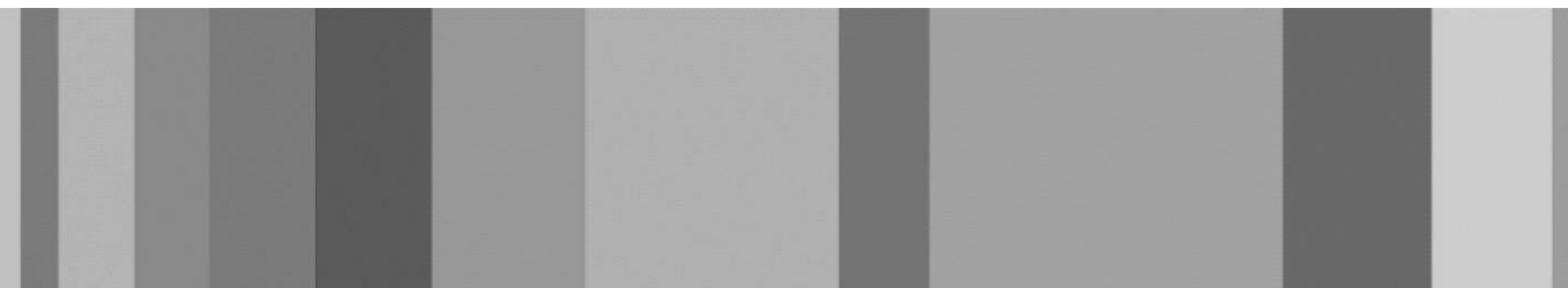


Adult Social Care Direct Payment Policy and Guidance



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Introduction

Bolton Council is committed to the health and wellbeing of its residents through the provision of flexible interventions that allow people to exercise choice and control in the way their care and support needs are arranged.

Direct Payments are available to:

- people aged 16 or over with eligible care and support needs under the Care Act 2014.
- carers aged 16 or over (including people with parental responsibility for a disabled child).
- parents of children who have eligible assessed needs under the Children Act 2004.

Direct Payments are monetary payments made to adults who prefer this method to meet some or all of their eligible care and support needs. It enables the person to take ownership of their own care planning by choosing how and when they receive support instead of Bolton Council arranging services on their behalf. The legislative context for Direct Payments is set out in [Care Act 2014](#) section 31-33, [Section 117\(2C\) of the Mental Health Act 1983](#) and [the Care and Support \(Direct Payments\) Regulations 2014](#), along with the supporting guidance in Chapter 12 of the Care and Support Statutory guidance. The Care Act provides a power to enable Direct Payments to be made to the adult in need of care and support, or a nominated/authorised person acting on their behalf if the adult with care and support needs so requests.

1. Direct Payment Agreement

1.1 Agreement to receive a Direct Payment

To receive a Direct Payment, the person must have eligible care, and support needs as defined by the Care Act 2014. The [Direct Payment Agreement \(Appendix 1\)](#) documentation must be completed. This agreement sets out the conditions under which Direct Payments are able to be made and includes important information regarding the responsibilities of Bolton Council, the individual, and/or their nominated/authorised person. The agreement reflects this policy and requires individuals to utilise the Direct Payment to purchase and contract for support as detailed in their Care and Support Plan. The arrangements must be made within the parameters required by Bolton Council to ensure they are legal; safe; and that public money is properly accounted for.

In circumstances where the terms and conditions of the agreement are not met, Bolton Council will take reasonable and proportionate steps to address the issues arising and support the individual whenever possible to maintain the Direct Payment. In the event that the issues remain unresolved, Bolton Council will conduct a review and consider whether the Direct Payment continues to be an appropriate arrangement to meet the individual's assessed needs. If a decision is made to withdraw the Direct Payment, this decision must be confirmed in writing, explaining the rationale for the decision and what will be offered as an alternative to meeting the needs.

2. Receiving a Direct Payment

2.1 Who can receive a Direct Payment?

A request for a Direct Payment can be made at any time by an adult or carer who has been assessed as eligible for care and support from Bolton Council.

To receive a Direct Payment the following conditions must be met:

- The individual requests a Direct Payment
- Bolton Council is not prohibited from making a Direct Payment as outlined in Section 2 and Schedule 1 of The Care and Support (Direct Payments) Regulations 2014
- The Direct Payment is not used for the purpose of securing long term care in a care home.
- Bolton Council is satisfied that the eligible individual or nominated/authorised person is capable of managing a Direct Payment with or without support.
- Bolton Council agrees that a Direct Payment is appropriate to meet eligible needs.

There are cases where a Direct Payment cannot be made to meet needs, these are set out in Section 2 and Schedule 1 of The Care and Support (Direct Payments) Regulations 2014. For example:

- The person lacks capacity to manage their finances and Bolton Council is unable to **authorise** a suitable person to manage it on their behalf.
- When a person is subject to drug or alcohol rehabilitation treatment/testing or Orders or released from prison on licence.
- Bolton Council will not approve an individual onto a Direct Payment if they wish to nominate a family member to administer the Direct Payment, who is being paid to deliver their support. In exceptional circumstances a Head of Service may approve an arrangement contrary to this provision; however, this

cannot be agreed if the paid carer lives at the same address as the individual in receipt unless current government guidance permits it.

A Direct Payment must be an appropriate way to meet the needs and outcomes set out in the Care and Support Plan, or carer's support plan. The individual in receipt of the Direct Payment or the authorised/nominated person must be able to manage the Direct Payment with or without support.

2.2 Assessing mental capacity to receive payments

Anyone who accepts a Direct Payment is responsible for managing it either independently or with help.

Individuals who request a Direct Payment who have capacity to manage their finances may nominate a third party to assist them. The third party is usually a family member or close friend and is known as the Authorised Person.

Bolton Council may decide that a person with capacity is unable to manage a Direct Payment, having taken into consideration the individual's views and circumstances. If the person disagrees with the Council's decision, the service will provide access to an advocacy service to ensure their views have been fully taken into account.

Where there is any doubt about a person's ability to manage a Direct Payment, Bolton Council will assess whether or not the individual has capacity to consent to a direct payments agreement before making a Direct Payment available. Individuals who would otherwise have no one to support them will be offered an advocate during the assessment process. In such cases, advocates will carry out their duties as outlined in the Mental Capacity Act 2005 and the Care and Support Statutory guidance.

Inability to manage a Direct Payment does not mean an individual with eligible needs cannot receive a Direct Payment. Where an individual has been assessed as lacking capacity to request a Direct Payment, an Authorised Person can request the Direct Payment on their behalf.

