

# Vale of Glamorgan Council

## Social Services: Direct Payments



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## Previous versions

Version	Status	Description	Sign off
1	Obsolete		

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## 1. Introduction and Aims

Direct Payments are payments made to people who would be eligible to receive a service from Social Services. Local Authorities have a duty to offer payments (Direct Payments) for care and support services following an assessment of need. Direct payments will usually be offered to people eligible and assessed as requiring a service. Social Services will ensure that direct payments are used to give people the choice and control over their own lives by providing an alternative to social care services delivered or commissioned by the Vale of Glamorgan Council.

Payments are made directly to a person or their representative e.g., Suitable Person. They use the money to arrange their own care or support in a way which suits them, allowing them to choose who provides the support, where and when it is delivered.

Direct payments are not a form of income. A direct payment is provided to enable an individual with eligible care and support needs, or a carer of a person with care and support needs, to meet their well-being outcomes identified in their care and support plan. They are designed to give individuals more support and control over their care and support. There can be circumstances (due to safeguarding concerns or if a risk of fraud is present) where direct payments would not be considered appropriate.

This policy has been informed by consulting with officers and those who are currently and have previously received a direct payment within the Vale of Glamorgan.

## 2. Legislative Context

The Social Services and Wellbeing (Wales) Act 2014 gives the Council the legal power to make payments to meet the care and support needs of adults and children, and carers' support needs. The way the Council operates direct payments is in accordance with the Code of Practice (Part 4 – Meeting Needs) of the Act, which sets out people's rights and responsibilities to receive and manage direct payments, and can be found here: [Social Services and Well-being \(Wales\) Act 2014 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2014/12/pdfs/m120140001.pdf)

Whilst providing direct payments the Local Authority also has a duty to safeguard individuals under Part 7 Section 131(1) of the Social Services and Wellbeing (Wales) Act 2014. This imposes a duty on local authorities to make, or cause to be made, such enquiries as it considers necessary to decide whether an individual is at risk; and to decide what action, if any, should be taken.

The Council's policy also complies with other legislation, including the Well-being of Future Generations (Wales) Act 2015, which requires public organisations to do all they can to improve social, economic, environmental, and cultural well-being. The policy also enables the Council to fulfil its duties under the Equality Act 2010.

### 3. Context and Scope

<b>Eligibility</b>	<p>The Vale of Glamorgan Social Services will consider providing direct payments towards the cost of meeting an individual's eligible needs for care and support under the Social Services &amp; Well-being (Wales) Act 2014:</p> <ul style="list-style-type: none"><li>• Section 50 – to meet the care and support needs of an adult.</li><li>• Section 51 – to meet the care and support needs of a child.</li><li>• Section 52 – to meet the support needs of an unpaid carer.</li></ul> <p>We must offer direct payments to an individual to meet some or all their eligible assessed needs if:</p> <ul style="list-style-type: none"><li>• We are satisfied that direct payments are an appropriate way of meeting needs.</li><li>• The individual has the mental capacity and can manage a direct payment, either alone or with support.</li><li>• The individual does not have appropriate mental capacity, but a suitable person has been appointed under the <i>Mental Capacity Act 2005</i> to make decisions on their behalf.</li></ul> <p>Where service(s) are purchased by direct payments, we must be satisfied that the service provided meets the needs of the assessed person effectively if they are aged 18 or over, or where the service is for a child in need of care and support, we are satisfied that the service safeguards the welfare of the child.</p> <p>Direct payments will only be provided by if:</p> <ul style="list-style-type: none"><li>• The individual agrees to use the funds only to secure services set out in their Care and Support Plan.</li><li>• If the individual is 18 or over, they have provided sufficient information to allow a financial assessment to be completed, to determine if they need to contribute to costs.</li><li>• If the individual is 18 or over, they agree to pay any assessed contribution into the direct payment account.</li></ul>
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<b>Exclusions</b>	<p>We may refuse direct payments to an individual who has been placed under certain conditions or requirements by the courts as set out in Regulation 14 of The Care and Support (Direct Payments) (Wales) Regulations 2015.</p> <p>Section 47 of the Social Care &amp; Well-being Act (Wales) 2014, prevents local authorities from meeting needs through the provision of healthcare, unless doing so would be incidental (happening as a minor accompaniment to something else) or ancillary (providing necessary support to the primary activities) to doing something else to meet a citizen's needs. Consequently, such a restriction applies to the provision of a direct payment.</p> <p>We are not able to offer direct payments to foster carers.</p>
<b>Medication</b>	<p>Medication support should only be provided when it is identified on the persons care and support plan and doing so is ancillary and incidental to other care arrangements.</p> <p>Direct payment Personal Assistants (PAs) should not be administering any medication to individuals unless they have completed relevant training and have been signed off by a medical professional.</p> <p>Direct payments PAs should prompt individuals only and should only support with medication where the necessary Medical Insurance is in place with the necessary medical training.</p> <p>Direct payments can be arranged where there has been an assessed need which can be managed safely by providing the necessary training and insurance to enable the employment of carers or personal assistant.</p> <p>Where there is an expectation that a person may need a PA to administer emergency medication the PA must be specifically trained by the relevant health professionals overseeing this clinical need and this must be identified in the care plan.</p>

