

# Southampton City Council

## DRAFT Direct Payment Policy



## Southampton City Council Adult Social Care Direct Payment Policy



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Direct Payment Policy			
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## Purpose

1. This policy outlines what you can expect when you are offered, have requested or are in receipt of a **Direct Payment**. A **Direct Payment** is money paid by the Council to a person with assessed eligible needs, or their carer. It can be used to purchase care and support services to meet some or all of a person's eligible support needs.
2. This policy forms a key part of the Council's [Corporate Plan](#) to deliver a healthier Southampton and enable people to live independently in their own home.

## Scope

3. This policy applies to all those who are eligible to receive a **Direct Payment** as defined in the Care Act 2014, the Care and Support (Direct Payments) Regulations 2014 and the Care and Support Statutory Guidance.
4. The policy covers what you can expect if you are offered a **Direct Payment**. It also covers:
  - How your request for a **Direct Payment** will be considered.
  - What a **Direct Payment** can be used for.
  - How the Council will review a **Direct Payment**.
  - How the Council will calculate and review **Direct Payment** funds.
  - When the Council will suspend or terminate a **Direct Payment**.
  - What happens to a **Direct Payment** if you, or the person you care for, is admitted to hospital.
  - What happens to a **Direct Payment** when you, or the person you care for, dies.
5. For the purposes of this policy, the following terms are defined as:
  - **Direct Payment:** money paid by the Council to a person with assessed eligible care and support needs, or their carer, that qualifies for financial support. Used to purchase care and support services to meet some or all of a person's eligible support needs.
  - **Nominated Individual:** an individual nominated by the person in receipt of a Direct Payment to manage the funds on their behalf.
  - **Authorised Individual:** an individual who can receive Direct Payments on behalf of someone else i.e. an individual with appropriate Power of Attorney, or an Appointee/Deputy. This is often required when an individual has been assessed as lacking capacity to consent to Direct Payments.
  - **Care and Support Plan:** A personalised plan, developed with you, that outlines how assessed eligible care and support needs will be met.
  - **Co-produced:** A way of working, whereby everybody works together on an equal basis. They create a service or come to a decision which works for them all. It is built on the principle that those who use a service are best placed to help design it.

## Legislative Context and other Related Documents

6. This policy relates to the following legislation and statutory guidance:
  - [The Care Act 2014](#)
  - [The Care and Support \(Direct Payments\) Regulations 2014](#)
  - [Care and support statutory guidance](#)

- [The Mental Capacity Act 2005](#)
- [The Equality Act 2010](#)
- [The Human Rights Act 1998](#)
- [The United Nations Convention on The Rights of Persons With Disabilities](#)

7. This policy should be read alongside other policies and procedures the Council adopts, including:

- [Adult social care charging policy 2024](#)
- [Adult Social Care and Support Planning Policy 2016](#)
- [Corporate Services \(including Adult Social Care & Housing\) Customer Comments, Compliments and Complaints Policy](#)

## Policy Commitments

8. The Council is committed to providing **Direct Payments** in line with its duties under The Care Act 2014, Care Act statutory guidance and The Care and Support (Direct Payments) Regulations 2014.
9. The discretionary aspects of this policy were **Co-produced** alongside;
- People with experience of receiving or managing a **Direct Payment**.
  - Providers of care and support.
  - Voluntary organisations.
  - Council staff.

They told us that a **Direct Payment** should provide the appropriate funds to meet eligible care and support needs and ensure people are not disadvantaged compared to people in receipt of a service directly commissioned by the Council. Based on eligible care and support needs a **Direct Payment** should also:

- **Offer freedom of choice.** It should ensure that people can choose the type of support they receive, who delivers it and when.
- **Promote independence** and recognise that the person, and/or their carers, often know how to meet their support needs best.
- **Provide flexibility** to acknowledge that a person's care and support needs may vary day to day.

## Policy Statement

### What to expect when being offered a Direct Payment

10. The Council is committed to promoting **Direct Payments** at every given opportunity. This is part of our commitment to providing a person-centred approach to care and support and enabling people to live independently in their own home.
11. Should you be eligible, a **Direct Payment** will always be offered to you by the person undertaking an assessment of your **Care and Support Plan**, or the plan of the person you care for. A **Direct Payment** will also be offered to you at every annual review of your **Care and Support Plan**, or the plan of the person you care for. Although we will always offer a **Direct**