An Authorised Person is a suitable person who agrees to manage the Direct Payment for the person who lacks capacity on their behalf or has the power, such as a lasting power of attorney or deputy for welfare, for the person as outlined in the Mental Capacity Act 2005.

The Authorised Person should be party to all the information, advice and guidance that the individual in receipt would usually receive in managing the Direct Payment. The Authorised Person will sign the Direct Payment Agreement to manage the payments on behalf of the individual and be responsible for paying in the assessed

contributions. By doing so they take on the legal responsibility related to employing and managing paid staff employed through the Direct Payments scheme.

The Authorised Person, in signing the Council's agreement to act as a suitable person on behalf of the individual and fulfil their duties, responsibilities and will be personally responsible if they misuse funds.

Consideration will be given as to whether or not individuals whose capacity is fluctuating or known to fluctuate are able to manage a Direct Payment with or without assistance from an Authorised Person on a case by case basis.

2.3 Calculating the Value of the Direct Payment

The Direct Payment amount is the equivalent to the Council's estimation of the reasonable cost of providing the support required. The payment should be sufficient to secure support of a standard and value that the Council considers appropriate to meet the eligible needs and outcomes for the individual.

The Council is not obliged to fund specific costs associated with the individual's preferred method of securing their needs and outcomes. The individual in receipt of the Direct Payment can top up their Direct Payment budget if the cost of their chosen intervention exceeds the Council's estimation of reasonable costs to secure it.

The Council will inform the person of the value of the Direct Payment and any financial contribution they are expected to pay towards the cost of their care and support.

2.4 Client contributions

Where a Direct Payment or Council service is provided to meet eligible needs the Local Authority is required to undertake a financial assessment which ascertains the assets, savings and income of the person and determines whether a financial contribution towards their care and support needs is required.

Individuals (or their Authorised Person) who are required to pay a client contribution must set up a four weekly standing order into their Direct Payment bank account. The amount paid into the Direct Payment account from Bolton Council will be net of their assessed contribution. Payments must be made four weeks in advance to ensure that all the funds required for care and support are available and are being spent on the provision of care and support from one account.

Failure to pay a client contribution into the Direct Payment bank account may result in a suspension or reassessment of the person's eligibility for receipt of a Direct Payment.

On closure of a Direct Payment account, shortfall of funds arising from non-payment of client contributions may be payable by the person in receipt of Direct Payments.

2.5 Payment Methods

There are a number of options in place for individuals to receive their Direct Payment:

- A dedicated personal Direct Payment bank account.
- Via a Supported Bank Account.

The individual or their Authorised Person will require a dedicated Direct Payment bank account. This account cannot be used for any form of personal banking. Payments will be made on a four-weekly basis in advance. Bolton Council will require the individual or Authorised Person to provide copies of bank statements and receipts of all the financial transactions initially six months after the care and support has commenced and annually thereafter.

Bolton Council will load the dedicated Direct Payment account every four weeks in advance with the amount agreed in the Care and Support Plan. If the individual has to pay a contribution towards their care and support needs, the sum provided will be the amount less the person's contribution.

If there is any underspend or allegation/confirmation of misappropriation (theft) or fraud in respect of the Direct Payment funds by the individual or their Authorised Person, the Direct Payment may be suspended and Bolton Council will seek to recover any money owed. This may also result in a review of the individual's care and support needs and whether it is appropriate for the Direct Payment to continue.

2.6 Supported Bank Accounts

A Supported Bank Account is a way to get additional help and support to manage the administration of a Direct Payment. It ensures that no one is excluded from the opportunity to have a Direct Payment to manage a personal budget for their care and support needs.

Bolton Council has contracted a Supported Bank Account provider.

The need for the use of the Supported Bank Account must be identified during the assessment phase and be approved before a referral can be made for this service.

Bolton Council has also contracted with a Support Brokerage Service that provides support to individuals who have been offered a Direct Payment. This service will explain the Direct Payment process in detail.

The Supported Bank Account provider takes responsibility for a range of tasks, including;

- Receiving all your direct payments
- Paying Personal Assistant wages, agency fees and various other bills
- Paying all amounts due to HM Revenue and Customs (HMRC)
- Keeping a record of all the income received and payments made
- Providing you and Bolton Council statements showing all transactions as and when requested
- Dealing with the Councils audit and inspection checks.

2.7 Contingency and reserves

The Care and Support Plan may include a contingency element that can be used to cover fluctuating needs. The use of the contingency will be monitored by Bolton Council to ensure that it is being spent in line with the interventions and outcomes agreed in the Care and Support Plan.

Individuals should hold sufficient funds in their Direct Payment account to cover all planned expenditure. Anything held in excess of this amount that has not been agreed as part of fluctuating needs requirements will be investigated and if necessary, recovered by Bolton Council. Payments that have not been used and are unaccounted for within an 8-week payment period will be recovered by the Direct Payment Finance Team.

2.8 Administration Support and costs

If the individual in receipt of the Direct Payment or their authorised person requires support in managing the Direct Payment, Bolton Council will provide access to a Supported Bank Account Provider and Support Brokerage Service.

Individuals can choose to nominate a friend or family member to manage the Direct Payment on their behalf. Any administrative payments for high-cost complex care packages must be agreed with the Council. The individual or authorised person must be able to demonstrate that the tasks warrant such a payment. The cost of this service will then form part of the Direct Payment.

Bolton Council will not generally agree for a family member to administer a Direct Payment from which another family member is being paid to deliver support. In exceptional circumstances a Head of Service may agree an arrangement. However, this cannot be agreed if the paid carer lives at the same address as the recipient.

The administration payment, if appropriate, will be agreed between the individual in receipt of the direct payment or their Authorised Person, Bolton Council and any other interested person such as an advocate.

These decisions will be recorded on the individual's Care and Support Plan and will include the amount, frequency and activities to be covered.

2.9 Transition - when a child becomes an adult

Young people from the age of 16 can request to receive a Direct Payment. Where a young person in respect of whom a Direct Payment is being made becomes an adult (on their 18th birthday), Bolton Council will take reasonable steps to ascertain whether the young person, if eligible, still consents to receiving a Direct Payment.

2.10 Transfers between Direct Payments and Council provided service

If, for any reason, the person does not agree to a Direct Payment or if they are no longer able to arrange their own services, the Council will put in place arrangements to ensure they receive the care needed.

People who are already in receipt of Council provided services may wish to switch to a Direct Payment.

It is also possible to arrange a mixture of Council provided services and a Direct Payment, if it is appropriate to do so.

