

# Direct Payments Guidelines 2016

<b>Table of Contents</b>	<b>Page</b>
Introduction	4
Direct Payment Process	6
Suspension and termination of Direct Payments	7
Misuse and Fraud	8
Informing people, promoting choice and advocacy	9
Who can receive Direct Payments	9
Conditions for receiving Direct payments	9
Declining a request for Direct Payments	11
Using Direct Payments	12
Managing Direct Payments	13
Direct payments recipients as employers, Disclosure and Barring service	13
Payment of Direct Payments	14
Rates for Employing Personal Assistant	15
Integrated Direct Payments	15
Direct payment Agreement	15
Monitoring and audit of Direct Payments	15
Discontinuing Direct Payments / Requiring Repayment	16
Appendix A - Definitions	18
Appendix B – People Excluded from Direct Payments	21
Appendix C – Direct Payments rates	22

# Introduction

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Sefton Council (the Council) is committed to promoting individual wellbeing and to supporting independence through preventing, reducing or delaying the need for care and support.

**Direct payments** are cash payments made to individuals and carers in lieu of services, for the purpose of meeting eligible assessed unmet needs. Provision of Direct Payments is governed by the Care Act 2014, Section 117(2C) of the Mental Health Act 1983, the Care and Support (Direct Payments) Regulations 2014 and by the Care Act Statutory Guidance.

The Council must inform the person which of their assessed eligible needs could be met through provision of a Direct Payment at the start of the support planning process.

Direct Payments must be used to meet the assessed eligible unmet needs of the person, in line with their validated support plan and personal budget agreement. Payment and use of direct payments must also be in accordance with requirements set down in relevant legislation and regulations.

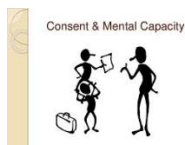
Sefton's policy is to promote Direct Payments as the preferred means of delivering the personal budget and meeting individuals' assessed eligible unmet needs. The Council believes that this is the best means to ensure that people have real control over the resources used to secure their care and support and enables them to make best use of the full range of formal and informal support available.

If the person chooses to take a Direct Payment, they assume the responsibility for organising and managing their own care, in line with the agreed support plan. The Council will no longer be responsible for the direction or day to day organisation of those services. Sefton will ensure that there is a range of assistance and support arrangements available to assist individuals to do this.

Direct Payments will be paid net of any financial contribution the individual is assessed as being required to make towards the cost of their support. Definitions of specific terms used within these guidelines are defined at Appendix 1.

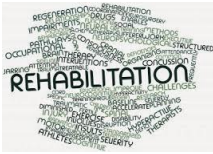
## Adults with capacity

Where the person has capacity to request a direct payment, the Council must agree provided the following conditions are met:



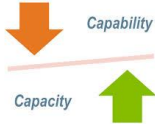
### Capacity and Consent

The adult has capacity to make the request and, if they are nominating a person to receive the payments, that person agrees.



## Exclusions

The Council may not make a direct payment to people receiving treatment or rehabilitation for drug or alcohol misuse or to prisoners released on licence, as specified under the Direct Payments Regulations.



## Capability

The adult or nominated person is capable of managing direct payments either by themselves or with support.



## Appropriate

A direct payment is an appropriate way to meet the eligible unmet needs in question

## Adults lacking capacity

Where the person has been assessed as lacking capacity to request a direct payment, an authorised person can request the direct payment on the person's behalf. In this case the Council must satisfy itself that the following conditions are met:



### Consent of Authorised Person

A person authorised under the Mental Capacity Act 2005 supports the request.



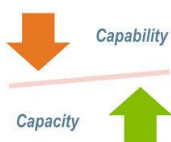
### Exclusions

Direct payments must not be made to pay family members to meet the eligible unmet needs of the person, unless the Council considers this is necessary to meet the care needs of the adult or to provide administrative or management support in relation to the direct payment, as specified under the Direct Payments regulations.



### Best Interests

The Council is satisfied that the authorised person will act in the adult's best interests in arranging for the provision of care and support.



## Capability

The authorised person is capable of managing the direct payment either by themselves or with support.



## Appropriate

A direct payment is an appropriate way to meet the eligible assessed unmet needs in question

The Council must provide the person making the request with a written explanation if it decides to refuse the request. The decision can be appealed through the complaints process.

