Direct payment Policy

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Equality Impact Assessment Governance Checklist

POLICY AWARENESS

People who need to know this policy in detail Assessment & Care Management Staff in statutory provider services, Direct Payments Advisors, District Managers

People who need to have a broad understanding of this policy Other policy authors, People’s Leadership Team, other managers and elected Members. Commissioned Provider Organisations providing care and support services funded by SCC. Staffordshire County Council Lead Commissioners Clinical Commissioning Groups Staffordshire Healthwatch

People who need to know that this policy exists Staffordshire County Council and the General Public

CHANGE CONTROL DETAILS

Date Version Description Reason for changes
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## Glossary of terms

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<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Best Interests Assessment</td>
<td>An assessment to determine and evidence what would be in a person’s best interest, in relation to a specific decision, where the person has been determined, using a mental capacity assessment, as lacking the capacity to make that decision themselves.</td>
</tr>
<tr>
<td>Direct payment</td>
<td>Money paid (in lieu of a commissioned service) to a person to purchase social care services they are eligible to receive.</td>
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<tr>
<td>Fairer Charging</td>
<td>The team responsible for conducting financial assessments for people receiving services from Staffordshire County Council and partners.</td>
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<tr>
<td>Mental Capacity Assessment (MCA)</td>
<td>The assessment used to determine if a person has the capacity to make a particular decision.</td>
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<tr>
<td>Staffordshire County Council</td>
<td>The organisation that arranges care and support for those with a Learning Disability.</td>
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<tr>
<td>Partners</td>
<td>The organisations that arranges care and support for those with a Mental Illness, Physical Disability or Older People.</td>
</tr>
<tr>
<td>SDST</td>
<td>Self Directed Support Team.</td>
</tr>
<tr>
<td>Social Care Services</td>
<td>Social Care covers a wide range of services provided by Staffordshire County Council, partners and the independent sector to eligible people either in their own homes or in a care home.</td>
</tr>
<tr>
<td>Nominated / Authorised person</td>
<td>A person who has been determined as being suitable who receives a direct payment to purchase services for someone who has been assessed as lacking the capacity to consent to a direct payment, or who doesn’t want to manage it themselves. They may also assist with the on-going management of the direct payment.</td>
</tr>
</tbody>
</table>
1.0 Policy document

This is a policy document, and may be amended or changed in accordance with democratic Procedures and should be considered together with and subject to the provisions of the Care Act 2014, its regulations and the Care and Support Statutory Guidance.

Nothing in this policy is intended to fetter the discretion of Staffordshire County Council and partners.

2.0 Scope

This policy is intended to assist officers of Staffordshire County Council and partners involved in carrying out social care need assessments (including administrative finance staff), reassessments, reviews, support planning, or who are otherwise involved in the arrangement and administration of services for people with eligible care and support needs.

3.0 Purpose

Staffordshire County Council and partners are committed to increasing the number of people receiving direct payments and to ensure that people have access to the choice, flexibility and control that direct payments offer. This policy outlines the benefits and responsibilities that arranging, managing and paying for services brings to individuals who choose to take up the offer of direct payments.

This Direct Payment policy is a revision to the May 2013 version and takes into account any changes resulting from the Care Act 2014, its regulations and the Care and Support Statutory Guidance. This Policy supersedes all previous direct payments Policy and Guidance in relation to:

FIN041 – Direct Payments Policy
FIN004 - Direct Payments: General information
FIN005 - Direct Payments and carers
FIN006 - Direct Payments and protecting vulnerable adults
FIN007 - Direct Payments and setting up a trust fund
FIN008 - Direct Payments for equipment and minor works
FIN009 - Direct Payments: Making it work
FIN012 - Direct Payments: Practitioner guide to calculating the amount
FIN017 - Direct Payments: Employing a close relative in the same household

3.1 Changes to direct payment Legislation

In April 2003, the Government published guidance on direct payments. All councils have had (with certain caveats and protections in place) a legal duty, since 2003, to offer people who have eligible needs for care and support the choice of receiving direct payments. Further direct payment Guidance was issued in 2009 by the Department of Health. The Care Act 2014 (sections 31-33), its regulations and the Care and Support Statutory Guidance October 2014 consolidate and modernise existing legislation on Direct Payments.