3. How to spend Direct Payments

3.1 Responsibility for spending Direct Payments

Bolton Council has a duty of care to individuals eligible for services. It also has a duty to protect public funds, ensuring they are being spent appropriately. In delivering this responsibility, Bolton Council must be satisfied that the Direct Payment is being used to meet eligible needs as set out in the person's Care and Support Plan or Support Plan if meeting the needs of a carer.

Individuals or the Authorised Person, can only spend up to the amount that has been loaded into their bank account, on support which meets their eligible needs and outcomes as set out in the Care and Support Plan or Support Plan for carers.

Funds cannot be transferred to any other personal bank account. All transactions to meet needs and outcomes must be made via the designated Direct Payment bank account.

3.2 What Direct Payments can be used for

Direct Payments can be used for any support that is legal, meets eligible needs and helps the individual to achieve the outcomes as identified in their Care and Support Plan/Support Plan.

Bolton Council is unable to draw up an exhaustive list as to how individuals can spend their Direct Payment. Each case must be decided on its own merits and follow the key principles, as set out below:

- Be clearly linked to the interventions and outcomes agreed in the individual's Care and Support Plan or Support Plan if the recipient is a carer.
- Be applied to a wide range of interventions and outcomes so that individuals are able to maintain their independence, health and wellbeing.
- Be affordable and proportionate to the individual's assessed eligible care and support needs as defined by the Care Act 2014.

Working within the above guiding principles, the following are examples of how a Direct Payment **can** be used:

- To employ a personal assistant or care agency
- Accessing and engaging in work, training, or volunteering
- Making use of necessary services and facilities in the local community, such as public transport and recreation facilities
- Attending Day Opportunities
- Pay for one-off pieces of equipment that are not available through other support services
- An innovative intervention that meets the individual's outcomes and in so doing prevents, reduces, and delays the onset of longer-term care needs
- Purchasing personal protective equipment as deemed necessary
- Respite breaks in a care home not exceeding more than 4 consecutive weeks in a 12 month period.

Where a Personal Assistant (PA) has been agreed in the Care and Support Plan, the Direct Payment will include funds to employ a PA, including recruitment costs (where required), employers national insurance contributions, income tax, employers' liability insurance, pension, and other associated costs. Bolton Council will provide information and support through the contracted Support Brokerage Service on how to begin employing a PA and ongoing support as necessary. Becoming an employer carries with it certain responsibilities and obligations for the individual, in particular in relation to paying Tax, National Insurance, minimum wage requirements, ensuring

that any pension requirements are met and that any person employed has the right to work in the UK.

Direct Payments can be made to individuals in order to purchase a short term stay in a care home, provided that:

- The stay does not exceed a period of 4 consecutive weeks in any 12-month period.
- The period between 2 stays in care homes is less than 4 weeks.
- If the period between the care home stays is less than 4 weeks then the 2 stays will be added together to make a cumulative total which should also not exceed 4 weeks.

In some circumstances, people living in care homes may receive a Direct Payment in relation to non- residential care services if for example: they are trying out independent living arrangements; or require community activities to promote outcomes to live independently. This can be empowering for young people in transition to independent living.

Any Direct Payment spent on purchasing care outside of the country will need to be approved by a Head of Service in Bolton Council on a case-by-case basis and cannot be assumed.

3.3 What Direct Payments cannot be used for

- Anything illegal
- Anything that will harm a person's health, safety or wellbeing
- Paying for anything related to regular day to day living expenditure e.g., food, drink etc.
- Purchase of alcohol, tobacco or gambling
- Paying for anything that other departments or statutory organisations provide, for example the NHS
- Paying any rent or household bills e.g., gas, electricity
- Permanent residential or nursing care
- Paying for services directly from Bolton Council
- Paying for services from a spouse, family member or partner who lives in the same household as the individual, unless it is management and/or administrative support which Bolton Council has determined as necessary.

- Spend involving commitments out of the United Kingdom (UK). Any out of the UK spend will need to be assessed on a case-by-case basis and subject to authorisation by the Head of Service.

Individuals in receipt of a Direct Payment or authorised person can only spend their Direct Payment on meeting the outcomes as outlined in their Care and Support Plan. Failure to notify the Council of spends unrelated to the agreed outcomes will result in a review of whether a Direct Payment is an appropriate method of delivering care and support.

3.4 Paying for Council Services

As a general rule, Direct Payments should not be used to pay for services provided by Bolton Council. If an individual wishes to receive a service from Bolton Council, the Direct Payment will be reduced by the service cost before it reaches the Direct Payment bank account.

This does not exclude individuals from using their Direct Payment to purchase care and support from a different local authority. For example, a person may live close to a boundary with another local authority and may use their Direct Payment to access a particular service in that area to meet their outcomes.

3.5 Employment duties

Individuals in receipt of Direct Payments need to be aware that they or their authorised/nominated person is responsible for the day-to-day management of their Direct Payments including that of employing suitably qualified workers where necessary to provide the assistance identified within their Care and Support Plan.

Bolton Council and their contracted Support Brokerage Service will provide and signpost individuals to information in regard to their role as an employer.

Becoming an employer carries certain responsibilities and obligations in particular in relation to paying tax, national insurance, minimum wage requirements, pension, sick pay and annual leave. It will also be necessary to register as an employer with HMRC and ensure all checks are made of their potential employee including checks for Disclosure and Barring (DBS) and their right to work in the UK.

Individuals in receipt of a Direct Payment or authorised person who employ staff must have the appropriate insurance in place. Employers Liability Insurance and Public Liability Insurance should be taken out with a reputable insurance company or underwriters with a minimum limit for any one claim of £10 million (individuals will be notified if this limit is increased or decreased by the Council.) The insurance policy

and premium receipts must be produced on demand when requested by Bolton Council.

The individual or their authorised/nominated person must ensure that any person they employ through a Direct Payment will not be considered nor consider themselves an employee or agent of Bolton Council and that Bolton Council will not be responsible for any income tax, National Insurance or any other payments or responsibilities in relation to the employee of the individual. It must be clearly stated in their contract of employment or written statement of work that they are employed solely by the individual or the authorised/nominated person.

The individual or their authorised/nominated person will be expected by Bolton Council to ensure that the individual has made provisions for cover in emergency situations or when their PA is not able to support them, such as annual leave or sickness.

In the event of a breakdown in the individual's contingency arrangements for care, Bolton Council will endeavour to put in place appropriate services to achieve their agreed outcomes for the period until the individual or their authorised/nominated person is able to resume their usual care arrangement. This will result in Bolton Council seeking a repayment of Direct Payment monies paid to the individual. The amount will be recovered by Bolton Council from their Direct Payment bank account with details provided to the individual or their authorised/nominated person in writing. Bolton Council may recover any amount due, greater than the money in the Direct Payment bank account from future Direct Payments after conducting a re-assessment of the individual's needs in consultation with the individual.