## Direct Payment Process

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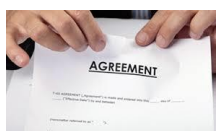
The Council must be satisfied that the direct payment is being used to meet the eligible unmet care and support needs set out in the plan. The Council also has a responsibility to ensure that public money is spent and accounted for appropriately. A personal budget is public money provided for the statutory purpose of meeting an individual's assessed, eligible needs. Sefton therefore requires a robust and flexible policy of auditing Direct Payments to give assurance that individuals are achieving the best possible outcomes within the available resources and that funds are being spent appropriately.

The Council must review the direct payment within the first six months of making the first payment. Thereafter the Council must review the payment no later than every 12 months.

In circumstances where individuals manage their own budgets the Council requires a consistent and thorough approach to record-keeping that is proportionate to the needs of the individual.

## Audit and Monitoring Requirements

The main elements that support audit and monitoring of a Sefton personal budgets include:



### Personal Budget Agreement

To receive a Personal Budget as a cash payment (i.e. a Direct Payment), the individual must enter into a formal contractual agreement with Sefton Council.

The contractual arrangements between the Council and the individual must be established in a formal, written Personal Budget Agreement.



### Separate Bank Account

All individuals, not using the Council's pre-paid arrangements, but receiving Direct Payments are required to set up a separate bank account for receipt and maintenance of these funds.



## Records

Individuals will be required to keep records of how they have spent their Personal Budget and submit these to the Council for monitoring as required.

Individuals receiving a high level of Direct Payment, or who are deemed to present a higher risk, may be subject to enhanced monitoring arrangements.

Records may include bank statements, invoices and receipts, payroll records or any other relevant documents specified by the Council.



## Financial Contributions

Direct payments will be made net of any financial contribution the individual is assessed as being required to make towards the cost of support for their eligible unmet needs.



## VAT

Sefton Council is unable to recover VAT on goods and services which are purchased via Direct Payments. Any goods and services purchased are regarded as being purchased directly by the individual who is therefore liable for any VAT incurred.

## Surplus



## Treatment of Surplus

The Council will seek to recover money from the individual if they have a surplus of unused or accumulated funds of more than eight weeks' in the direct payment bank account, unless there are agreed reasons for this to remain within the account ie for inland revenue payments.

# Suspension and termination of Direct Payments

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Sefton Council retains the option of taking over the management of the individual's care and support arrangements either at the individual's request or in the light of a change in circumstances. This may be necessary if the individual is no longer able to manage their Direct Payment; is admitted to hospital for a significant period or it is otherwise in their best interests, in line with Mental Capacity Act.

The Council must ensure that there is no gap in the provision of care support. In such cases, the Council will initiate a review of the individual's needs which will include a review of the Personal Budget arrangements and any existing agreements. In doing so, the Council will have due regard for any contractual obligations on the part of the individual and the promotion of continuity of support arrangements.

Personal Budget Agreements may be suspended or terminated as follows:



### **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.

If the individual chooses to terminate a Direct Payment and requires Sefton Council to arrange alternative services, the Council will require a minimum of four weeks' notice to make appropriate arrangements.

If an individual chooses to terminate a Direct Payment, the Council will initiate a review to determine how best to meet their eligible unmet needs.



### **By Sefton Council**

Sefton Council may suspend or terminate a Direct Payment:

- It is apparent that the person is no longer capable of managing the direct payments whether on their own or with support
- The person no longer needs the support for which the direct payment is made
- If one or more of the qualifying criteria are breached by the individual
- If the Council is no longer satisfied that the authorised person is acting in the best interests of the person.
- For reasons of illegal or fraudulent use or misuse of a Direct Payment

In such cases, Sefton Council will put a commissioned service in place to ensure that the individual's assessed eligible unmet needs are met. The Council will also initiate a review to consider revision of the support plan.

The notice required will depend on the individual circumstances of each case and the evaluation of any risks or other relevant factors.

## **Misuse and Fraud**

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It is a requirement that personal budgets are used to meet the assessed eligible unmet needs of the individual, in accordance with any conditions imposed in the validated support plan and / or Personal Budget Agreement and relevant policy and guidance.

In cases of misuse or fraud relating to the use of a personal budget or direct payment, Sefton Council will take action to recover all or part of the monies, where appropriate. In serious cases, the individual may no longer be eligible for a Direct Payment in future.