**Payment** to you or the person you care for should you be eligible, there is no obligation to take this up.

12. During the assessment or review stage, if there is any doubt that you or the person you care for lacks the mental capacity to consent to **Direct Payments** and manage **Direct Payments**, a Mental Capacity assessment will be completed in line with the Mental Capacity Act 2005.
13. Should you, or the person you care for, be assessed as lacking the capacity to consent or manage Direct Payments, there may be an **Authorised Individual** who can receive **Direct Payments** on your/their behalf. Who can and cannot be an **Authorised Individual** is set out in The Care Act 2014 and The Care and Support (Direct Payments) Regulations 2014.
14. Lacking the mental capacity to consent to **Direct Payments** should not be mistaken with the ability to manage finances. You or the person you care for may be able to consent to receiving Direct Payments but may need support with managing the money. In this case, you or the person you care for, can nominate a **Nominated Individual** to help. This support can vary depending on your wishes or those of the person you care for. It could be managing all of the money or just offering occasional support. If you, or the person you care for, requests funds to be made to a **Nominated Individual**, they should be involved in your care and support planning.
15. Although a **Nominated Individual** can help with on-going management of the funds, the use of **Direct Payments** will continue to be the responsibility of the person with eligible care and support needs if they have mental capacity.
16. Our co-production groups told us that some people can be put off receiving **Direct Payments** as they can be seen as complex and difficult to manage. To address this the Council will provide you, or the person you care for, with the following information when assessing your eligible care and support needs in a timely manner. This will help you decide whether a **Direct Payment** is right for you and/or the person you care for:
  - What a **Direct Payment** is.
  - How to request a **Direct Payment**, including the use of **Nominated Individuals** and **Authorised Individuals** to manage your payments.
  - How we will assess your personal financial contribution, as well as the Councils, to **Direct Payments**. This will include tools you can use to get a sense of what your personal financial contribution might be.
  - How the money you receive will be reviewed and how often.
  - How to manage a **Direct Payment** using the Council's preferred provider, or otherwise, including the types of records you should keep.
  - How the Council will monitor your **Direct Payment**.
  - The responsibilities involved in managing **Direct Payments** and being an employer.
  - The type of services available in Southampton that a **Direct Payment** can be used for and how to purchase them.
  - The support the Council will provide to you to manage your **Direct Payment**.
  - Explanation of the **Direct Payment Agreement** that sets out what your responsibilities are, or the responsibilities of the person you care for.
  - Case studies on how **Direct Payments** can be used locally to innovatively meet your eligible care and support needs, or those of the person you care for.
  - An easy read version of this policy as well as the documents listed above.

## What to expect when requesting a Direct Payment

17. Should you, or the person you care for, wish to take up a **Direct Payment**, you will need to make a request to the Council. The Council will consider requests at any time, regardless of whether this is made in, or outside, of your care needs assessment or review.
18. The Council's decision on whether to accept or reject your request for **Direct Payments** will always be made in line with the Care Act 2014, the Care and Support (Direct Payments) Regulations 2014 and the Care and Support Statutory Guidance. The decision will be provided in a timely manner and recorded in your **Care and Support Plan**. Should the Council reject your request, we will always provide you with a clear reason. Should you disagree with our decision, you are able to [make a formal complaint](#). We will aim to acknowledge your complaint within 5 working days and respond within 10 working days. In the meantime, the Council will ensure appropriate alternative arrangements are in place for your care and support needs or those of the person you care for.
19. If we accept your request for a **Direct Payment**, you will need to enter into a **Direct Payment Agreement** with the Council.
20. If we reject your request for a **Direct Payment**, we will continue with the care and support planning process to provide and manage a commissioned service for you.

#### **What a Direct Payment can be used for**

21. There are many services that can be purchased by a **Direct Payment** and these will be agreed as part of your **Care and Support Plan**. These could include but are not limited to:
  - Services to meet personal care and support needs.
  - Support for daily living activities.
  - Support for those in residential care to temporarily trial living independently.
  - Respite to support carers in their caring role.
  - To support the administration and management of the Direct Payment.
22. Should you wish to employ a Personal Assistant, the Council will offer support and guidance to help you understand your responsibilities as an employer, including:
  - How to adhere to national employment regulations.
  - How to purchase Employers' Liability Insurance.
  - How to purchase a payroll service so you can pay tax and national insurance, including how to register yourself as an employer with HMRC.
  - How to conform to pension requirements, if applicable.
  - How to make provisions for staff holidays, sickness and parental leave.
  - How to make provisions in the event of redundancy.
  - Using regulated and non-regulated providers.
  - How to conduct a recruitment process, including the importance of checks and employment references.
  - How to ensure the health and safety of your Personal Assistant.
23. There are some services a **Direct Payment** cannot be used for such as:
  - Long-term residential care, as defined by the Care Act 2014, the Care and Support (Direct Payments) Regulations 2014 and the Care and Support Statutory Guidance.
  - Ongoing services supplied by the Council e.g. Council run day services.