The Care Act 2014, its relevant regulations and sections of the Care and Support Statutory Guidance confirms personal budgets in law for people with eligible needs and carers, including the right to a direct payment (where eligible). Wherever a person is assessed as
needing social care services and has eligible needs, Staffordshire County Council and partners must ensure that the person or their authorised person is informed that their needs could be met by a direct payment. This would normally occur at the support planning stage following an assessment.

3.2 Introduction to direct payments

A direct payment is a monetary payment made to individuals to meet some or all of their eligible care and support needs. The principle of direct payments is that once a person has been assessed as having eligible needs then s/he can receive the money to purchase the care and support required instead of having it provided or arranged directly by Staffordshire County Council and partners.

Direct payments promote independence, choice and inclusion by enabling people to purchase the assistance or services that Staffordshire County Council and partners would otherwise provide. Information about direct payments should be available through a variety of mechanisms so that Staffordshire residents are well informed in line with chapter 3 of the Care Act Care and Support Statutory Guidance.

With the exception of people requiring permanent residential care, direct payments should always be considered when deciding how to meet a person’s eligible care and support needs. However from April 2016 it is currently proposed that direct payments will become available in relation to permanent residential care.

4.0 Eligibility, consent and capacity

4.1 Who is eligible to receive a direct payment?

Under the legislation, councils have a duty to make direct payments (where appropriate) to:

- Older and disabled people aged 16 and over in line with the eligibility criteria
- A person with parental responsibility for a child
- Carers aged 16 and over
- An appointed authorised or nominated person.
- People ("restricted patients") who are conditionally discharged under the Mental Health Act 1983. Such people are offenders who have been detained in hospital under the Mental Health Act 1983 and who remain liable to recall to hospital if necessary for their own health and safety or the protection of others.
- People who are compelled to receive a service as a result of any of the following legislative provisions relating to mental disorder:
  - supervised community treatment, guardianship or on leave of absence from a hospital in which they are detained under the Mental Health Act 1983.
  - supervision by a social worker or probation service as a result of a supervision order made under the Criminal Procedure (Insanity) Act 1964.
  - an offender released on licence under the Criminal Justice Act 1991, which includes a requirement to accept treatment for a mental health condition.
  - an offender on a community rehabilitation order under the Powers of Criminal Courts (Sentencing) Act 2000, which includes a requirement to accept treatment for a mental health condition; and
2. The adult has capacity to make the request, and where there is a nominated person, that person agrees to receive the payments
3. Staffordshire County Council or partners are satisfied that the adult or nominated person is capable of managing direct payments by himself or herself, or with whatever help the authority thinks the adult or nominated person will be able to access;
4. Staffordshire County Council or partners are satisfied that making direct payments to the adult or nominated person is an appropriate way to meet needs in question.

Where a nominated person has been requested to receive the direct payment they should be encouraged to be involved in the appropriate stages of support planning. Additionally, the nominated person should receive the appropriate information and advice in relation to Staffordshire County Council’s direct payment processes so that they are aware of their legal obligations as the direct payment recipient.
4.5 Adults lacking capacity

From November 2009, the introduction of The Community Care, Services for Carers and Children’s Services (direct payments) (England) Regulations 2009 meant that someone who has eligible care needs but who lacks capacity to consent to direct payments can still receive a Direct payment to meet their eligible care and support needs via an authorised person.

In the case of people who are unable (including those who lack the requisite mental capacity to consent - please refer to Mental Capacity Act 2005 and Code of Practice and also section 32 of The Care Act) to manage their own direct payment, an appointed authorised person can receive a direct payment to secure services to meet the eligible care and support needs of the individual. People may also ask carers or others to help or support them in managing their direct payment. This may include helping them to secure the services they require.

Staffordshire County Council and partners will make the decision about whether or not someone is considered a suitable person to manage the direct payment on behalf of the person who cannot consent or is not able to manage their direct payment. Someone may be considered suitable if any of the following applies:

- There are no substantiated allegations of financial abuse or neglect.
- They act in the best interests of the individual in arranging for the provision of care and support in accordance with the support plan.
- There is no reason to believe they pose a risk to the person in receipt of services.
- They are capable of managing the direct payment.
- They will work in accordance with the Children’s Acts (1989 and 2004) and Mental Capacity Act (2005).
- They have parental responsibility and there are no substantiated allegations of financial abuse or neglect.
- There is a suitable Trust in place whereby the representative or suitable person acts as trustee holding property for the benefit of the direct payment recipient.
- There is a valid registered lasting (or enduring) power of attorney and there are no substantiated allegations of financial abuse or neglect.
- There is a Court Appointed Deputy and there are no substantiated allegations of financial abuse or neglect.
- There is an appointee authorised by the Department for Work and Pensions.
- Direct payments would be discontinued if the authorised person is not acting in the best interests of the person receiving the direct payment, or if the person receiving direct payments regained capacity.