## 4. Principles

The Council's approach to direct payments is based on four principles: -

- Promoting the use of direct payments and helping people to manage their care and support.
- Involving people in shaping the care and support they receive.
- Encouraging people to find creative, flexible, and innovative ways to achieve their outcomes and what matters to them for their independence and well-being.

- Considering the existing support people might have.

Our ambition:

- The Council is committed to making people aware of the benefits of direct payments. The Council will raise awareness of direct payments, by promoting their use, and by using them in more creative and flexible ways to meet people's needs.
- The Council will use direct payments as a proactive approach to support individuals, helping to prevent their needs from escalating or their circumstances from deteriorating and also improving outcomes. By empowering individuals with direct payments, we aim to enhance their outcomes and improve their overall quality of life.
- The Council recognises people have different needs, from short-term needs to those which are more complex and long-term. A person might need care and support for themselves, or to support them as an unpaid carer of someone who has care and support needs.
- The Council is committed to delivering effective social care and/or support to all who need it and are eligible for it – adults, children, families, and carers. The Council's goal is for people to live as independently as possible for them, with or without support, and to be as involved as they wish to be in family and community life, and to engage in work, education and leisure when and where possible.

The law requires the Council to decide whether providing care and/or support will assist a person to meet the personal outcomes they want to achieve for their well-being. When completing an assessment, there are four things which are considered:

- The person's circumstances and if their need for care and support arises from what is set out in law. The law specifies distinct kinds of circumstances for adults, children, and carers.
- If their need relates to one or more of the outcomes stated in law e.g., the ability to conduct self-care or domestic routines. The law specifies distinct kinds of circumstances for adults, children, and carers.
- If the need is such that a person is not able to meet it on their own, or with the care and support of others who are able or willing to provide it, or with the help of other services in the community. For a child, the condition is met if the need is one that neither the child, the child's parents, or anyone else in a parental role can meet either alone or together.
- The person is unlikely to achieve the personal outcomes they want to achieve unless the Council provides or arranges care and support through a care and support plan and/or enables the need to be met by making direct payments.

Where someone is eligible for care and support, or support in the case of a carer, the Council will spend time with them or their representative to help them decide what care is best and how it could be provided, including the option of using direct payments.

The Council will:

- Take time to find out what matters to each person and what they want to achieve, to improve their well-being.
- Offer direct payments as an equal option alongside other ways of providing care and/or support.
- Offer direct payments where it can help improve individuals' outcomes, prevent an individual's needs from increasing, or their situation from getting worse. This Aims to ensure the right help, advice and support is available when it is needed.
- Explain everything a person needs to know about direct payments and answer all questions. The Council will also explain what help and support is provided throughout the time someone receives direct payments.

