

Direct Payments

Adults' Services

Practice Guidance

This document explains how direct payments are set up by West Sussex County Council Adults' Services, how they are monitored and how they are reviewed. It will also set out who is responsible for which part of the process. It should be used as a single point of reference by all parties involved.



Status	New Practice Guidance
Version	1
Issue Date	November 2015
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Signed off by	<i>[Signature]</i>
Date	5/11/15

Issue number	Date	Author	Principal Changes
1	November 2015		
1.1	20 th November 2015	Edward Armstrong	Adding section 13 – Bank Account checklists

Contents:

1. [Introduction](#)
2. [Arranging direct payments to a customer](#)
3. [Arranging direct payments to a suitable person](#)
4. [Carer's direct payments](#)
5. [One off direct payments](#)
6. [Monitoring direct payments](#)
7. [Reviewing direct payments](#)
8. [Independent Lives](#)
9. [Responsibilities](#) (pensions, redundancies, Disclosure and Barring Service, evidence of expenditure, National Minimum Wage and account balance.)
10. [Hospital admissions](#)
11. [Direct Payments and mental capacity](#)
12. [Stopping a direct payment](#)
13. [Direct Payment Bank Account Checklists](#)
14. [Direct payment processes](#)

1. Introduction

1.1 When a customer has been assessed as having eligible needs, and is entitled to funded care from West Sussex County Council, a personal budget is assigned to them. In most cases, the customer has a right to choose whether they will receive their personal budget via a council managed budget or a direct payment.

1.2 Most individuals who are eligible for a personal budget from the council are entitled to choose to receive it in the form of a direct payment. This includes:

- Adults (people over 18);
- Disabled young adults (minors aged 16 and 17);
- Parents of disabled children; and
- Adult carers.

An individual's primary care need doesn't affect their right to a direct payment as long as they are eligible for a personal budget (see 2.12 regarding who is not eligible for a direct payment).

1.2 A council managed budget involves the customer choosing which services they want to access and the council organising and purchasing them. A direct payment is where the council pays the personal budget directly into the customer's (or appointed suitable person's) designated bank account. The customer (or appointed suitable person) then independently spends the money on services to meet the outcomes set out in their support plan.

1.3 A customer can also choose to receive their personal budget as a combination of both a council managed budget and a direct payment. For example a customer might choose to use 75% of their personal budget as council managed budget to access an in house day care centre and the remaining 25% of their personal budget as a direct payment with which to purchase domiciliary care.

1.4 Customers can have a nominee; a relative friend or carer from their support network, to support them to manage the direct payment. Customers who lack the mental capacity to choose to have and to manage a direct payment will require an appointed suitable person who will then receive the direct payment and spend the money on services to meet the customer's outcomes.

1.5 When an adult's situation or needs temporarily change a one off direct payment can be made in order to support them meet their outcomes. Carers can also be eligible for a direct payment to support them to meet their carers' needs.

1.6 Direct payments can be used to purchase care from an independent service provider, to employ a personal assistant, or to meet their outcomes via other means as agreed to in their support plan.

1.7 Under the Care Act 2014 all local authorities must now offer their customers the choice of a direct payment to promote the customers' independence, choice and control.

2. Arranging direct payments to a customer

Information and advice

2.1 During their initial referral to adults' services the customer should have received a copy of "your life, your choice"; this information booklet will have given them an introduction to the concept of direct payments.

2.2 When carrying out an assessment of an adult who is eligible for funded social care the social care worker should ensure that the customer and their representative are fully aware of direct payments and the responsibilities that come with them.

2.3 When appropriate the social care worker will at this stage carry out a mental capacity assessment to determine if the customer is able to consent to and manage a direct payment. If they do not have the mental capacity but their representative feels that direct payments are in their best interest then a direct payment to a suitable person can be made, see section 3.

Direct payment agreement

2.4 How much the customer's personal budget will be and how they will receive it will be decided during the support plan.

2.5 If a customer, or their representative, decides to have a direct payment then during the support planning the social care worker or support broker will read through the agreement with them. There is a different agreement for direct payments to a suitable person.