It would not be considered suitable, for someone who is being paid from the direct payment account (e.g. as a Personal Assistant) to also act as the representative.

If a PA is being employed, then the authorised or nominated person must be able to comprehend relevant legislation and the responsibilities of being an employer. In these circumstances, the authorised or nominated person is the employer and is responsible for all elements of the direct payment relating to this.

If a person does not have the requisite mental capacity to agree to a direct payment (and there is no one authorised to do so on their behalf) then they will not be eligible to receive a direct payment.
4.6 Episodic / fluctuating conditions

People with an episodic or fluctuating condition, may still be able to manage their direct payment. However, some people with these conditions may prefer to nominate an individual (e.g. a relative, friend or professional advisor) to assist them with managing their direct payment when their condition becomes acute.

4.7 Declining a direct payment

After considering the suitability of the person requesting the direct payment Staffordshire County Council or partners must make a determination whether to provide a direct payment. Where direct payments are agreed as the best way to provide care and support it should be recorded in the support plan.

Where Staffordshire County Council or partners has declined to issue a direct payment the person in need of care and support and any other person involved in the request (i.e. authorised person) should receive the reasons in an accessible format. The individual or authorised or nominated person should be made aware of how to appeal the decision through the complaints process.

5.0 Using a direct payment

5.1 Indicative budget

Following an assessment, an indicative budget should be generated and shared with the individual and any authorised or nominated people. The method used to generate an indicative budget (e.g. Resource Allocation System, Ready Reckoner) should be transparent and individuals or their authorised or nominated person should understand how it is derived. The indicative budget figure can then be used to start the support planning process in considering how any eligible needs are going to be met.

The actual final budget allocated and agreed could change, i.e. it could go up or down. It is important to note that eligible needs still have to be met and the indicative budget is a guide only and can not be used as final budget to create a ceiling on funding.

The indicative budget and final budget should be detailed in the support plan together with a break down of costs in relation to how eligible needs will be met. Additionally, other forms of budgets / income should also be detailed in the support plan e.g. benefits, Personal Health Budgets etc. The final budget should be sufficient to meet eligible needs.

5.2 What a direct payment CAN be spent on

5.2.1 Guiding principles

Staffordshire County Council and partners cannot draw up an exhaustive list as to how people can/cannot spend their direct payment. Each case must be decided on its own merits, based on the following key principles. The service, activity or item proposed should:

- Be clearly linked to the outcomes identified in the support plan to meet the person’s assessed eligible care and support needs.
- Be able to show how it will keep the individual healthy, safe and well.
• Be affordable and proportionate to the assessed eligible care and support needs of the person.

5.2.2 Examples

The direct payment scheme has been designed to apply to a wide range of care and support services as outlined in the Department of Health Guidance on direct payments (2009). These could include:

• Employing a Personal Assistant to help the individual with their daily living requirements.
• Support to meet eligible care and support needs as identified in the Support Plan. Usually, people will be expected to fund actual activities from their income. However, occasionally, there may be circumstances where the activity itself meets an eligible need and, in such cases, a direct payment may be given for the activity itself as well as for the paid support he or she will need to access that activity.
• To purchase equipment or an item of the persons’ choice that would enable them to meet their assessed eligible care need themselves. The person sources their choice of equipment and agrees with Staffordshire County Council and partners that it is suitable to meet their assessed eligible care needs. The direct payment awarded is the cost of the item to Staffordshire County Council or partners, based on the County Equipment Catalogue pricing, the person is expected to make up any shortfall themselves.
• To undertake Minor Works where a need has been assessed by Staffordshire County Council and partners. The direct payment is awarded following agreement between Staffordshire County Council and partners and the person, that the specification of the proposed works will meet the person’s eligible care and support needs. The amount awarded is based on the cost to Staffordshire County Council and partners of meeting that need; the person is expected to make up any shortfall themselves.
• Respite care – The purpose of respite is to provide an alternative to regular informal care, usually in order to facilitate carer relief. Direct payments can be made to an individual who has been assessed as having a need for respite. It may be that respite is taken in a private residential setting, or it may take place within the home. A direct payment could be made to cover the cost of the support the person will need while they are away from home, or the cost of the care provided in the home, while the main informal carer is away. Alternatively, it might also be possible to use the payment to fund the support to meet eligible care and support needs while on holiday (without the main informal carer). There may be exceptional circumstances when the main informal carer will also go on holiday but will not be providing the care. General holiday expenses, such as the hire of a caravan, hotel or travel will need to be funded from the person’s own income. How the respite will take place will be agreed with the person and recorded in their support plan.
• In relation to individuals using direct payments to access residential respite, there are limits on the number of consecutive weeks allowed. Once an individual has accessed four consecutive weeks, or two or more periods separated by less than four weeks, which added together total four weeks, they then can not use their direct payments to purchase residential care. As long as each stay is less than four weeks and the gap between each stay is at least four weeks, then using direct payments to purchase residential respite / short breaks is permissible. (Please refer to chapter 12 of the Care Act Care and Support Guidance for further detail).
• Support for carers – please refer to Carer’s Policy.
• Support to individuals whilst they are in hospital can be considered where appropriate for non health needs (as outlined in 12.52 to 12.54 of the Care and Support Guidance).
5.3 What a direct payment CANNOT be spent on