- Alcohol, tobacco and drugs.
- Nursing, health care or medicines.
- Gambling such as horse racing, bingo or lottery.
- Participating in or promoting illegal activities.
- Equipment or services that would otherwise be provided by the NHS.
- As a substitute for a Disabled Facilities Grant.
- To benefit anyone other than the person with assessed eligible needs.

24. **Direct Payments** cannot be used to pay a family member in the same household, as defined in the Care and Support (Direct Payments) Regulations 2014, to provide care and support services. However, you, or the person you care for, can pay them to manage your **Direct Payment** when considered necessary. This could apply where the management of your **Direct Payment** is particularly complex and time-consuming.
25. In this case, the Council will provide you with advice on tax and employment implications, impact on benefits and wider information and advice should this be considered necessary. This will be agreed with you, or the person you care for, as part of the care and support planning process, where the frequency of payments and activities will be recorded in your **Care and Support Plan**. There will also be an agreement in place should any disputes about management arise.
26. To help protect you or the person you care for, there may be occasions where the Council places conditions on the use of a **Direct Payment** to pay a specific service or provider, for example due to safeguarding risks. This will always be discussed with you, or the person you care for, when developing your **Care and Support Plan**.

#### How the Council reviews a Direct Payment

27. The Council will initially review the **Direct Payment** within 6 months to ensure it is being used in line with your **Care and Support Plan**, or that of the person you care for. This is intended to be a light touch review. However, if issues arise then a full review may be necessary. It will be reviewed every 12 months thereafter. Annual reviews will aim to be aligned with the annual review of your **Care and Support Plan**, or that of the person you care for, where possible.
28. Reviews will include your **Nominated Individual** or **Authorised Individual**, should you or the person you care for, have one. The outcome of the review will be written up and provided to all parties.
29. The Council has a duty to ensure that public money is spent in the right way and ensure you, or the person you care for, are carrying out your/their responsibilities as an employer if applicable. To do this we are required to monitor the use of your **Direct Payment** via the Council's preferred payment provider, or otherwise. We may request documents to help with this, including:
- Bank statements.
  - Receipts for the services purchased.
  - Invoices.
  - Payslips/timesheets if you're using a Personal Assistant.
  - Tax and national insurance records if you're using a Personal Assistant.

30. We will always give you, or the person you care for, 4 weeks to provide any documents we request. We will discuss with you the most suitable way for these to be sent to us when required.
31. We generally advise that you should not withdraw money from your **Direct Payment** account, or that of the person you care for, or make cash payments from the account to purchase care and support services. If for any reason you, or the person you care for need to make cash withdrawals or payments, this should be agreed and recorded in your **Care and Support Plan**.

### How the Council calculates and reviews Direct Payment funds

32. Once your **Direct Payment Agreement** is signed, the funds will be provided to purchase the services agreed in your **Care and Support Plan**. Any personal contributions, or those of the person you care for, will be calculated in line with our [Adult Social Care Charging Policy](#).
33. The Council will calculate your indicative personal budget, or that of the person you care for, using standard unit rates, taking into account the type of service you, or the person you care for, wish to use. These units will then be tailored to meet the needs and outcomes agreed in your **Care and Support Plan**. This will be paid into your designated **Direct Payments** account provided by the Council's preferred provider, or otherwise, every four weeks. Payments will be net (your personal budget minus your assessed contribution). There are three standard rates:
- An hourly rate for people using agency providers.
  - An hourly rate for people employing Personal Assistants.
  - An hourly rate for people employing self-employed Personal Assistants.
34. Information on the base unit rates above can be found at: [Adult Social Care Charging Policy](#).
35. These rates will apply to all new **Direct Payment Agreements** from 1<sup>st</sup> April 2026. If you, or the person you care for, are already in receipt of a **Direct Payment** you will be transitioned onto these new rates following the next review of your **Care and Support Plan**.
36. These fixed rates will be reviewed annually and take into account all costs associated with meeting eligible care and support needs, including:
- Changes to the actual average rate of commissioned home care services
  - Changes to National Minimum Wage and National Living Wage
  - Changes to Employers National Insurance Contributions
37. The Council will write to you to inform you of changes to the rates on an annual basis.
38. Where your **Care and Support Plan**, or that of the person you care for, identifies the need for a day service, the rate for this service will be set at the value the Council pay for a directly commissioned service. This will ensure equity amongst individuals supported via a **Direct Payment** and those with a directly commissioned. Rates for day services will be uplifted in line with any uplift awarded to the provider for directly commissioned services or a negotiated percentage where there are no directly commissioned individuals.
39. We recognise that the rates above will not always cover every eventuality. When you, or the person you care for, discuss your **Care and Support Plan**, an alternative method of meeting your assessed eligible needs may be identified. Where this is the case, a variable rate will be used to calculate this element of your **Direct Payment** and will be outlined in your **Care and**



**Support Plan.** This element will not be subject to the annual rate review process described above. This will be reviewed alongside your care and support needs as detailed in the Adult Social Care and Support Planning Policy.