## Informing people, promoting choice and advocacy

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The Council will provide universal information about direct payments to allow people to be fully informed about what direct payment are and raise awareness of direct payments and how they can be used.

When a plan to meet needs or discharge Section 117 duties is being developed, people will be advised which of their eligible needs, if any, or after care services may be met / provided through direct payments and offered the option of having them. People will be provided with information about direct payment rights and responsibilities and how to use and manage them so that they can make an informed decision.

People must request direct payments and may opt in or out of direct payment arrangements by notifying the Council. Requests for direct payments are usually made at planning stage but may be made at any other time.

People who appear to be unable to understand their rights and responsibilities in relation to direct payments and have no other appropriate person to support them will be offered an independent advocate.

## Who can receive Direct Payments

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Except where an exclusion applies, where the conditions described in respect of adults with capacity and in respect of adults without capacity are met the Council has a duty to provide direct payments for people who request a direct payment and whose needs for care and support have been determined under Care Act eligibility criteria and who have been allocated a personal budget to which the Council must contribute.

The regulations exclude people placed under certain conditions or requirements by the courts in relation to drug and / or alcohol dependencies from receiving direct payments. See Annex B for details.

Except where an exclusion applies, where the conditions described are met the Council may have a duty to provide direct payments for people to whom after care services are provided under S117 of the MHA.

## Conditions for receiving direct payments

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Direct payments will be provided when requested by an **adult with capacity** when each of four conditions is fully met:



1. The adult has capacity to make the request for direct payments, and where there is any nominated person agrees to receive direct payments.
2. The regulations do not prohibit needs from being met through direct payments. See restrictions on the use of direct payments.
3. The council is satisfied that the adult or nominated person is capable of managing direct payments either independently or with support.
4. The council is satisfied that making direct payments is an appropriate way to meet the needs assessed.

**Adults lacking capacity** are not precluded from having direct payments when there is an authorised person to manage them. Direct payments will be provided when requested by an authorised person when each of the conditions are met.

An authorised person is someone who:

- Is authorised under the Mental Capacity Act (MCA) to make personal welfare decisions for the adult (i.e. the holder of a lasting power of attorney given to them by the adult before they lost capacity or a Court appointed deputy), or
- Is not MCA authorised, but the Council and any person authorised under the MCA to make personal welfare decisions for the adult agree is a suitable person to whom to make direct payments, or
- Is not MCA authorised and there is no MCA authorised person, but the Council considers that the person is a suitable person to whom to make direct payments.

When determining who is a suitable person to be an authorised person, the Council will consider all the relevant circumstances and on a case by case basis.

Direct payments will be provided when requested by an authorised person when each of five conditions is fully met:

1. Where the person making the request is not authorised under the MCA to make personal welfare decisions for the adult, the Council and any person who is so authorised agree that the person making the request is a suitable person to make decisions about the adult's care and support.
2. The regulations do not prohibit needs from being met through direct payments. See restrictions on the use of direct payments.
3. The authorised person will act in the adult's best interest in arranging care and support with direct payments.
4. The authorised person is capable of managing direct payments either independently or with support.
5. Making direct payments to the authorised person is an appropriate way of meeting needs.

The Council will take the following steps to assess whether making direct payments to the authorised person is an appropriate way of meeting needs.

1. So far as is reasonably practicable and appropriate, the Council will consult and take into account the views of:
  - anyone named by the adult as someone to be consulted about whether direct payments should be made to the authorised person,
  - anyone engaged in caring for the adult or interested in their welfare,
  - anyone authorised under the MCA to make decisions about the adult's needs for care and support.
2. So far as is reasonably ascertainable, the Council will consider:
  - the adult's past and present wishes and feelings, particularly any relevant written statement made by the adult before they lost capacity,
  - the beliefs and values that would be likely to influence the adult's decision if the adult had capacity, and
  - other relevant factors the adult would be likely to consider if they were able to do so.
3. The Council will carry out DBS checking only for:
  - a) Children's Direct Payments, anyone who is involved in providing care, who is not a close family member (see Annex A definitions): who lives in the same household as the Child, and;
  - b) Vulnerable Adults, where there is an authorised person managing the direct payment, checks will be conducted upon request for anyone providing care who is not the adult's spouse / partner, a friend of the adult who is involved in providing their care, or a close family member who lives in the same household as the vulnerable adult (see Annex A definitions).