2.6 The agreement sets out what the direct payment can be spent on, and the customer's responsibilities – including sending the bank statements to the council, retaining receipts and informing the council of any changes to their situation or needs. The customer or suitable person must have read, understood and consented to the agreement before a direct payment can be made. The signed agreement must be uploaded into the customer's Frameworki profile as a part of their support plan episode before a direct payment can begin.

Bank details

2.7 The customer will have to designate a bank or building society account specifically for the direct payment. This could be an old account of theirs which they're no longer using, or a new account opened just for the direct payments. The only money credited to the account can be the direct payment, their assessed contribution and any voluntary top up and any money debited from the account must be evidenced to demonstrate that it has been spent on services

relevant to their care needs. The account will most preferably be solely in the customer's name (unless it is a direct payment to a suitable person, see section 3), but they can allocate their nominee as a counter signatory so that they can support them to manage the direct payment, write cheques and access the account in an emergency.

2.8 A record of the allocated bank or building society account must be made and recorded on the Frameworki profile in the form of a PS15 form. Evidence that the account details are correct must also be obtained by a copy of a letter with the details addressed to the account holder. Without these the direct payment finances team will not be able to be make the payments.

2.9 If a customer cannot physically access a bank or building society they can try to open an account online or by telephone banking. If the customer has assigned ordinary Power of Attorney or lasting Power or Attorney to someone in their support network then that person can open an account in the customer's name. Evidence of the Power of Attorney must be shown to the allocated worker or support broker and uploaded onto the customer's Frameworki profile.

2.10 If a customer is facing difficulties opening an account, or is thinking of appointing Power of Attorney to somebody in their support network then they must be advised to seek legal advice from the Citizen's Advice Bureau, Carewise and or a Solicitor.

2.11 If a customer adamantly insists that the direct payment is made to an account in their nominee's name, or a joint account between them and their nominee, then this can be acceptable. However this must be clearly noted in Schedule 1 of their agreement. Both the customer and their nominee must sign to evidence that they understand:

- the money is solely for the customer's care needs;
- any unspent money must be returned to West Sussex County Council; and
- that the customer is still ultimately responsible for adhering to the terms and conditions including contract and employer responsibilities.

Such accounts should where possible reference what they are for, for example "direct payments account for Joe Blogs."

Not eligible for direct payments

2.12 Under the Care Act 2014 and associated Regulations, certain categories of adults are prevented from receiving a Direct Payment. These are adults who are:

- Subject to a drug rehabilitation requirement;
- Subject to an alcohol treatment requirement;
- A prisoner; or
- Released from prison on licence.

This doesn't prohibit such adults from receiving any social care funding if they

meet the eligibility threshold, however they must receive their personal budget in the form of a council managed budget.

Further Information and advice

2.13 Some customers may need support to understand the direct payments agreement, the responsibilities and the services available. Independent Lives will provide such individuals with information and advice to support them to understand the process in full. To refer to this service complete a:

- PS37 - DP/DPSP IL IAA Service Referral (Information and Advice).

See section 8 for more information regarding Independent Lives.

Exceptional circumstances

2.14 In circumstances where a customer will need to accrue an amount of money in their account which is more than eight weeks' worth of their direct payment, or spend their direct payment on unusual services or services which are usually prohibited then this needs to be clearly recorded in their support plan, and Schedule 1 of their agreement and communicated to the direct payments finances team.

Recording Nominees

2.15 When a customer is allocating a nominee to support them with their direct payment then this should be recorded on both the direct payment agreement as well as the customer's Frameworki profile page under relationships.

2.16 Any nominees must have also read, understood and signed the agreement before a direct payment commences.

3. Arranging Direct Payments to a Suitable Person

3.1 When a customer has been assessed as lacking the mental capacity to choose to take their personal budget in the form of a direct payment, or to manage a direct payment, a council managed budget is not the only option. If their carer or representative feels that a direct payment would still be best suited to meet the customer's needs then a direct payment to an appointed suitable person can be made.

3.2 Not everybody can be a suitable person to receive direct payments on behalf of a customer. The suitable person will often be a family member, close friend or unpaid carer of the customer and already be involved in the provision of care for the customer, but this is not a requirement.

3.3 If the customer has a Deputy appointed under the Mental Capacity Act or someone allocated with Lasting Power of Attorney they will preferably be the suitable person appointed to manage the customer's direct payment. If the person with Lasting Power of Attorney does not wish to be appointed as the

suitable person then they should be consulted and their approval gained before somebody else is appointed.