Working within the above guiding principles (5.1.1), the following are things a direct payment cannot be spent on:

- purchasing services from Staffordshire County Council or partners
- permanent residential care (but note changes proposed from April 2016 which seek to extend direct payments to permanent residential care)
- an activity or item that exposes the individual to serious risk from someone else/themselves
- funding support provided by anyone living in the same house except in exceptional circumstances
- anything that is not covered by the support plan
- any type of illegal activity
- any services provided by the NHS
- a substitute for Disabled Facilities Grants
- a self-employed Personal Assistant, or Communicator Guide in normal circumstances (see section 5.3.6)
- cash payments for PA/Communicator Guide wages
- anything else that is not an assessed eligible need

5.4 Employment of Personal Assistants and Communicator Guides

5.4.1 Personal Assistants

The general definition of a Personal Assistant is someone who provides care or support to an individual (or group of people) in the home and/or in the community. This support may involve assistance (or prompting) with daily living requirements such as getting in and out of bed, bathing, dressing, toileting, food preparation etc. It may also involve providing support to access activities in the community, such as shopping, pursuing a hobby or attending a support group.

5.4.2 Communicator Guides

The general definition of a communicator guide is someone who provides support for those who need assistance with communication; this may be those with hearing and/or visual sensory loss. It may be that a Communicator Guide performs a solely administrative role or that of an interpreter (and does not provide and personal care or support); however, it may be that in addition to providing administrative and/or interpreting support, the Communicator Guide also provides assistance or prompting with personal care and/or support.

5.4.3 Disclosure and Barring Service

The Disclosure and Barring Service has replaced the Criminal Records Bureau and is responsible for processing requests for criminal record checks. Staffordshire County Council and partners strongly recommend that a direct payment recipient planning to employ anyone (including family members) conducts an Enhanced criminal records check.

Staffordshire County Council and partners insist that a criminal records check is conducted where it is intended for a Personal Assistant to be employed in a household where there are children (under 18 years). The Personal Assistant should not be employed until this criminal records check is completed.
5.4.4 Employer’s responsibilities and legislation

If a direct payment is used to employ a Personal Assistant, the direct payment recipient will initially be referred to Staffordshire County Council’s contracted direct payment Support Service Provider, who will explain the implications of becoming an employer. This initial visit is mandatory. The direct payment recipient must act as a responsible employer and make arrangements in line with employment legislation. As an employer, it is the responsibility of the direct payment recipient and not Staffordshire County Council and partners to ensure all legislation is adhered to and all necessary insurance is taken out and necessary training completed. Further advice can be offered through the direct payment Support Service Provider, who also offer a payroll service (recommended by Staffordshire County Council and partners). The direct payment recipient must ensure that they retain sufficient funding from the direct payment to cover their potential employer responsibilities.

The direct payment recipient is strongly urged to obtain their own independent legal advice as to their responsibilities as an employer, including redundancy, in line with appropriate provisions of the Care and Support Statutory Guidance.

All employers must register with HM Revenue and Customs, regardless of whether any tax and national insurance contributions are being paid.