3.6 Safeguarding

Individuals in receipt of a Direct Payment are entitled to make their own decisions and to take risks in the same way that any others in the community are entitled to. Where appropriate, safeguards will be put in place to prevent any potential abuse and to support the individual in making decisions and managing any associated risk as a result of that decision.

It should be noted that Bolton Council will offer support, advice and guidance to individuals in receipt of a Direct Payment to minimise risk of abuse from people who are individually employed as a personal assistant, as it is noted that these employees are not monitored by the Council.

Individuals in receipt of a Direct Payment directly employing a Personal Assistant (PA) can be placed at greater risk of abuse depending on the level of rigor and pre-employment checks undertaken during the PA recruitment process. Bolton Council strongly recommends that enhanced Disclosure and Barring Service (DBS) checks are undertaken on PA's working with vulnerable adults. This is particularly important

when employing a PA who supports individuals who lack capacity, as in these situations the individual may be unable to verbalise concerns about their care. An enhanced DBS check must be undertaken if the PA has unsupervised access to the person they are caring for and that PA must be able to disclose on request a current enhanced DBS check.

The individual or their Authorised Person must ensure that an enhanced DBS check is undertaken when employing a person who will have unsupervised access to children, young people or vulnerable adults during the course of their work. The check is undertaken to ensure that the person has no relevant criminal convictions that would preclude them from working with children or vulnerable people.

Safeguarding is everybody's business and therefore it is essential that staff working for Bolton Council, partnership organisations, agencies, and members of the public remain alert and vigilant to the potential for abuse and are informed of the mechanism for reporting safeguarding concerns.

In the event that Bolton Council considers the provider of support to be placing the individual at risk, the Direct Payment may be suspended, and alternative provision provided, whilst a safeguarding investigation is undertaken.

3.7 Council employed staff and working as a personal assistant

In compliance with the "Working Time Directive Regulations", no employee will be required to work in excess of the hours stipulated within the Regulations. The only exception will be in circumstances where there is mutual (written) agreement between the employee(s) and employer.

In the event that a prospective employee is already in employment in relation to a Direct Payment at the time of their application for employment with the Council, this should be disclosed to the Council during the course of the interview process. Should this employment continue after the prospective employee commences a position within the Council, the employee is required to inform their line manager.

If any employee takes up additional employment with another part of this Authority or with any other employer during the course of their employment with the Council, the employee must inform their line manager.

Where additional employment has been disclosed by the employee, management should review this to consider a) if this would be considered to be a conflict of interests and if this is the case, this should be managed under the usual Human Resource processes; and b) to take account of the Regulations as set in 16.1 above and consider the employee's health and safety.

3.8 Health and safety

Bolton Council advises the recipients of a Direct Payment to ensure they follow health and safety guidelines when employing someone to provide care, general information on health and safety issues is provided by the contracted Support Brokerage Service. To support the safe delivery of care, the Council will give recipients the results of any risk assessments carried out as part of their assessment for care, and this could include moving and handling risk assessments.

Individuals eligible for support have a responsibility for their own health and safety, including assessment and management of risk to others involved in the provision of care. The Council advises the individual/authorised or nominated person to visit the [Health and Safety Executive website](#) at for further information.

4. Monitoring (Audit) and Review of Direct Payments

4.1 Review of Direct Payments

An initial light-touch review will take place within the first six weeks after a Direct Payment has first started to ensure the individual in receipt of the Direct Payment/ authorised person is using their Direct Payment and to provide any necessary advice or support.

The review will help establish if the Direct Payment is being spent appropriately within the terms of the Direct Payment Agreement and to ensure it is meeting the eligible needs and outcomes as detailed in the Care and Support Plan. If the initial review raises concerns or requires actions that affect the detail recorded in the Care and Support Plan, then a full review of the plan will need to be carried out.

If following the initial review, the Direct Payment is deemed to be meeting the person's outcomes and needs, Bolton Council will review the Direct Payment arrangements within in six months following the start of the package, and thereafter every 12 months, unless the Council is required to review following a request from the individual.

If at the initial review it becomes clear that the individual in receipt of the direct payment or the authorised person is struggling to understand their responsibilities in managing the Direct Payment, for example maintaining a Direct Payment bank account or keeping appropriate records, Bolton Council through their contracted Support Brokerage Service, will assist with further information, advice, and support to enable the Direct Payment to remain in place. If the individual, authorised/or nominated person continues to experience difficulties in carrying out their responsibilities the Council will undertake a review to decide if a Direct Payment is the appropriate method to deliver care and support.

Where a Direct Payment is being managed by an authorised person, or where a family member or friend is being paid for administrative support, the review will seek to involve all relevant parties involved in the care arrangements. This will ensure that Bolton Council receives views from everyone involved in the Direct Payment and seek to resolve any issues.

Bolton Council has the right to increase, decrease, suspend or terminate the Direct Payment in line with a review or reassessment of the individuals assessed eligible care needs.

Where Bolton Council has identified a change in circumstance that it deems affects the current level of Direct Payments, the Council will undertake a review of the Direct Payment and provide the individual or their authorised/nominated person with written notice within 28 days of the change. This notice period may be extended where a reduction may affect any pre-existing contractual arrangements, such as with a PA and advice will be sought from the Insurer.

The individual or their authorised person will ensure that arrangements are in place to notify Bolton Council immediately and seek a review if there are any changes in circumstances that may affect their entitlement to a Direct Payment. For example:

- admission to hospital
- stays away from their home address for periods beyond four weeks
- no longer requires the service
- a change of address or support arrangements.

It is the responsibility of the individual to check with Bolton Council if they are unsure if a change in circumstance will affect their eligibility to receive a Direct Payment.

Bolton Council may temporarily reduce or suspend payments if the individual is unable to receive services for a period of time, such when a long stay in hospital is required or during exceptional circumstances such as COVID. Following discussions with the individual or their authorised person, Bolton Council will give consideration to the individual's circumstances and consider the appropriate action. Direct Payments may continue to be paid for short stays in hospital for up to 4 weeks to facilitate staff or PA retention by the individual.

4.2 Monitoring and Audit of Direct Payments

Bolton Council must be satisfied that the Direct Payment is being used to meet the eligible needs and outcomes as agreed in the Care and Support Plan.

Bolton Council has a responsibility to ensure that public money is spent and accounted for appropriately.

The monitoring will look at all aspects of the Direct Payment to identify risks and issues. For example, if the Direct Payment recipient is employing someone to provide the care, Bolton Council will review and check to ensure the individual is fulfilling their responsibilities as the employer. In particular that they are submitting PAYE returns to HMRC, and that tax payments and National Insurance deductions are being made.