<b>Training</b>	<p>Online training can be accessed via the two links:</p> <p><a href="#">Learning modules   Social Care Wales</a></p> <p><a href="#">Introduction to social care   WeCare Wales</a></p> <p>If alternative training is required, you can contact the Direct Payments team who will be able to make arrangements.</p>
<b>Transition</b>	<p>Adult Services will complete an assessment for a child approaching their 18<sup>th</sup> birthday. If eligible, the individual will be subject to a financial assessment.</p> <p>Adult Services can complete a carers assessment with an unpaid carer transitioning from Children and Young People's Services on or after the individual's 18<sup>th</sup> birthday.</p>
<b>Information and Support</b>	<p>We must provide appropriate and accessible information and support to anyone considering direct payments.</p> <p>We must provide local support services which are able to provide the help and assistance an individual requires to receive and manage a direct payment, including employing staff.</p>

<b>Ability to Manage</b>	<p>We must make sure individuals are able to manage all aspects of their direct payments and where difficulties are identified, to provide the right level of support to overcome this.</p> <p>If the individual lacks capacity, we will ensure that the best interests of the individual are prioritised above all other considerations and that the suitable person is able to manage the direct payments, with or without support.</p>
<b>Suitable Person</b>	<p>If the individual is assessed as lacking capacity, we will look at alternative solutions, including a 'suitable person'. A suitable person will manage the direct payment on the individual's behalf.</p> <p>A suitable person can be appointed either by us, a court or could be someone the individual chooses to act on their behalf.</p> <p>We will only consider this option if the suitable person:</p> <ul style="list-style-type: none"> <li>• Can manage and understand the direct payments either on their own or with support; and</li> <li>• Has the individual's best interests at heart; and</li> <li>• Individual's care and support needs and personal outcomes can be met with direct payments involving a suitable person</li> </ul> <p>A suitable person cannot be:</p> <ul style="list-style-type: none"> <li>• Someone who would have a conflict of interest</li> <li>• Vale of Glamorgan Council</li> <li>• Direct payments Support Provider</li> <li>• The personal assistant employed through the direct payments</li> <li>• Shared lives carer</li> <li>• A foster carer</li> </ul> <p>We will provide information detailing what receiving direct payments involves to the suitable person so that they fully understand they have responsibility for making the arrangements to obtain the care and support for the individual they act for.</p>
<b>Employing staff</b>	<p>Direct payments can be used to employ staff, with some exceptions, such as care agencies or microenterprises.</p> <p>If required Direct Payments can be used to commission services including care agencies or microenterprises.</p> <p>Under Regulation 6 of the Care and Support (Direct Payments) (Wales) Regulations 2015 we may consider the use of direct payments to pay an individual's relative who lives in the same</p>