**It is not acceptable to pay PA/Communicator Guides in cash under any circumstances (payment could be via cheque, telephone banking, internet banking or the bank can make a payment).**

5.4.5 Employing someone residing in the same household

A direct payment cannot usually be used to employ someone that lives in the same household as the direct payment recipient. However, Staffordshire County Council and partners may agree, at their sole discretion, to make an exception, by written agreement in “exceptional circumstances”.

5.4.6 Self-employed Personal Assistants/Communicator Guides

We do not usually allow the use of self-employed Personal Assistants or Communicator Guides, however there may be very exceptional circumstances where this may be allowed. For example, if the role performed is solely administrative or that of an interpreter (without personal care or support), self-employed status may be permitted. If this is applicable to the Personal Assistant/Communicator Guide, written approval of their self-employed status from HMRC will be required.

It is important to note that advice from HMRC regarding employment status is only one factor in the decision. Advice from The Care Quality Commission and The direct payment Support Service Provider, along with previous court judgements, have all influenced Staffordshire County Council and partners’ decision to allow the use of ‘self-employed’ Personal Assistants/Communicator Guides in exceptional circumstances only.

**If you require more detail, reasons and justification it is essential that you refer to Fact sheet No. 5**
5.4.7 Integrated budgets

SCC and partners should attempt to integrate with other forms of personal budgets e.g. Personal Health Budgets. Consideration should be given to combining budgets and enabling the monitoring and auditing to be performed by one organisation. The lead organisation should then feedback to the other organisation at the appropriate time.

6.0 Managing a direct payment

6.1 Payments

6.1.1 Frequency of payments

Direct payments will be paid into the individual’s direct payments bank account at agreed payment periods as detailed in the direct payment Agreement (DP1).

6.1.2 Payment methods

Payments will be made via the BACS system (an electronic transfer of funds between Staffordshire County Council and partners and the individual’s direct payments bank account); alternative arrangements may be made for one-off purchases.

6.1.3 Bank accounts

Direct payments will be paid into a separate and appropriately named bank account, which will be used solely for the purpose of managing direct payments. This is to ensure that the individual does not confuse their personal funds with their direct payment funds and will allow efficient record keeping, monitoring and auditing, both for the individual themselves, Staffordshire County Council and partners.

The only exception to this is direct payment recipients receiving a one-off purchase, who will not be required to open a separate bank account (unless if is for a one-off respite payment).

It is acceptable for a direct payment bank account to be in joint names. The bank account must be a current account with the facility to make payments from the account, e.g. with a chequebook. Standard cash or savings accounts will not be sufficient.

6.1.4 One-off payments

Direct payments for respite, set up costs, equipment and carers could be made as one-off payments as documented in the Support Plan. One-off payments will be paid via an agreed payment method.

6.1.5 Managed Accounts

It is possible for people who have been assessed, under the Mental Capacity Act as lacking the requisite mental capacity to manage a direct payment to still receive one. An agreement might be reached with Staffordshire County Council and partners whereby a relative or other carer can manage the individual’s direct payment account on their behalf. In such circumstances, a person who agrees to manage an account on behalf of someone, will be personally accountable for the individual’s personal budget in the same way that the individual
would have been had they had mental capacity to do so themselves.

If none of the above supports exist and;
- a person has the requisite mental capacity to agree to a direct payment (or someone to do so on their behalf)
- but is formally assessed as lacking the relevant mental capacity (under the Mental Capacity Act 2005, and its Code of Practice) to manage their direct payment, and
- a DP is the only way to secure services to meet the assessed eligible care and support needs, then a Managed Account will be funded by Staffordshire County Council and partners.

However, if the individual chooses to secure services to meet their eligible care needs by a direct payment, where alternative ways of securing that service are available, the person will be expected to meet the cost of the Managed Account themselves.

The use of direct payments to pay close family members living in the same household to manage and/or administer a relative’s direct payment is dealt with in detail in 12.35 to 12.40 of the Care and Support Statutory Guidance, to which reference should always be made in these circumstance to in order to ensure compliance.

6.2 Contingency and reserves

6.2.1 Contingency

If the direct payment is paid as a weekly allocation, a contingency payment will be paid by Staffordshire County Council and partners into the direct payment account. This should only be used for emergencies and written approval in advance must be obtained from Staffordshire County Council and partners before it is used. It should be returned to Staffordshire County Council when the direct payment ends.

6.2.2 Reserves

Staffordshire County Council and partners will allow the direct payment recipient to retain an agreed reserve (including the contingency payment, if applicable) in their direct payment account at any one time.