The individual or their Authorised Person must keep all documents and records generated in connection with the provision of care and support provided by a Direct Payment Agreement with Bolton Council for a period of six years following the end of the agreement. The documents or records held by the individual or their authorised/nominated person may be inspected by Bolton Council at any point during this period.

If the individual or their nominated/authorised person has set up their own dedicated Direct Payment bank account, a return is required 6 months after the start of the care package and annually thereafter with following documentation:

- Copies of all bank statements from the relevant period.
- Invoices, payslips and timesheets if someone is employed to deliver the care.
- Receipts for any purchases made using your direct payment funds
- One off purchase.

Bolton Council will request information and supporting documentation for any entry on an individual's dedicated Direct Payment bank account if the transaction is not easily recognisable, exceeds or is notably lower than the agreed care or service costs. The individual or the Supported Bank Account Provider must provide this information within 14 days of the request. Failure to provide such documentation can result in a reassessment of the individual's eligibility for a Direct Payment.

Bolton Council will provide information and advice to individuals who opt to take their care and support through a Direct Payment via their contracted Support Brokerage Service. It will be made clear to the individual that the Direct Payment account is auditable and the importance for maintaining up to date and accurate record keeping on expenditure.

The Direct Payment bank account will be subject to an audit, to ensure that the Direct Payment is being used for the purposes laid out in the Care and Support Plan with accurate receipts and records being kept. Any discrepancies will be investigated and resolved and any debt will be recoverable by Bolton Council from the Direct Payment Recipient.

Bolton Council has the right to suspend (temporarily pause) or terminate (end) the Direct Payment as a result of the findings of the audit of the Direct Payment account, however, such action will not be unreasonably applied.

4.3 Unspent Direct Payments

Where money in a Direct Payment bank account is uncommitted or unaccounted for beyond an 8-week payment period, Bolton Council will seek to recover the uncommitted amount from the account.

In most cases Bolton Council will undertake a review of the Care and Support Plan with the individual to ensure they are not disadvantaged. Following a review, the Direct Payment may be changed to ensure it still meets the needs of the individual.

4.4 Recovery of Direct Payments

Bolton Council reserves the right, after discussion with the individual or their Authorised Person to adjust future payments and to recover any overpayments or underspends. This may occur for example when the person has long hospital stays, a change in circumstances or the death of the individual. The Council will take into consideration all required expenses in relation to the Direct Payment such as statutory holidays, payments due to the HMRC and other outstanding payments due.

4.5 Wrongful use of a Direct Payment (misuse and fraud)

In the event that fraud, abuse or misuse is reasonably suspected by the individual or their Authorised Person, Bolton Council may refer the matter to the Internal Audit Team for investigation and offer support to the individual to reduce the risk of further loss occurring.

Bolton Council will refer any potential criminal activity to the Police for further investigation and reserve the right to prosecute where fraud is suspected to have taken place.

Bolton Council will not be responsible for any losses incurred by the individual or Authorised Person and will not therefore reimburse the individual unless or until they have been cleared of any involvement in the loss, save for in exceptional circumstances.

In cases of misuse or fraud relating to the use of a Direct Payment, Bolton Council will take action to recover all or part of the monies where appropriate.

Bolton Council may seek repayment from the Authorised Person where they have been responsible for managing the Direct Payment on the individual's behalf.

In serious cases, the individual may no longer be eligible for a Direct Payment in the future. However, their care and support needs would still be met if required by Council commissioned services.

4.6 Stay in Hospital

There may be occasions when the individual requires a stay in hospital. If an individual is in hospital, the Direct Payment will cease after 2 weeks unless there is an exceptional circumstance, for example, if the personal assistants are required to continue to provide care whilst the person is admitted. The Council must be alerted to all admissions into hospital, as a review will be required. Consideration as to contractual agreements with PAs will be taken into account to ensure a continuity of care when discharged from hospital.

If the Direct Payment has been stopped due to a protracted length of stay, upon discharge, a review of the individual's care and support needs should be completed by Bolton Council to ensure that an appropriate Care and Support Plan is in place before the individual returns home. The finance team must be notified of any new payments required and the proposed start date.

During any stay, consideration will be given to how the Direct Payment may be used in hospital to meet non-health needs or to ensure employment arrangements are maintained.

In some cases, the Authorised Person managing the Direct Payment may require a hospital stay. In these cases, Bolton Council must be notified, and an urgent review will be conducted to ensure that the person continues to receive care and support to meet their needs. This may be provided by a temporary replacement Authorised Person, or by the council putting in place a short-term care and support arrangement.

4.7 Period away from home

Individuals in receipt of Direct Payments intending to travel outside their ordinary area of residence for short periods over two weeks must inform Bolton Council of their plans prior to making those arrangements. The individual will need to state the period of time from which they will be away and to confirm their arrangements for support during this period. If the individual does not notify the Council until they return, they may be unable to claim the expenses for the care received whilst away from their home address.

The individual in receipt of the Direct Payment or their Authorised Person retains the responsibility to ensure that any employee, particularly if this is outside the UK, complies with the country's employment rules and regulations.

The individual or their Authorised Person must retain receipts for payment of wages to employees as well as all other documentation related to such employment; this includes copies of receipts and invoices relating to purchases made from their Direct

Payment bank account. These should be submitted to Bolton Council along with their financial monitoring returns annually or on request.

4.8 Disputes

Any disputes in relation to the allocation of a Personal Budget or provision of a Direct Payment can be appealed via contact with the Quality Assurance Team.

Should the Appeal be unsuccessful the individual or their Authorised Person may refer the matter to the Local Government Ombudsman for consideration.

Any disputes with the agency used/provider should be dealt with directly with the agency/provider via their complaints process. Should the individual remain dissatisfied, they have the option to refer the matter to Bolton Council's Adult Social Care Quality Assurance Team. The Council will review the issues outlined in the complaint and take appropriate action, including safeguarding procedures if required.

5. Ending a Direct Payment

5.1 Suspension or termination of Direct Payments – by the Council

Direct Payments will only be suspended or terminated as a last resort. Where possible, Bolton Council will take all reasonable steps to address any situations without the need to suspend or terminate. If suspending or terminating a Direct Payment, Bolton Council will write to the individual or Authorised Person explaining why the Direct Payment is being suspended or terminated and will ensure there is no gap in the provision of care and support to the person with eligible needs.

Bolton Council may then engage its support broker to provide support to the individual or Authorised Person to manage their employment responsibilities and gain advice in respect of any other legal issues which arise following suspension or termination of the payments.