3.4 Any other individual involved in the provision of the customer's care should also be consulted and their opinion noted before an individual is appointed as a suitable person.

3.5 As far as is practicable customers lacking the mental capacity to choose to have a direct payment should themselves be involved and engaged in the decision before anyone is appointed as the suitable person. Any documentation evidencing their wishes, preferences or opinions made at a time when they did have mental capacity should also be referred and adhered to as much as possible.

3.6 A suitable person receiving a direct payment on behalf of a customer must:

- Have the mental capacity to understand, choose, and agree to do so;
- Have regular contact with the customer;
- Not be the person alleged responsible in a current safeguarding enquiry;
- Have read and signed the agreement and consented to carrying out the responsibilities;
- Set up a bank or building society account in their name designated solely for the direct payment (including the customer's own contribution);
- Be capable of managing the Direct Payment themselves, or with the assistance of others; and
- Understand that at all times they must act in the customer's best interests and in accordance with the support plan.

3.7 Before appointing a suitable person the allocated worker or support broker (whoever is carrying out the support plan) need to satisfy themselves that the person meets the criteria as a suitable person. They must then fill out the appropriate forms and upload them to the customer's Frameworki profile:

- PS13 – Appointing a suitable person;
- PS16 – Direct payment to a suitable person agreement; and
- PS17 – Direct payment to a suitable person bank details.

The case should then be forwarded to the direct payments finance team with a warm handover to ensure they have all the information they require.

3.8 If the suitable person requires support to understand direct payments then complete an information and advice referral to Independent Lives.

- PS37 - DP/DPSP IL IAA Service Referral (Information and Advice).

3.9 A direct payment to a suitable person must be made to an account in the suitable person's name, wherever possible the name of the account should

reference what it is for; for example "direct payment account for X". If possible then the suitable person should open a trustee account.

3.10 In the event of a suitable person passing away before the customer the direct payment must be stopped. See section 12 for more details.

3.11 When allocating a Suitable Person they should be recorded under the Customer's relationships on their Frameworki profile.

4. Carers' Direct Payments

4.1 When a carer's support plan outcomes in them being eligible for funding from the county council then a carers' direct payment agreement form needs to be completed. The Social Care Worker should ensure that the carer has read, understood, and signed the Agreement. This then needs to be uploaded and saved in the carers' support plan episode on their Frameworki profile.

4.2 A cheque for the specified amount will be made to the carer (via SAP) which they will then spend on services relevant to meeting their eligible needs. Because this is a one-off payment the carer does not have to have a specified bank account.

4.3 Carers are to retain invoices and receipts as evidence of how they've spent their direct payments. These must be kept by the carer for future reference and evidence should there ever be a dispute about how they spent the direct payment. Any unspent money must be returned to the County Council.

4.4 If invoices or receipts won't be suitable to evidence how the individual carer is going to spend their direct payment then this must be specified on the agreement form along with how they will provide evidence of how they spend their direct payment.

4.5 When setting up a carers' direct payment complete an:

- AS165 Carer's Direct Payment Agreement

5. One off Direct Payments

5.1 Not every direct payment has to be on a monthly reoccurrence. If a customer's needs have changed, or a circumstance has occurred which requires a one off service or purchase of equipment then a 'one off direct payment' can be made to them.

If setting up a one off direct payment for a customer then complete a:

- PS34 - One off direct payment agreement.

A separate bank account is not needed for one off direct payments.

5.2 A cheque for the specified amount will be signed and sent to the customer (via SAP) who will then retain evidence of how they've spent the money, and show this to the council if requested to do so, and return any unspent money from the payment.

6. Monitoring Direct Payments

6.1 Customers, nominees and appointed suitable people will send statements from any direct payments bank or building society account to the council for monitoring every month. After a period of time the requirement may be reduced at the discretion of the Direct Payment Contact Officer. Statements will be sent to:

Direct Payments Team,
3rd Floor,
The Grange,
County Hall,
West Street,
Chichester,
PO19 1RG

6.2 The direct payments financial team assess each statement and upload it to the customer's Frameworki profile via a direct payments monitoring episode. Only one of these episodes is needed per customer; a new one does not need to be started for every statement.