	<p>household. We will only consider this option if it is necessary to promote the individual's well-being.</p> <p>This decision will be made in discussion with the individual and the relative and must be agreed by an Operational Manager.</p> <p>When considering using direct payments to pay relatives who do not live with the individual, we will provide clear advice and information on the impact of this upon the individual's relationships to ensure there are no dependency, conflict, or safeguarding issues.</p> <p>Relative for the context of this policy means:</p> <ul style="list-style-type: none"> <li>• Spouse or civil partner</li> <li>• A person who lives with the individual as if they were their spouse or civil partner</li> <li>• Parent, parent-in-law or stepparent</li> <li>• Son, daughter,</li> <li>• Son-in-law or daughter-in-law</li> <li>• Stepson or stepdaughter</li> <li>• Brother or sister</li> <li>• Aunt or uncle</li> <li>• Grandparent or</li> <li>• The spouse or civil partner of any of the relatives in this list.</li> </ul> <p>If the relative is already providing care and support as an unpaid carer, we will complete a carers assessment to look at their support needs before any decision is made.</p> <p>We will provide information and support to the individual to explain their legal responsibilities as an employer through our Direct Payment Support Service.</p> <p><b>Care purchased through care agencies</b></p> <p>Direct Payments can be used to purchase care from an agency/micro enterprise. This may be preferable for those individuals who lack confidence in employing someone privately or who wish to avoid the responsibility of directly employing their own staff. Those individuals who want to employ PA's may wish to use an agency/micro enterprise as contingency.</p> <p>In keeping with the principles of direct payments, Vale of Glamorgan Council cannot recommend individual agencies as this should be the individuals' choice. However, appropriate advice can be given in this area about what they should expect from any agency/micro enterprise, questions to ask etc. The individual may be offered advice on where to look for care agencies that are</p>
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	<p>available in their area including looking in their local directory for alternative care agencies, which might better suit their needs.</p> <p>It should be made clear that individuals are responsible for managing the care and support services received and ensuring that the details of their contract are reasonable and appropriate to meet their needs.</p> <p>The relevant worker will advise the individual of the hourly rates Vale of Glamorgan Council will fund when purchasing care from an agency/micro enterprise. Should the individual wish to employ an agency/micro enterprise with a higher hourly rate it must be made clear to them that they must pay the difference from their own personal funds. When making such a decision, the individual should consider the long-term effects of such a financial commitment and the affordability of future increases that may be expected on an annual basis.</p> <p>When a person consents to receive direct payments, they take on the responsibility for securing support and assistance to a standard which both the individual and Vale of Glamorgan Council consider adequate. Staff must be DBS checked, and any agency used should be accredited or registered with CIW. In the case of a micro enterprise, they would need to be included in the Micro enterprise Directory.</p>
<b>Safeguarding</b>	<p>Safeguarding individuals from situations that place them at risk of abuse, harm, neglect or exploitation is of significant concern to the Vale of Glamorgan. Safety in transactions and all other areas of direct payments is crucial and assessing the risk factors associated with them is essential. The Council's policies and procedures on Safeguarding must be followed by the social care staff. All relevant policies can be found on the Cardiff &amp; Vale Safeguarding Board webpage <a href="#">Cardiff and Vale Safeguarding Board</a>.</p> <p>The nominated Suitable Person managing the direct payment shall ensure that, when employing anyone who will provide unsupervised support to young children or adults at risk, they conduct the enhanced DBS (Disclosure and Barring Service) check to ensure that the person has no relevant criminal convictions that would preclude them from working with children or adults. This must be completed and the DBS clear before they commence employment. The adult, carer, young carer, parent of a child with additional needs, suitable person or organisation must share information with the Council's direct payments team when there are concerns about information on the DBS check which could result in a risk to the adult or child. Any unclear DBS checks</p>

	will have to be risk assessed before employment can commence. If the Suitable Person mismanages the direct payment, the Council will investigate how this has happened. Financial abuse will be considered a safeguarding concern.
<b>Financial Assessment</b>	Where a financial contribution may be required from the individual, we will arrange for a financial assessment to be undertaken where this is required under Part 5 of the Act.
<b>Reviews</b>	<p>We, or the individual, can request a review at any time.</p> <p>We must review the direct payments arrangements no later than 6 months after the first payment and at least every 12 months thereafter.</p>
<b>Repayment or discontinuation of direct payments</b>	<p>We may stop the direct payment and seek repayment of all or part of the direct payments if any of the direct payment Agreement terms and conditions are not met.</p> <p>We will consider the individual's circumstances including:</p> <ul style="list-style-type: none"> <li>• Where an instance of fraud in relation to the direct payment account has occurred.</li> <li>• Hardship considerations.</li> <li>• Legitimate reasons for unspent funds, such as outstanding legal liabilities necessitating an individual to build up an apparent surplus (e.g.: periodic employment payments for tax or national insurance purposes).</li> <li>• In an instance where assessed outcomes are not being met.</li> <li>• In an instance where an individual's needs can no longer be met by care and support provided by social services and fall under the remit of the NHS.</li> <li>• Where an individual refuses to partake in a required audit process.</li> </ul> <p>The individual can terminate their direct payments at any time. In the event of the individual's death, we will discontinue the direct payments.</p>

## 5. Standards

All individuals will be expected to adhere to the Direct Payments Agreement. A copy of the agreement can be found in the appendix of this policy.