### When the Council will suspend or terminate a Direct Payment

40. There are certain circumstances where your **Direct Payment**, or that of the person you care for, may be suspended or terminated. The Council's decision on whether to suspend or terminate your Direct Payment will always be made in line with the Care Act 2014, the Care and Support (Direct Payments) Regulations 2014 and the Care and Support Statutory Guidance.
41. The Council will always discuss the suspension or termination of your **Direct Payment**, or that of the person you care for, with you and your **Nominated Individual** or **Authorised Individual** if applicable. Terminating a **Direct Payment** will always be a last resort. We will provide 4 weeks notice of your **Direct Payments** being withdrawn. The Council will always ensure that alternative arrangements are in place to meet your eligible care and support needs should your **Direct Payment** be suspended or terminated. We will also consider the terms and conditions of any contract you have with a provider or employees to ensure they can be fulfilled.
42. We recognise that failure to comply with the terms in a **Direct Payment Agreement** is not always intentional and mistakes can be made. If we believe you, or the person you care for, are failing to comply with the **Direct Payment Agreement**, your **Direct Payment** we will work with you to agree an action plan. This will aim to address concerns within 2 weeks of them being raised. The action plan will agree a timeframe for concerns to be addressed that takes account of your specific circumstances. Should failure to comply with the **Direct Payment Agreement** continue thereafter, we may terminate your **Direct Payment**, or that of the person you care for.
43. You, or a representative, should notify the Council at the earliest opportunity if your **Nominated Individual** or **Authorised Individual** are no longer able to fulfil the duties as set out in the **Direct Payment Agreement**. In this instance, the Council will conduct an urgent review of your Direct Payment to ensure your eligible care and support needs can still be met.
44. If you disagree with the Council's decision to suspend or terminate your **Direct Payment**, or that of the person you care for, you can submit a formal complaint via the [Council's complaint procedure](#). We will aim to acknowledge your complaint within 5 working days and respond within 10 working days. In the meantime, the Council will ensure appropriate alternative arrangements are in place for your care and support needs, or those of the person you care for.
45. We also recognise that people's care and support needs are not always the same week to week, meaning some people may accumulate a surplus of funds at specific points in time. To ensure **Direct Payments** can be used flexibly, you, or the person you care for, can hold up to 8 weeks of funds. Should the **Direct Payment** account hold more than that, the Council may contact you to return some funds, but this will depend on your specific circumstances.

### What happens to a Direct Payment if a person is admitted to hospital

46. If you, or the person you care for, is admitted to hospital, this does not necessarily mean your **Direct Payments** will be ceased. These may be used to meet your eligible care and support needs in hospital or fulfil your employment obligations with a Personal Assistant. This will be agreed with you, or the person you care for, as part of your **Care and Support Plan**.

47. You, or a representative, must inform us if a **Nominated Individual** or an **Authorised Individual** is admitted to hospital. In this instance, the Council will conduct an urgent review of your Direct Payment to ensure your eligible care and support needs can still be met. This could include nominating a temporary **Nominated Individual** or **Authorised Individual** to manage your **Direct Payment**, or that of the person you care for, or directly commissioning a service.

#### **What happens to a Direct Payment if a person dies**

48. If you sadly pass away, your representative must inform the Council at the earliest opportunity. The Council will be required to recover any unspent funds. The amount we recover will take into account any liabilities you have incurred that your **Direct Payment** may need to be used for.
49. How contractual liabilities and redundancy costs will be dealt with in the event of your death, or that of the person you care for, will be decided as part of the care and support planning process and recorded in your **Care and Support Plan**.

#### **Resources to support consideration and management of Direct Payments**

50. Further resources, support and guidance is available for when you are considering, or managing, a Direct Payment on the Council's website: [Direct Payments](#).

#### **Governance**

51. The responsibility for implementing this policy lies with all Adult Social Care team members within Southampton City Council. This includes social workers, support workers, audit and finance officers.
52. The Service Manager for Care Market Oversight and the Service Manager for Living and Ageing Well will hold the responsibility for monitoring and updating this policy.

[END]