6.3 Direct payment recipients can accrue a bank balance equal to eight weekly payments. Any balance above eight weeks' worth of payments is regarded as surplus.

6.4 When a direct payment account has a surplus the direct payments team will write a letter to the customer or suitable person requesting they return the unspent funds to the County Council. At this time the direct payments team will inform the relevant social care worker whose responsibility is to contact the customer and ensure there isn't a valid reason for the surplus. The customer may return the unspent funds via cheque, or BACs payment.

6.5 If a customer, nominee or suitable person fails to return the surplus to the council when requested to do so then the monthly direct debit to the account will be stopped for a certain amount of time until the balance is below surplus level.

6.6 If a direct payment account exceeds the surplus amount more than once then the direct payments team will contact the allocated social care worker, or relevant social care team, and request that they carry out a review of the customer's services as soon as possible.

6.7 When choosing to have a direct payment customers, nominees and appointed suitable people agree to retain receipts, invoices, and cheque stubs as evidence of how they've spent their direct payment. They are not required to send these to the County Council unless requested to do so. The direct payments team will request evidence to be sent in when an account statement shows a

debit which is not self-explanatory, or it appears may have been spent on something unrelated to their support plan and outcomes.

6.8 Direct payment recipients' responsibility to return bank or building society statements can be lowered from monthly to quarterly if it is clear that their care needs are being met and they are adhering to the agreement.

7. Reviewing Direct Payments

7.1 A review must be carried out within six months of the customer receiving their first direct payment; although where possible this should be incorporated into the customer's initial eight week review. Thereafter annual reviews should take place.

7.2 When carrying out a review for a customer receiving direct payments, social care workers must check the following:

- Whether the customer's situation or social care needs have changed;
- Whether use of the direct payments has been meeting their outcomes;
- How direct payments are working for this customer;
- That the direct payment is being spent on appropriate services;
- That the bank or building society account doesn't have a balance in excess of the eight weeks accrual; and
- If they're employing a personal assistant that they're following employment responsibilities, in particular that they are submitting PAYE returns to HMRC as well as paying tax, National Insurance, and pension contributions.

7.3 If a customer's direct payment needs to be increased, decreased or stopped then the details need to be recorded in the review or reassessment episode. Contact the direct payments team and appropriate Support Brokerage team and inform them of the change requesting that they alter the direct payment accordingly.

7.4 If a customer's funding is going to end entirely, for example in the event of their death, then an AS024 Case Closure episode needs to be completed, and all staff groups involved need to be informed; Social Care Workers, Support Brokers, Finances and Independent Lives. See section 12 for further details.

7.5 When completing a case closure for a customer receiving a direct payment, or when a customer's personal budget is changing from a direct payment to a council managed budget then fill out an AS087 DP Direct Payment Closure Letter and send a copy of it to the customer, and inform the direct payments team.

7.6 On-going reviews of customers' support plans, care needs and direct payments should then be made every twelve months.

7.7 Any increase or decrease to a direct payment must be communicated clearly to the customer or appointed suitable person giving them 28 days' notice of the alteration.

8. Independent Lives

8.1 Independent Lives is a not for profit organisation with whom West Sussex County Council have a contract to support adults' services' customers if they choose to receive a direct payment.

8.2 If a customer or suitable person requires some support in understanding the information and advice around direct payments then the social care worker or support broker carrying out the support plan needs to refer them to Independent Lives by completing a DP/DPSP IL IAA Service Referral (Information and Advice) – PS37 form.

8.3 If the customer or suitable person is planning to employ a personal assistant then the social care worker or support broker carrying out the support plan needs to refer them to Independent Lives by completing a DP/DPSP IL PAES Service Referral (Personal Assistant Engagement Support) – PS38 referral. Independent Lives will provide support to the customer or appointed suitable person to help them to understand and comply with their responsibilities and the laws related to becoming an employer.

8.4 PS37 and PS38 forms need to be sent to advice@independentlives.org.

8.5 If a customer or suitable person considers that they have enough knowledge to employ a personal assistant without support the social care worker or support broker must still make a referral to Independent Lives. Independent Lives will then contact the customer or suitable person to ascertain their knowledge and understanding and give the social care worker or support broker their feedback.