The authorised person must:

- sign the Direct Payments Agreement
- be named as the financial representative on the service user's electronic record to enable payments to be made.
- notify the Council if they reasonably believe that the adult has regained capacity.
- DBS check any person from whom a service is secured using direct payments.

## Declining a request Direct Payments

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Requests for direct payments will be declined if any condition set out for adults with capacity and for adults lacking capacity is unmet.

The Council will provide a written explanation of why the request was declined including:

- which conditions are not met,
- why the condition is considered to be unmet

- what the person making the request may need to do to obtain a positive decision.
- Details of alternative arrangements to meet assessed and eligible care needs

Information about how to appeal the decision through the complaints process will also be provided.

The Council will continue the planning process to agree with the person whose needs must be met how this can be achieved without the use of direct payments.

## Using Direct Payments

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Direct payments must be used to pay for arrangements to meet the needs specified in the plan.

Direct payments must be used to purchase services which are safe, legal, value for money and which adequately safeguard and promote the person's welfare and wellbeing.

Direct payments may be subject to conditions imposed by the Council and may be discontinued and / or recovered if the Council has reason to believe that direct payments may have been misspent or accumulated without being agreed within the individual support plan, as detailed in the Direct Payment Agreement.

## Direct Payments cannot be used for

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Direct payments cannot be used to purchase:

Care services provided by the adult's spouse / partner or a close family member (see Annex 1 definitions) living in the same household as the adult. In exceptional circumstances the Council can agree a direct payment in these circumstances.

1. Any service directly provided by the Council
2. Services, equipment and / or minor adaptations which are the responsibility of other public bodies.
3. Reablement services.
4. Long term residential or nursing care but can be used to pay for:
  - short stays of up to 4 consecutive weeks in any 12 month period. In calculating the period of 4 weeks, a stay of less than 4 weeks is added to any succeeding stay if the two stays are separated by a period of less than 4 weeks but not otherwise.
  - Non-residential services, for example to trial independent living or to take part in daytime activities.

Carer direct payments are to meet the carer's own assessed needs and cannot be used to purchase services for the service user.

An authorised or nominated person must not use direct payments to pay themselves to provide services.

## Managing Direct Payments

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Anyone who agrees to be responsible for managing direct payments must be capable of managing direct payments either independently or with help.

Adults with capacity can nominate a person to assist them to manage direct payments in whatever way they require. The person is known as the nominated person and is usually a family member or a friend.

Adults with capacity and their nominated person may access assistance in setting up the direct payment, this may include, advice for recruitment, record keeping, payroll and other employment related services from the direct payment support service at Sefton Carers Centre. If the adult with capacity and or their nominated person chooses to obtain this support from another agency other than the direct payment support service any cost for this will be met from their own personal funds.

In certain circumstances, for example where the direct payment recipient or their nominated person cannot access a separate bank account, a holding bank account service can be accessed via Sefton Carers Centre. Any costs incurred through the use of a Holding Account will be borne from the recipients own personal funds and not from the direct payment fund. This account is not in any way a managed account or service and solely provides a bank account facility. The direct payment recipient or their nominated person must still manage the direct payment.

Irrespective of the level and type of assistance provided by a third party or direct payment support service, adults with capacity to consent to direct payments remain responsible and accountable for how direct payments are used.

An authorised person acting on behalf of an adult lacking capacity is in a position of trust and is as liable as a direct payment recipient with capacity would be for any misuse of direct payments.

A nominated or authorised person may request some assistance from the council to support them in managing the direct payment. The council will decide at its discretion what type of support can be provided.

## Direct Payments recipients as employers, Disclosure and Barring Service

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People may use direct payments to employ staff, or to pay an agency to provide services. The direct payment recipient must:

- Accept all legal responsibilities involved in becoming an employer and maintaining good employment practices,
- Accept all employer legal responsibilities, including being responsible for all employment related costs, for example redundancy,
- Accept responsibility for the purchase of suitable compulsory employers' liability insurance.

Adults with capacity are not obliged to carry out Disclosure and Barring Services (DBS) checks for people they employ through direct payments. However, the Council strongly recommends that DBS checks are obtained for all personal assistants. The costs incurred for such checks will be borne from the Adult's own personal funds.