Bolton Council may suspend or terminate Direct Payments if:

- It is apparent that the individual is no longer capable of managing the Direct Payment whether on their own or with support
- The individual no longer needs the support for which the Direct Payment is made
- The individual does not require assistance for a short period because their condition improves. Bolton Council will discuss with the individual, carer, and any other person concerned on how best to manage this

- If Bolton Council is no longer satisfied that the Authorised Person is acting in the best interests of the individual.
- There appears to be/is illegal or fraudulent use or misuse of a Direct Payment
- If Bolton Council are unable to obtain records and information to verify if care and support needs are being met in an appropriate way.
- If the criteria for receipt of Direct Payments is no longer met by the individual or their Authorised Person on review.
- If the individual or their Authorised Person's circumstances change such as to make them ineligible to receive Direct Payments under Schedule 1 of the Care and Support (Direct Payments) Regulations 2014 – for example, if the individual is placed by the court under a condition or requirement relating to a drug and/or alcohol dependency.
- As part of an investigation or plan under the Safeguarding Adults Procedures.

In such cases, unless an alternative Authorised Person is identified to manage the Direct Payment, Bolton Council will put a managed service in place to ensure that the individual's eligible needs are met. Bolton Council will also initiate a review to consider revision of the Care and Support Plan and Direct Payment Agreement.

Notice required will depend on individual circumstances. Bolton Council will endeavour to put in place a 4-week notice period unless an evaluation of risks or other relevant factors require a speedier resolution.

If Direct Payments are discontinued, the individual or their Authorised Person may find themselves with ongoing contractual responsibilities or having to terminate contracts for services, including making employees redundant. Contractual obligations will require a notice period for termination, such as for a service paid for in advance or employment contracts. These arrangements will need to be taken into consideration when Direct Payments are discontinued by either the individual and or their Authorised Person.

Once a Direct Payment has been suspended or terminated for the above reasons a new Direct Payment will not be considered until all outstanding issues from the original Direct Payment have been resolved, for example all outstanding balances are repaid and safeguarding issues resolved.

Bolton Council retains the right to recover Direct Payments in full or in part if it is satisfied that the money had been diverted from the purposes identified within the individual's Care and Support Plan.

A final financial return must be submitted on closure of the Direct Payment account and all unused funds must be returned to Bolton Council.

Failure to comply with the auditing and monitoring of your Direct Payment may result in the Direct Payment being temporarily suspended until requested evidence is received.

A Carers Direct Payment will be terminated on reasonable notice if the person being cared for is admitted to long-term residential care.

If the individual moves out of the Borough, 6 weeks funding will be made available during the transition period.

On closure of account, shortfall of funds arising from overuse of Direct Payment funds or non-payment of client contributions will be payable by the person in receipt of direct payments.

5.2 Suspending or terminating a Direct Payment – By the individual

The individual can choose to terminate a Direct Payment at any time. This may be because they no longer wish to receive Direct Payments, they are no longer able to manage the Direct Payment, or they no longer need the support for which the Direct Payment is made.

A Direct Payment may be terminated by the individual or their Authorised Person by providing four weeks' notice to enable Bolton Council to provide alternative provision of support if required.

In such cases Bolton Council will put a managed service in place to ensure that the individual's eligible needs are met. Bolton Council will also initiate a review to consider revision of the Care and Support Plan and Direct Payment.

If Direct Payments are discontinued, the individual or their Authorised Person may find themselves with ongoing contractual responsibilities or having to terminate contracts for services, including making employees redundant. Contractual obligations will require a notice period for termination, such as for a service paid for in advance or employment contracts. These arrangements will need to be taken into consideration when Direct Payments are discontinued by either the individual and or their Authorised Person.

Once a Direct Payment has been suspended or terminated for the above reasons a new Direct Payment will not be considered until any outstanding issues from the original Direct Payment have been resolved, for example, all outstanding balances are repaid.

Bolton Council retains the right to recover Direct Payments in full or in part if it is satisfied that the money had been diverted from the use for which it was originally intended.

A final financial return must be submitted on closure of the Direct Payment account and all unused funds must be returned to Bolton Council.

Failure to comply with the auditing and monitoring of your Direct Payment may result in the Direct Payment being temporarily suspended until requested evidence is received.

A Carers Direct Payment will be terminated on reasonable notice if the person being cared for is admitted to long-term residential care.

If the individual moves out of the Borough, 6 weeks funding will be made available during the transition period.

On closure of account, shortfall of funds arising from overuse of Direct Payment funds or non-payment of client contributions will be payable by the person in receipt of direct payments

5.3 Discontinuing Direct Payments in the case of persons who lose capacity to consent to the Direct Payment Agreement or manage the payment

Where someone with capacity is in receipt of a Direct Payment but loses capacity to consent to the agreement or the ability to manage the Direct Payment, Bolton Council will discontinue Direct Payments to that individual and consider making payments to an Authorised Person instead. In the interim, Bolton Council will make alternative arrangements to ensure continuity of care and support.

If Bolton Council believes the loss of capacity to consent to be temporary, it may continue to make payments if there is someone willing to manage payments on the behalf of the individual. This situation should be treated as strictly temporary and will be closely monitored to ensure that, once the individual regains capacity, they are able to exercise control over the Direct Payments as before.

If the individual's loss of capacity to consent to the agreement or manage the payments becomes prolonged, Bolton Council will consider making formal arrangements for an Authorised Person to take over receipt of the Direct Payments on that person's behalf. If one cannot be found, Bolton Council will terminate the Direct Payment and arrange Council commissioned services.

5.4 Discontinuing Direct Payments in the case of persons lacking capacity to consent to the Agreement

Bolton Council may discontinue Direct Payments if they are not satisfied for whatever reason that the Authorised Person is acting in the best interests of the beneficiary, within the meaning of the Mental Capacity Act 2005.

Bolton Council may discontinue the Direct Payments if it has sufficient reason to believe that the conditions imposed by Direct Payment Regulations on the Authorised Person are not being met.

In this scenario, Bolton Council may wish to consider if someone else can act as an Authorised Person for the individual lacking capacity, or whether there is a need for the Council to arrange services for them in place of the Direct Payments.

Direct Payments will be discontinued to an Authorised Person where Bolton Council has reason to believe that someone who had lacked capacity to consent to Direct Payments has now regained that capacity on a long-term or permanent basis.

5.5 Ending Direct Payments following a death

In the event of the death of the individual any amount of Direct Payment remaining in an individual's Direct Payment bank account will be recovered by Bolton Council following a discussion with the family and/or the Authorised Person, to include an executor under a Will or an administrator in the event of intestacy (if a Will does not exist). Funds will be available to pay for any outstanding commitments outlined in the Care and Support Plan.