8.6 If Independent Lives inform them that a customer or suitable person's knowledge and understanding isn't suitable to become an employer then the social care worker or support broker must contact the direct payments team and ensure that all proceedings are postponed.

8.7 At this stage the social care worker or support broker should contact the customer or suitable person and inform them that the proceedings have been postponed and explain the importance of understanding employment responsibilities. If the customer or suitable person still declines to engage with Independent Lives then a council managed budget should be considered.

8.8 Independent Lives are registered as an umbrella body for Disclosure and Barring Service (DBS) checks. When employing a personal assistant a customer or appointed suitable must be advised to use Independent Lives' service to carry out the DBS check.

8.9 Independent Lives also offer a Banking Service and a support plan service. These services are independent from the Independent Lives' contract with West

Sussex County Council. If an adult chooses to use either of these services then the customer has to fund it themselves.

8.10 Independent Lives contact details:

Address:

Independent Lives,
North Suite,
Southfield House,
11 Liverpool Garden,
Worthing,
West Sussex, BN11 1RY.
Telephone: 01903 219482.

9. Direct Payment Recipient Responsibilities

Pensions

9.1 All employers have a responsibility to offer their employees the option to join a pension scheme, as well as to automatically enrol certain employees into a pension scheme. This will apply to customers and appointed suitable persons using a direct payment to employ a personal assistant.

9.2 Independent Lives can support customers who employ a personal assistant to choose a pension scheme for their staff and to administer it.

9.3 Unless paragraph 9.6 applies, when a direct payment customer or appointed suitable person has a contract with a personal assistant who is aged between 22 and state pension age they must write to them offering a pension enrolment.

9.4 A personal assistant between 22 and the state pension age, earning below £5,824 per year who chooses to enter into a pension scheme will not receive any contribution from their employer (the customer or appointed suitable person receiving a direct payment).

9.5 A personal assistant between 22 and the state pension age, earning between £5,824 and £10,000 who chooses to enter into a pension scheme will receive a contribution from their employer (the customer or appointed suitable person receiving a direct payment) equal to 1% of their annual income from that job role.

9.6 A personal assistant earning £10,000 or more from one single point of employment must be automatically enrolled into a pension scheme. They will receive a contribution from their employer (the customer or appointed suitable person receiving the direct payment) equal to 1% of their annual income from that job role.

9.7 When a customer or appointed suitable person receiving a direct payment from West Sussex County Council has a legal responsibility to pay employer's pension contribution this amount should be included in their personal budget and the direct payment increased by the minimum amount.

9.8 When Independent Lives become aware that a customer or appointed suitable person will have to enrol their personal assistant into a pension scheme they will inform the allocated Social Care Worker and give them such financial information as is required to enable the Social Care Worker to recalculate the personal budget. If the personal assistant chooses to opt out or is no longer eligible for a pension then Independent Lives will inform Adults' Services who will lower the personal budget accordingly.

9.9 Note: only the annual income from a single point of employment is relevant; for example if a personal assistant earns £5000 from one direct payment customer and £5000 from another they will not qualify for the automatic enrolment.

9.10 Note: the minimum contribution to pensions by an employer will increase to 2% from October 2017 and to 3% from September 2018.

Redundancies

9.11 Where employment ends unexpectedly, for example when a customer suddenly has to move into a long term care or nursing home, the customer or suitable person may have a responsibility to provide them with a redundancy payment.

9.12 In the event that a redundancy situation arises the customer, nominee, suitable person or Independent Lives (as appropriate) should provide West Sussex County Council with a copy of the employee's contract, their length of service, age, the date of termination of contract and any other such information that West Sussex County Council requires in order to calculate the redundancy liability.

9.13 A personal assistant will be entitled to a redundancy payment if they have been working for the customer for two years or more and their employment has been terminated for reasons such as the customer moving to a full time residential care home, or passing away.

9.14 Any amount of money left in the account will be deducted from the statutory redundancy payment, the remaining amount required to meet the statutory redundancy payment will then be paid into the account and a letter sent detailing what it is for. The customer, nominee, suitable person or state administrator is then responsible for paying the personal assistant their redundancy. Further details regarding statutory redundancy payments can be found on the central Government's website.