The direct payment bank account will be monitored regularly (as detailed in the Agreement) and any obvious surplus in excess of the agreed reserve will need to be repaid to Staffordshire County Council and partners.

6.3 Mixed packages of care

Individuals may want to carry on receiving some services purchased via directly provided packages of care (arranged by Staffordshire County Council and partners) whilst purchasing their other services via a direct payment.

In addition, there may be good reasons for Staffordshire County Council and partners agreeing to provide part of a person’s care package directly but making a direct payment in respect of certain parts of the care package.
6.4 Assessed contribution to care

6.4.1 Assessed contribution - weekly

All direct payments are subject to Staffordshire County Council’s ‘partnership for care policy’. Following financial assessment by Staffordshire County Council and partners, the individual must make their personal assessed contribution towards their direct payment (if applicable) into their direct payment bank account as per the direct payment Agreement. A direct payment will not be paid if the assessed contribution is equal to or greater than the direct payment.

If the assessed contribution is less than the direct payment, the amount of the assessed contribution will be deducted from the direct payment before the payment is made. If it is found that an individual’s assessed contribution has not been paid into the direct payment account, this will result in a shortfall, which the individual will be liable for. Failure to pay the assessed contribution may result in an invoice being raised to the individual, or their representative in respect of the arrears.

The amount of care may vary each week; however, the weekly assessed contribution is a fixed amount and should always to be paid into the direct payment account.

6.4.2 Assessed contribution – respite

When an assessed contribution is applicable to a respite payment, that assessed contribution should also be paid into the direct payment bank account. The respite assessed contribution should always be paid into the direct payment account (either in full or a proportion, if paying by instalments) before any respite is purchased (E.g. for every week of Staffordshire County Council’s contribution spent the individual should ensure that they have paid one week of their assessed contribution into the direct payment account towards their respite). Or, if they prefer, they can spread the payment of their assessed contribution over the year. However, the individual must ensure that they have paid their assessed contribution in full by the end of the current financial year. Failure to pay the respite assessed contribution may result in an invoice being raised in respect of this.

6.5 Use of own resources

To purchase additional or enhanced services to those agreed in the support plan, the direct payment recipient can add to their direct payment from their own resources.

6.6 Self-funders

If, after the financial assessment, the individual has to pay the full amount for their services, individuals may still decide to use Staffordshire County Council and partners for support and advice on how to meet their own care needs.

7.0 Direct payment Agreement

All recipients and/or authorised persons must sign the direct payment Agreement before a direct payment can be made. The direct payment Agreement sets out the arrangements between the individual, Staffordshire County Council and partners as to how a direct payment will be spent to achieve the outcomes detailed in the Support Plan. The agreement covers the payment, management; reviewing and auditing arrangements, which Staffordshire County
Council, partners and the direct payment recipient will need to follow and refers to policies and other documents useful in the management of a direct payment.

8.0 Monitoring and review of the direct payment

8.1 Monitoring /audit of the direct payment

Staffordshire County Council and partners have to be satisfied that the direct payment is being used to meet the care and support needs set out in the support plan. As such, Staffordshire County Council and partners will put in place systems to proportionately monitor direct payment usage and use of public money.

Periodically, Staffordshire County Council and partners will look at how the direct payment is being spent, to ensure eligible care and support needs and outcomes are being met and that the direct payment is being used as detailed in the support plan and within the terms of the direct payment Agreement.

The direct payment recipient will be subject to regular audits in relation to the use and management of the direct payment. This is required to ensure that Staffordshire County Council and Partner’s monies are being used for the purposes laid out in the support plan, the correct amounts are being used for each service and that accurate receipts and records are being kept. Any discrepancies will be investigated and resolved.

Staffordshire County Council and partners have the right to suspend or terminate the direct payment as a result of the findings of the audit of the direct payment account. An audit of the individual’s circumstances may take place at anytime.

8.2 Review of care provision in the form of a direct payment

The package of support and direct payment must be reviewed within the first 6 months (usually at the 6 to 8 week review) and thereafter in line with statutory annual reviews. Consideration will be given to whether the recipient’s direct payment bank account is being managed correctly, records and receipts are up to date, the monies are being used for the services for which they were intended, and the direct payment is adequately meeting the assessed eligible care and support needs of the person and achieving the necessary outcomes.