For direct payments where adults lack capacity, DBS checks will be compulsory for anyone who is providing care, who is not a close family member or friend. Costs for such checks will be funded by the council.

An authorised person must carry out DBS checking or obtain verification that DBS checking has returned a satisfactory result for any person from whom a service is secured through direct payments where the authorised person is:

- A body corporate or unincorporated body of persons; **or**
- An individual who is **not** the adult's spouse / partner, a close family member (as defined at Annex A) or a friend of the adult who is involved in the adult's care.

Sefton Council accepts its responsibilities and duties in accord with Care Act Statutory guidance section 12

## Payment of Direct Payments

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Direct payments must be made in accordance with the requirements of the Council's financial policies and procedures.

Direct payments are paid net of any required contribution from the adult in need of care who must add their contribution, if any, to the direct payments account.

Ongoing payments are made in advance at four weekly intervals. All costs must be met within:

- The agreed personal budget which includes any personal contribution required from the person receiving services.
- the amount agreed as sufficient to meet the cost of section 117 after care services.

Payments of small amounts for one off purchases may not require a separate bank account.

The current rates paid for direct payments are detailed in Annex C.

Rates paid will be reviewed on an annual basis as part of the review of this policy.

Calculations for direct payments are based upon an understanding of current market rates and the cost for which the council can procure similar services or in some cases an average of such service costs.

## Rates for Employing Personal Assistant

Rates paid to recipients or their authorised person will be based as above and will provide sufficient to enable them to pay their employee(s) a market rate plus a percentage to accommodate statutory holiday pay, national insurance, statutory pension contributions and redundancy costs.

It is the recipient or authorised persons choice what to pay their employees, however if these costs exceed the rate the council has provided, the recipient or authorised person will need to pay any additional costs from their own resources. The Council will not be responsible for the payment of any costs associated with the employers' legal responsibilities and for which it has allowed sufficient funds in its calculated rates as provided.

## Integrated Direct Payments

When an adult is receiving direct payments to meet both social care and health needs, steps will be taken to coordinate processes to minimise administrative and compliance requirements.

## Direct Payments Agreement

The respective direct payments agreement must be signed and a copy of the signed agreement provided to all signatories. There are two direct payment agreements:

- Standard agreement – signed by the **adult with capacity** or **their nominated person**, whoever is managing the direct payment
- Authorised person agreement – signed by the **authorised person** on behalf of the **adult who lacks capacity** or where the payment is made to a **parent or guardian** in the case of a child.

## Monitoring and audit of Direct Payments

The Council will inform an individual about what records they must retain and what information they will be required to provide at each audit before the direct payment agreement is entered into.

The type and level of information to be retained and provided will be dependent on whether or not a Pre-Paid Card is used to make payments to the recipient.

All direct payments will be monitored at three monthly intervals in the first twelve months of the payments being made. Subsequent audits will be undertaken on a twelve monthly basis or sooner where deemed necessary.

Audits will also be carried out at any time when the Council considers that:

- Paperwork required to inform audits has not been submitted
- There have been concerns raised about the safe use of the payments
- there has been a change in capacity, or
- any of the conditions listed in respect of adults with capacity or in respect of adults with capacity above is no longer met, or
- direct payments have not been used as intended, or
- the adult's safety and welfare have been compromised or
- there has been any change which may adversely affect the effectiveness and intention of the support arrangements.

The audit will establish if direct payments are being used to meet needs as intended, conditions are met and public monies are being used effectively.

Audits must involve the adult, any carer the adult has, any authorised or nominated person, and anyone else that the adult requests be involved. If the adult lacks capacity to make such a request, anyone who is authorised under the MCA to make personal welfare decisions (if different from the authorised person) or if there is no such person anyone who appears to be interested in the adult's welfare should be involved.

## Discontinuing Direct Payments / Requiring Repayment

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People receiving direct payments, either for themselves or on behalf of another person, may decide at any time that they no longer wish to receive direct payments on giving 4 weeks written notice to the Council. The Council can agree to vary this notice period according to the individual's circumstances.

Notice will be given before direct payments are discontinued, unless in exceptional circumstances, direct payments will be discontinued without Notice.

