receiving care and support, except where the practitioner determines this to be necessary (and this has been agreed by the Head of Operations and Partnerships).

There is however a distinction between paying family members living with the individual to provide 'care' and to 'administer' the direct payment. This distinction allows individuals to use their direct payment to pay a close family member to provide non-care services such as management and/or administrative support to the individual in cases where the practitioner determines this to be necessary. The decision regarding this should be made by the Head of Operations and Partnerships.

7. Reviewing direct payments

In addition to an initial review (approximately six weeks after initial set up of support) a financial monitoring review of the direct payment must be undertaken within 6 months of the first direct payment, with subsequent annual financial monitoring and reviews undertaken between the practitioner and FIAS.

At every review the practitioner must be satisfied that the direct payment is being used to meet the care and support needs clearly identified in the plan, considering the outcome of any financial review of the direct payment. Consideration should be given to issues that may indicate fraudulent use of the direct payment and action taken to address this. The review must enable the authority to know that the direct payment is still an appropriate way of meeting the needs, and that the conditions upon which it is made are still met.

If the direct payment recipient is employing staff, the direct payment recipient must evidence that they are submitting PAYE returns to HMRC as well as paying tax and National Insurance deductions to HMRC.

It is important to include the authorised person or nominated person in the direct payment review to ensure that the practitioner receives views from everyone involved in the direct payment.

The latest version of the Direct Payment Agreement should be signed at every review, to ensure there is an awareness of the current terms and conditions.

The outcome of the review should be recorded, and a copy of the Care and Support Plan should be given to the adult/authorised person to enable them to use their direct payment in accordance with the latest plan.

8. Managing surplus direct payment

Adult Social Care will allow a contingency of four weeks-worth of the direct payment to build up within the account to support fluctuations in care arrangements. Anything above this will be considered 'surplus' and should be returned to the Local Authority.

The contingency for surplus direct payment should be no more than four weeks of the direct payment (4 x the weekly direct payment value). The direct payment is paid four-weeks in advance and therefore it is the expectation that the adult should accumulate no more than eight weeks-worth of the direct payment within their account at any one time.

Adult Social Care are able to take action to return surplus funds to the council without notice to the recipient. If the adult regularly accumulates surplus direct payment in their account, a review should be undertaken to establish whether the direct payment is meeting the person's assessed needs.

9. Terminating direct payments

The practitioner should discuss with individuals, their carers and any person managing the direct payments if it is considering discontinuing direct payments to them, to explore all available options before making the final decision to terminate the direct payments.

Where direct payments are to be discontinued the practitioner should make timely arrangements for services to be provided in lieu of the direct payments, to ensure continuity of support - unless the withdrawal followed a review concluding no eligible care and support needs.

It will be unlikely that a practitioner will discontinue direct payments without giving four-weeks notice, although on occasion this may be warranted (for example, the authorised person is not acting in the best interests of the person, or the Direct Payment Agreement has been breached).