Any amount due to the estate of the individual for the fulfilment of contractual and legal obligations relating to any person employed by the individual or to HMRC relating to their employees, shall be paid by Bolton Council on receipt of supporting documentary evidence or an invoice relating to the services received. Please note that funeral costs are an estate expense and will not be covered by these funds.

Any personal contribution remaining in the Direct Payment bank account to the date of death, will be paid to the individual or their estate within 28 days of termination of the Direct Payment, subject to all records being made available to Bolton Council. Any overpayments post the date of death to the Direct Payment bank account will be returned to Bolton Council within 2 months.

Appendices

Appendix 1: Direct Payments Agreement

For

(Insert service user/carer's name)

- Note that this is a legally binding agreement therefore you should read it carefully and seek legal advice should you be unclear regarding any of the terms.
- This Agreement outlines your responsibilities and the Council's responsibilities when using your Direct Payment. No payments can begin without this agreement having been signed and received by the Council.

YOUR PERSONAL BUDGET

- To receive a personal budget, you will be a person with eligible needs or a carer for someone with eligible needs.
- You will have completed an assessment form and had an assessment by a Council representative.
- If you are an individual with eligible needs, the Council will have prepared a Care and Support showing how your assessed needs will be met.
- If you are a carer, the Council will have prepared a Carers Support Plan showing how your assessed support needs will be met.
- You have agreed that the support described in the Care and Support Plan/Carers Support Plan is to be provided wholly or partly through a Direct Payment.

APPOINTING A NOMINEE / AUTHORISED PERSON

- If you are unable to manage the Direct Payment yourself then you can appoint a Nominee to receive the Direct Payment on your behalf.
- The Nominee must sign this Agreement on your behalf and agree to take on the legal responsibility of managing the Direct Payment.
- Should you lack capacity, an Authorised Person can be appointed to act on your behalf.

YOUR DIRECT PAYMENT ACCOUNT

- You (or your nominee/Authorised Person) will need to set up a separate dedicated bank account for managing the Direct Payment.
- There must be no overdraft facility for this account.
- This account must **not** be used for any purpose other than for receiving the Direct Payments and making payments for your assessed care and support needs/support needs under your Care and Support Plan/Carers Support Plan.
- You must **not** make any cash or ATM withdrawals from this account.
- If you have been assessed as needing to make a financial contribution towards the cost of your Care and Support Plan/Carers Support Plan, then the contribution must be paid into this Direct Payments bank account every 4 weeks.
- You should start making your contributions as soon as possible after the funding from the Council commences.
- Note that your contributions are used first before Council funding, to pay for your care.
- Should you fail to pay your contributions into the bank account, the Council reserves the right to withdraw your Direct Payment.

GENERAL RULES ABOUT HOW TO USE THE DIRECT PAYMENT MONEY

- Your Direct Payment is to enable you to buy the support required to meet the outcomes as detailed and agreed in your Care and Support Plan/Carers Support Plan.
- You must notify Bolton Council if you wish to change anything in your Care and Support Plan/Carers Support Plan and obtain approval in writing from Bolton Council prior to purchase.
- You must inform Bolton Council at the earliest opportunity of any material changes in circumstances which would affect your assessed needs or entitlement to Direct Payments. This will include any changes in capacity to consent or ability to manage Direct Payments or in the event of the death of the individual in receipt of the Direct Payment.
- You cannot use your Direct Payment to buy anything other than goods/services which meet your outcomes as agreed in your Care and Support Plan/Carers Support Plan. Although not an exhaustive list, you **cannot** spend your direct payments on the following items:
 - Anything that is illegal
 - Anything that will harm your health, safety or wellbeing

- Alcohol, tobacco, drugs or gambling
- Items relating to regular day to day living expenditure (e.g. food and drink)
- Rent, mortgage payments or household bills (e.g. gas, electricity)
- Purchase of long term residential or nursing care
- Payment of a close relative/partner/friend that lives with you unless for management and/or administrative support only
- Payment for any health care needs that should be provided by the National Health Service or Integrated Care Board.
- Payment for any other charges owed to Bolton Council.
- Services, equipment or minor adaptations that are the responsibility of other public bodies.
- For spend incurred outside of the UK unless authorised by a Head of Service within Bolton Council.
- You agree to plan and make contingency arrangements in the event that your support arrangements break down due to unforeseen or planned absences.
- If you have a planned or unplanned stay in hospital you must inform Bolton Council as soon as possible so that you are not overpaid.
- Following an increase or decrease in your Direct Payment, you must manage any changes with agencies, organisations or employees from which you obtain services.
- You must use any interest earned from your Direct Payment toward the cost of the services to meet your assessed needs.
- You are liable for any bank charges which may arise.

SUSPENSION OR TERMINATION OF THE DIRECT PAYMENT

- Bolton Council has the right to suspend or terminate the Direct Payment where the need for service is temporarily not required or for any reason in line Section 5 the Council's Direct Payments Policy. Bolton Council will endeavour to put in place a 4-week notice period unless an evaluation of risks or other relevant factors require a speedier resolution.
- You may suspend or terminate your direct payment on 4 weeks' notice to Bolton Council, for any reason as outlined in Section 5 of the Council's Direct Payments Policy.

ARRANGING SERVICES

- It is your responsibility to ensure that you have services to meet your agreed Care and Support Plan/Carers Support Plan.
- You accept that upon receipt of a Direct Payment, the Council has discharged its responsibility to you for the organisation and management of support to meet your assessed needs.
- If the Council withdraws the Direct Payment, it will offer you a service arranged and provided by the Council to meet your support needs.

EMPLOYING YOUR OWN SUPPORT WORKERS

- If you choose to directly employ a personal assistant to provide support to you regularly you will need to ensure you comply with all your legal duties and obligations as an employer in the United Kingdom, including what is required by HM Revenue and Customs and the UK Border Agency.
- You will also need to ensure that you have Employer's Liability Insurance and Third-Party Liability Insurance that provides cover for all employees.
- As their employer, you agree to take on responsibility for their **health and safety**.
- You must not employ your spouse/partner or family member living at the same address unless it has been agreed with the Council.
- It is recommended that you carry out appropriate checks at the Disclosure & Barring Service for all support workers that you employ to reduce any potential risk of harm to you from their employment.
- As their employer, you will also be responsible for their redundancy or dismissal from employment in line with employment law.

USING AN AGENCY

- If you choose to purchase support from a care agency rather than employing a personal assistant directly, it is recommended that you purchase care from a provider who is registered with the Care Quality Commission (CQC). A list of providers is available on the CQC website.
- Should you choose to purchase support from a care agency that charges more than the rate the Council will fund, you will be responsible for funding the difference.