The Council will end direct payments, by giving 4 weeks written notice, if it is satisfied that:

- The person is no longer eligible for or no longer requires the services for which direct payments are made.
- The person becomes excluded from receiving direct payments because they have been placed under a condition or requirement by the Courts in relation to drug and / or alcohol dependencies. See Annex B for details
- Any of the conditions listed are no longer met.
- Direct payments are not safeguarding or promoting the person's welfare.

The Council may suspend or end direct payments either permanently or temporarily if:

- The adult does not require assistance because their condition has improved and / or they do not need the services that direct payments were intended to secure.
- Any condition attached by the Council is unmet or the Council has reason to believe that direct payments have been used for unauthorised purposes other than to meet needs as specified in the plan.
- The adult fails to pay any assessed financial contribution.
- Given all the circumstances, the Council considers it appropriate to end direct payments.

**When repayment is required** the Council will require full or partial repayment of direct payments, within 14 days after being requested, if any condition attached by the Council is unmet or the Council has reason to believe that direct payments have been used for purposes other than to meet needs as specified in the plan.

The Council may require repayment of any unspent direct payment if they are not required to meet needs as set out in the plan.

The Council will require repayment of excess funds accumulated in the dedicated bank account where there is no reasonable explanation for the surplus.

Direct Payments do not form part of an estate in the event that someone dies while receiving them. The money at all times belongs to the Council and remains public funds.

In all cases where advanced payments have been made beyond the date that the direct payment ceased



## Definitions

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<b>Adult with capacity</b>	In the context of this policy, an adult who has the mental capacity to make decisions about direct payments
<b>Adult lacking capacity</b>	People are always assumed to have capacity until established otherwise. In the context of this policy, where there is any doubt about an adult's capacity to make decisions about direct payments mental capacity will be assessed in accordance with MCA. An adult will only be deemed to be without capacity when it has been established through assessment that this is the case.
<b>Assessment – of needs</b>	An assessment of an individual's needs for social care, support or s117 after care services to enable them to live as independently as possible.
<b>Assessment – financial</b>	<p>An assessment of an individual's financial circumstances to determine whether or not they must contribute towards the cost of services required to meet eligible needs.</p> <p>No financial assessment is required for s117 after care services as these must be provided free of charge.</p>
<b>Authorised person</b>	<p>Someone who is authorised under the MCA to make personal welfare decisions about an adult without capacity, i.e. someone who:</p> <p>Holds a lasting power of attorney given to them by the adult before they lost capacity,</p> <p>or</p> <p>Was appointed as a deputy for the adult by the Court of Protection under section 16 of the MCA.</p> <p>Where the person making the request for direct payments on behalf of an adult without capacity is not authorised to make personal welfare decisions as described above, the Council and any person who is authorised to make personal welfare decisions must agree that the person making the request is a suitable person to act as the authorised person.</p>
<b>Carer</b>	Someone of any age who provides unpaid support to family or friends who could not manage without this help.
<b>Close family member</b>	<p>Someone who lives in the same household as the adult who is the adult's:</p> <ul style="list-style-type: none"> <li>• Parent or parent-in-law</li> <li>• Son or daughter</li> </ul>

	<ul style="list-style-type: none"> <li>• Son-in-law/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/partner of any of the people listed and living in the same household as the adult.</li> </ul>
<b>DBS checking</b>	Screening through Disclosure and Barring Services. This checks criminal history and identifies people barred from working with children and vulnerable adults.
<b>Direct payments</b>	<p>Payment of the Council's contribution towards a personal budget direct to a dedicated bank account, so that the person or someone authorised to act on their behalf can arrange support services instead of having them arranged by the Council.</p> <p>Direct payments may also be provided in most instances to arrange s117 after care services.</p>
<b>Direct payments agreement</b>	The written agreement which sets out the terms and conditions applicable to direct payments.
<b>Duty to make direct payments</b>	Where the Council has a legal obligation to make direct payments to eligible people because all conditions are met.
<b>Holding Account</b>	A bank account facility held by Sefton Carers, which can be used in certain circumstances agreed by the council. e.g where the recipient or nominated person cannot open a bank account. <u>This is not a managed account.</u>
<b>MCA</b>	Mental Capacity Act 2005
<b>MHA</b>	Mental Health Act 1983
<b>Minor adaptation</b>	An adaptation is defined as minor when the total cost including supply and fitting is less than £1000.
<b>Nominated person</b>	A person nominated by an adult with capacity to assist with day to day management of services and / or management of direct payment funds. An adult with capacity at all times remains responsible and accountable for how direct payments are used.
<b>Personal budget</b>	The amount of money allocated to fund the care and support required. The personal budget is means tested and therefore the adult may be required to make a financial contribution towards the total amount of the personal budget.
<b>Personalised</b>	Tailoring care and support to the needs, wishes and preferences as