Staffordshire County Council and partners have the right to increase, decrease, suspend or terminate the direct payment in line with regular review or reassessment of the recipient’s assessed eligible care and support needs. A formal review or reassessment of the individual’s circumstances can be requested at anytime.

Direct payments are only available whilst the recipient satisfies Staffordshire County Council’s eligibility criteria.

8.3 Recovery of a direct payment

Staffordshire County Council and partners reserve the right to recover direct payments, in line with Staffordshire County Council and their partner’s debt recovery policy in the following circumstances:
• if the direct payment has not been used to meet agreed outcomes, as set out in the support plan;
• if the direct payment has not been used due to a temporary change in circumstances;
• if the direct payment recipient fails to meet any terms of the direct payment Agreement, or has not met any condition which Staffordshire County Council and partners have properly imposed in agreed letters;
• if the direct payment recipient has failed to disclose other social care funding that should be taken into account when calculating the direct payment;
• if a direct payment has been overpaid or paid in error;
• if there is a surplus in the direct payment account, which has been accrued above the agreed amount; or
• if, following termination of the direct payment, any direct payment monies remain in the direct payment account.

8.3.1 An unspent direct payment

If, after allowances for outstanding costs and contingencies, there is found to be a build up of unused direct payment funds in the recipient’s direct payment account, the recipient will be notified that these unspent monies will be recovered.

8.3.2 Overpayments

If the direct payment recipient is no longer entitled to, or no longer wishes to receive a direct payment, and/or an overpayment has occurred due to an error on the part of Staffordshire County Council and partners, the direct payment recipient will be notified that this overpayment will be recovered or reclaimed.

8.4 Wrongful use of a direct payment

Where it appears that the direct payment recipient (including authorised person) has been using the direct payment for items or services other than those specified in the support plan, or as set out in the direct payment Agreement, or there is evidence of deliberate misuse of funds, Staffordshire County Council and partners will undertake a full reconciliation to ascertain the exact amount of money that has been inappropriately used and seek to recover it.

If direct payments have been inappropriately used (either intentionally or unintentionally) due to mismanagement of the direct payment account, or the direct payment recipient (including authorised person) has shown that they are incapable or unwilling to manage their direct payment correctly, a review or reassessment will be undertaken as a matter of urgency. If the outcome is that the direct payment monies have been inappropriately used, the monies will be recovered.

Where it appears that a person managing the direct payment has wrongfully used the direct payment which may have resulted in abuse or neglect, Staffordshire County Council and partners could investigate this under the Staffordshire and Stoke on Trent Safeguarding Policy and Procedures.
9.0 Termination of a direct payment

9.1 The direct payment recipient terminates their direct payment

Where an individual or their authorised person decides to cease direct payments it would be beneficial to hold a review to explore the reasons and consider alternatives where this is needed.

9.2 Staffordshire County Council terminates the direct payment

Staffordshire County Council and partners reserve the right to terminate the direct payment if the terms of the direct payment Agreement are breached, though this should be as a last resort. If this happens, the recipient will be informed in writing. In such cases, Staffordshire County Council and partners will then work with the individual to plan how their eligible care and support needs will be met in an alternative way.

The County Council or partners should write to the individual or relevant authorised person detailing the reasons for the termination of the direct payment. Where the individual still has eligible needs alternative provision should be sought to avoid any gaps in care and support occurring.

Direct payments should be discontinued when an individual no longer needs the support for which the direct payment was made. Where individuals no longer have eligible needs any such decisions should follow a review or reassessment and be fully documented and shared with the individual and relevant people. Staffordshire County Council should write to the individual and any relevant authorised person detailing the reason for the termination of the direct payment and agree a date from which the payments will cease.

10.0 Further information

10.1 Complaints & feedback

Staffordshire County Council and partners operate a Statutory Complaints procedure, which an individual may access should they experience dissatisfaction with their direct payment provision.

10.2 Self Directed Support Team

Staffordshire County Council’s Self Directed Support Team are available to discuss any issues regarding the payments and the management of direct payments and are able to offer advice and guidance about direct payments.
The team can be contacted at:

**Postal Address:**
Self Directed Support Team  
Staffordshire County Council  
Wedgwood Building  
Block A  
Tipping Street  
Stafford  
ST16 2DH

**Location Address:**  
First Floor  
No 1 Staffordshire Place  
Stafford  
ST16 2LP

Phone: 01785 854493  
Fax: 01785 854497  
Email: selfdirectedsupport@staffordshire.gov.uk