REVIEWING THE DIRECT PAYMENT

- If there is a change in your circumstances, you must notify the Council.
- You can request a review of your Care and Support Plan/Carers Support Plan at any time.
- The Council's responsibility remains to provide a review of your assessed care needs on a regular basis.
- It is also the Council's responsibility to address any concerns in respect of your safety and welfare should they arise.

WHAT RECORDS YOU SHOULD KEEP

- You must keep accurate financial records (and retain these for a period of at least 6 years).
- You must keep the following records:
 - All statements for the Direct Payments bank account.
 - If you employ someone directly, all wages records. These wages records need to show details of the staff employed, the hours worked, the payments you make to the employee as well as payments which you make to the Inland Revenue.
 - If you use an agency, then you will need to keep copies of all the invoices you have received from the agency and any receipts.
 - Any other receipts or invoices related to your Care and Support Plan/Carers Support Plan expenditure.
- You must submit all documents requested by the Council for audit purposes promptly. Failure to do so may result in the Direct Payment being suspended or the agreement being terminated.
- If the Council decides that you are not keeping proper financial records it will consider terminating this Direct Payments Agreement or decide that someone else should manage the Direct Payment for you.

ENDING THE DIRECT PAYMENTS AGREEMENT

- The Council has the right to stop the Direct Payment to you if it decides that your employee or care provider is not suitable.
- You can stop your Direct Payment at any time by giving the Council notice. You will then be required to submit any records requested by the Council and repay any money due back to the Council.

- Unless in exceptional circumstances, the Council will give you at least 4 weeks' notice before it suspends or stops your Direct Payment. The Council will also give you advice on what you can do to prevent the Direct Payment from stopping or being suspended.
- In the event of your death, those dealing with your affairs need to be aware that any Direct Payments money remaining in the Direct Payments bank account does not form part of your estate and cannot be used to pay for expenses such as funeral costs. This money will need to be returned to the Council subject to a final audit.
- If Direct Payments money is used in an inappropriate or fraudulent way, the Council will take appropriate action to recover any money spent in this way.
- If an audit identifies there is surplus or unused money left in the Direct Payment bank account, either the identified amount of money will be deducted from subsequent payments, or the Council will issue a request for return of surplus money.
- If you do not keep to the terms and conditions of this Direct Payments Agreement the Council may stop your Direct Payment and you will be required to return all or part of the money you have received.
- The Council may take any necessary legal action it deems appropriate if the terms of this agreement are breached.
-

This Agreement is for a Direct Payment for
(Insert service user's name)

of
(Insert service user's address)

It is made between Bolton Council and
(Insert service user's / nominee's / suitable person's name)

who is the Service User/Nominee/Suitable Person (delete as appropriate)
of
(Insert service user's / nominee's / suitable person's address)

I confirm that I understand and agree, and will comply with the terms and conditions contained in this Agreement:

.....
Signature (to be signed by service user / nominee / suitable person)

.....
Print name

.....
Date

Signed on behalf of Bolton Council:

.....
Signature

.....
Print name

.....
Date

**Appendix 2: Management of a Direct Payment
Account by Appointed “Suitable Person”**

I certify that I have been appointed the suitable person to manage the Direct
Payment account on behalf of:

.....
(Insert service user’s name)

I confirm that I have read the attached “Notes for the Suitable Person” and agree to
act in the best interest of the above-named person within the meaning of the 2005
Mental Capacity Act.

..... X
Signature (to be signed by suitable person)

.....
Print name

.....
Date

Address
(Insert suitable person’s address)

Signed on behalf of Bolton Council:

..... X
Signature

.....
Print name

.....
Date

..... X
Counter Signed Broker

.....
Print name

.....
Date

Notes for the “Suitable Person”

1. The Health and Social Care Act 2008 amended the Health and Social Care Act 2001 to extend the scope of direct payments to include adults lacking capacity.
2. From the 9 November 2009 people who lack capacity are able to receive a direct payment paid to a “**suitable person**”. The local authority have within their powers the ability to make a direct payment to someone who lack’s capacity or are reasonably believed to lack it as defined in the Mental Capacity Act.
3. Day to day control of the money and support packages is passed on to you as the “**suitable person**”. It has been agreed by Bolton Council that you have the “strongest” incentive to ensure the money is properly spent on the care and support identified in the support/care plan.
4. **Who can act as “An appointed suitable person”?**

An appointed suitable person is someone appointed to receive and manage direct payments on behalf of someone who lacks capacity to consent to the making of direct payments. The “**suitable person**” will often (but not always) have been given a **Lasting Power of Attorney** or have been appointed by the **Court of Protection** as a Deputy under the **Medical Capacity Act**.

Usually the “**suitable person**” will be a family member or friend, and is appointed to use the direct payments to arrange care and support to meet the person’s need identified on their support/care plan who may previously have been involved in the care and support of the person eligible for services.

A DBS check must be obtained in respect of the “**suitable person**” in certain cases:

- if that person is an individual, and is not a friend acting as a carer, and is not the spouse, civil partner or cohabitee of such a relative and
- if that person is a body corporate or unincorporated body, the individual with day to day responsibility for managing the payments.

5. Your responsibilities as a “suitable person”

As the appointed “**suitable person**” you will comply with the Direct Payment Agreement and ensure where you are employing staff on behalf of the service user, the contracts are in your name (on behalf of the service user) and that you abide by employment legislation. If you are using a provider it is your responsibility to ensure that you are fully aware of any contractual obligations and terms and conditions of the provider.

As the appointed “**suitable person**” you must act in the best interest of that person, within the meaning of the 2005 Mental Capacity Act.

Principles of best interest

A person trying to act in the best interests of someone lacking capacity should:

- Do whatever is possible to permit and encourage the person to participate, or to improve their ability to participate, as fully as possible, in acts and decisions.
- Try to identify and take into account all the things that the person who lacks capacity would take into account if they were acting for themselves, including their past and present wishes and feelings and any beliefs and values which would be likely to influence their decisions.
- Not make assumptions about what might be in the interests of the person lacking capacity simply on the basis of the person’s age, appearance, condition or behaviour.
- Assess the likelihood of the person regaining capacity.
- Consult others when making decisions, including anyone previously named by the person as someone to be consulted, anyone engaged in caring for the person, family members, close relatives, friends or others who take an interest in the person’s welfare, any attorney appointed under a lasting power of attorney made by the person and any deputy appointed by the Court of Protection to make decisions for the person.
- For any major decisions, make sure a record is kept of the process of working out the best interests of that person.