<b>care and support</b>	far as this is possible so that the person concerned has as much choice and control over how their needs are met.
<b>Plan</b>	A plan which summarises how a person's needs will be met and which includes the details of needs to be met from direct payments. This may be either a care and support plan for an adult in need of care, or a support plan in the case of a carer.
<b>Reassessment</b>	A reassessment of needs for social care and / or support.
<b>Review</b>	Monitoring and review of direct payment arrangements to ensure that they continue to meet the needs. Usually carried out concurrently with a review of the person's plan
<b>Service User</b>	A person assessed by the Council as eligible to receive care and support services.
<b>Section 117 after care services</b>	A wide range of services necessary to meet a need arising from a person's mental disorder when a person ceases to be detained under the MHA.

## People excluded from Direct Payments

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Direct payments may not be used to meet the needs of people who are:

(a) **subject to a drug rehabilitation requirement**, as defined by section 209 (drug rehabilitation requirement) of the Criminal Justice Act 2003 (“the 2003 Act”), specified in a community order (as defined by section 177 (community orders) of that Act, or a suspended sentence order (as defined by section 189(c) of that Act);

(b) **subject to an alcohol treatment requirement**, as defined by section 212 of the Criminal Justice Act 2003, specified in a community order (as defined by section 177 of that Act), or a suspended sentence order (as defined by section 189 of that Act);

(c) **released from prison on licence—**

(i) under Chapter 6 of Part 12 (sentencing: release, licenses and recall) of the 2003 Act or Chapter 2 of Part 2 (effect of custodial sentences: life sentences) of the Crime (Sentences) Act 1997 (“the 1997 Act”), subject to a non standard licence **condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour**; or

(ii) **subject to a drug testing requirement under** section 64 (as amended by the Offender Rehabilitation Act 2014) (release on licence etc: drug testing) **or a drug appointment requirement** under section 64A (release on licence etc: drug appointment) of the Criminal Justice and Courts Services Act 2000;

(d) required to comply with a **drug testing or a drug appointment requirement** specified in a notice given under section 256AA (supervision after end of sentence of prisoners serving less than 2 years) of the 2003 Act;

(e) **required to submit to treatment for their drug or alcohol dependency** by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act;

(f) **subject to a drug treatment and testing order** imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000;

(g) **required to submit to treatment for their drug or alcohol dependency** by virtue of a requirement of a community payback or probation order within the meaning of sections 227 to 230 of the Criminal Procedure (Scotland) Act 1995 or **subject to a drug treatment and testing order** within the meaning of section 234B of that Act; or

(h) released on licence under section 22 or section 26 of the Prisons (Scotland) Act 1989 (release on licence etc) or under section 1 (release of short-term, long-term and life prisoners) or 1AA (release of certain sexual offenders) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and subject to a condition that they **submit to treatment for their drug or alcohol dependency**.

### Source:

Care and Support (Direct Payments) Regulations 2014 – Regulation 2, Schedule 1

## Direct Payment Rates

Service Type	How Payments are Calculated
Homecare and Community Support	<p>Based on assessed number of hours.</p> <p>Rates paid are based on the Domiciliary Care contract geographical areas.</p>
Carers Support at Home	<p>One-off payment based on up to 25 hours of care or support.</p> <p>Rates paid are based on the Domiciliary Care contract areas.</p>
Day Care	<p>Rates are paid per day – based on dependency level of the Service User.</p> <p>Currently the dependency levels are;</p> <ul style="list-style-type: none"> <li>• Low Dependency</li> <li>• Medium Dependency</li> <li>• High Dependency</li> </ul>
Respite	<p>Paid for Residential and Nursing Care respite. Rates are based on historic care home rates.</p>
Carers one-off Payment	<p>One-off payment to purchase equipment or a break to support the carer in their role</p>