## 7. Summary of Key Duties and Procedure

What you can expect from the Council	When
<ul style="list-style-type: none"> <li>• Easy to understand, easy to access information for individuals who feel they (or a family member or the person they are representing) may need help, including their rights under the laws.</li> </ul>	Before accessing care and support
<ul style="list-style-type: none"> <li>• An assessment of your need, and if eligible for care and support a discussion around direct payments will take place.</li> <li>• A referral will be made to the Direct Payments support provider, who will be able to address any question you may have about direct payments.</li> <li>• We will take the time to discuss “what matters” to you.</li> <li>• We will involve you in working out what care and support will help you to achieve well-being for you.</li> <li>• We will be open minded, creative, and flexible in discussing and identifying ways to help you achieve what you want.</li> <li>• An explanation of the ongoing support we will provide.</li> <li>• Financial assessment and charging implication explained.</li> <li>• An offer of independent advocacy help, if needed.</li> </ul>	After initial contact, assessment, and when accessing care & support
<ul style="list-style-type: none"> <li>• Your unique care &amp; support plan will be shared with you.</li> <li>• An explanation of the responsibilities and obligations and how we will help you manage them, and risks.</li> <li>• Accurate and fair payment calculation, and payment arrangements which meet your needs.</li> <li>• Clarity on what happens with unspent money and its use to achieve your agreed personal outcomes.</li> </ul>	When setting up the direct payments to meet your care & support needs
<ul style="list-style-type: none"> <li>• The support provider will assist with the drafting of a job description/advert, arranging/attending any interviews with prospective PA's.</li> <li>• The Vale of Glamorgan must ensure that there are satisfactory DBS checks in place for all personal assistants in line with legislation and contractual agreement and renewed on a 3 yearly basis. The Direct Payments Team will be responsible for the setting up of any new DBS checks as well as completing the identification verification process. This is prior to the package commencing.</li> </ul>	When recruiting a PA
<ul style="list-style-type: none"> <li>• Information, advice and support from both Social Services and Direct Payments Support Provider.</li> <li>• User friendly monitoring arrangements.</li> </ul>	Whilst direct payments are being received

<ul style="list-style-type: none"> <li>• Regular and timely information on spend against budget.</li> <li>• Regular, timely reviews to assess what difference the care and support has made and to identify and overcome any problems which may arise in achieving your agreed outcomes.</li> <li>• Streamlined arrangements for agreeing any adjustments in response to changing need.</li> </ul>	
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## 8. Policy Approval and Review

Policy approved by:	
Date approved:	
Review frequency:	Will be reviewed in 1 year and then every three years
Date policy to be reviewed:	May 2025
Responsible Officer(s):	

## 9. Appendix

A copy of The Standard Direct Payment Agreement is available below in both downloadable and readable versions. Please note there are other Direct Payment Agreements for Suitable Person and other alternative arrangements. These are available upon request.



DP AGREEMENT -  
STANDARD.DOC



## THE VALE OF GLAMORGAN COUNCIL DIRECT PAYMENTS AGREEMENT

This is a signed Agreement for Direct Payments between [*Name and address of service user*] and the Vale of Glamorgan Council, Social Services Department.

The purpose of this Agreement is to set out your responsibilities and obligations when agreeing to receive Direct Payments and what Social Services must do when entering this arrangement.

You are advised to read through the Direct Payments Agreement and the “User Guide to Managing Direct Payments” which is enclosed with the Agreement.

Please then sign both copies of the Agreement and return one with the completed Bank Details Form in the prepaid envelope provided.

## **Service User's Obligations/Responsibilities**

In return for receiving Direct Payments the Service User will:

- Arrange for the provision of care services in accordance with the current Assessment/Care Plan and in doing so, comply with all legal requirements that may arise.
- Ensure that Personal Assistants employed by the Service User are appropriately trained to meet the Service User's needs.
- Ensure that all prospective Personal Assistants undertake a Disclosure and Barring check prior to employment. No Personal Assistants are to be employed without a satisfactory DBS disclosure being returned. This includes any Personal Assistants who are employed after the initial Direct Payments are set up.
- Ensure that Employers Liability Insurance up to the required level (£10,000,000 Employers Liability and £5,000,000 Public Liability) is always in force.
- Ensure that any Personal Assistant employed by the Service User is not living in the same household, unless previously agreed with the Vale of Glamorgan Council.
- Ensure that Direct Payments are spent only on services for the Service User's needs as detailed in the Assessment/Care Plan and that there is no spending on any services that are the responsibility of other organisations to provide, e.g., Health.
- Open a separate bank account into which the Vale of Glamorgan Council will pay Direct Payments and from which all payments will be made.
- Ensure that your Assessed Charge, if any, is paid regularly into this account. Failure to do so may result in your Direct Payments account going into debt.
- Keep appropriate records and receipts to demonstrate that Direct Payments are used appropriately in meeting your care needs and make available on demand such documents for review/audit purposes. Such records should be held for a minimum of 7 years.
- Complete monthly monitoring forms and send them to Direct Payments Development Officer, along with bank statements and payslips on a quarterly basis as requested.
- Consider the support available either from Dewis Centre for Independent Living and/or from the Direct Payments Development Officer.
- Co-operate with the Vale of Glamorgan Council in reviewing the service provided. If, in the Council's opinion the quality of the service arranged is not appropriate, you agree to make changes considered by the Council as necessary.
- Repay to the Vale of Glamorgan Council any Direct Payments that have not been spent in meeting the Service User's needs to the Council when requested.
- Repay to the Vale of Glamorgan Council any Direct Payments or any part of them, if the Service User is in breach of this Agreement, or if death of the Service User occurs whilst in receipt of Direct Payments.
- It is the responsibility of the Service User to inform the Vale of Glamorgan Council of any changes in their living arrangements which might affect their eligibility to continue receiving Direct Payments. Such changes include moving to another Local Authority or employing a close relative who lives in the same household. Failure to disclose this information may result in Direct Payments being withdrawn.

## Vale of Glamorgan Council's Obligations/Responsibilities

The Vale of Glamorgan Council when making Direct Payments will:

- Carry out Financial Assessments.
- Issue an Agreement/Contract.
- Carry out and fund on behalf of the Service User Enhanced DBS checks for all prospective Personal Assistants.
- In the event of a DBS disclosure revealing an adverse result or refusal for one to be undertaken the Vale of Glamorgan Council reserves the right to make further and alternative enquiries and, in their discretion, refuse the right to make Direct Payments.
- Make 4 weekly payments into the Service User's bank account.
- Carry out financial audits.
- Review the care package on at least an annual basis.
- Contract with an Independent organisation to provide a comprehensive advice, information, and support service to Direct Payments recipients.
- In the event of extended admission to hospital, the Council will continue to pay the full Direct Payments amount for a period of 6 weeks, and at a rate of 50% for a further 2 weeks. This will allow the Personal Assistant's support to be retained and avoid the need for further recruitment. During this time the Council will undertake a review of the situation. At the end of this 8-week period, payments will cease until such time as the Service User is discharged.

### Vale of Glamorgan Council

To the best of my knowledge, I believe that [ ] is willing to receive Direct Payments and is able, with the advice and support that has been arranged, to manage Direct Payments.

Signed \_\_\_\_\_

Date \_\_\_\_\_

Louis Burrows  
Direct Payments Development Officer  
Social Services  
Vale of Glamorgan Council  
Dock Office  
Subway Road  
Barry  
Vale of Glamorgan  
CF63 4RT

### Service User

I [ ] have read and understood my responsibilities as set out in the Direct Payments Agreement and confirm that I wish to receive Direct Payments.

Signed \_\_\_\_\_

Date \_\_\_\_\_