Disclosures and Barring Service

9.13 West Sussex County Council has a responsibility to inform customers about the Disclosures and Barring Service (formerly Criminal Record Bureau check) and recommend that they carry out a check on anyone they are potentially going to employ.

9.14 The Support Broker or Social Care Worker carrying out the customer's support plan must inform them of the Disclosure and Barring Service checks and why they are carried out, and ensure that they understand this information. If Independent Lives are going to support the customer or appointed suitable person, then they too should explain the Disclosure and Barring Service checks process to them.

9.15 When using their direct payment to purchase the service of an independent provider customers and appointed suitable people should check that the provider carries out Disclosure and Barring Service checks on each of its employees.

9.16 If the customer or appointed suitable person is going to employ a personal assistant then it is advised that they carry out a Disclosure and Barring Service Check.

9.17 Independent Lives are registered as an umbrella body for Disclosure and Barring Service (DBS) checks. When employing a personal assistant a customer or appointed suitable must be advised to use Independent Lives' service to carry out the DBS check.

Evidence of expenditure

9.19 Customers and appointed suitable people must send a copy of their direct payment bank or building society account statement to the council every month and keep a copy for themselves. This requirement may be reduced at the discretion of the Direct Payment Contract Manager.

9.20 Any cheques made to pay for services must have their stubs left in the cheque book for the social care worker to look at during the review.

9.21 Customers and appointed suitable people must retain any bills or receipts for services purchased with the direct payment and return them to the council if and when requested to do so.

9.22 Any services or personal assistants being funded by a direct payment should not be paid for in cash unless there are circumstances which require it, and that have been agreed to at the support plan phase in advance.

National Minimum Wage

9.23 Direct payment recipients have a responsibility to ensure any service provider they are accessing adhere to the National Minimum Wage, as well as to adhere to the National Minimum Wage if using the direct payment to ensure anybody.

9.24 If confused about the National Minimum Wage, for example they paying of a sleep in on call shift, the direct payment recipient should be advised to seek professional advice from Independent Lives.

Account balance

9.25 Unless clearly stated in the Customer's Support Plan any amount of money above the eight weeks' Accrual will be regarded as Surplus. If the balance remains in Surplus for three consecutive months without a valid reason then the Customer or Appointed Suitable Person will be asked to return the Surplus amount to the Council.

9.26 Direct payment recipients have a responsibility to ensure the account balance remains in credit in order to avoid any overdraft fees.

10. Direct payments and hospital admissions

10.1 When a customer who is receiving a direct payment is admitted into hospital their direct payment does not automatically have to be stopped. Consideration should be given to how the direct payment may be used whilst the customer is in the hospital in order to meet their non-health care needs.

10.2 In cases where a direct payment customer is admitted into hospital explore with them, their carer and NHS staff how their health and social care needs can best be met. This could include their personal assistant(s) coming to the hospital to support them with their social care needs during their time there.

10.3 Suspending or terminating a direct payment due to a hospital admission could result in the customer having to break their employment contract with a trusted personal assistant which in turn could cause them distress and a lack of continuity of care.

10.4 When an appointed suitable person is admitted into hospital a review of the situation must be made to ensure the customer continues to receive care and support to meet their needs. This could be either through a temporary appointed suitable person, use of Independent Lives' services or through a short term council managed budget. The options need to be weighed up on a case by case basis to avoid unnecessary disruption to the customer's life, for example by their Personal Assistants being made redundant.

11. Direct payments and mental capacity

11.1 If a mental capacity assessment has been carried out and shows the customer does not have the mental capacity to choose or manage a direct

payment, but their representative feels that this is still the best way to meet their care needs then a direct payment to a suitable person can be made. See section 3 for more details.

11.2 If a customer who is receiving a direct payment has a temporary lack of mental capacity then the situation needs to be reviewed on a case by case basis. A nominee may be appointed as a temporary suitable person. Changing to a Council Managed Budget may result in a Personal Assistant being made redundant so such decisions require very careful consideration.

11.3 If an appointed suitable person loses the mental capacity to manage the customer's direct payment then a social care worker needs to review the case, if there is another suitable individual in the customer's support network then they can be appointed, otherwise a council managed budget will need to be considered.

11.4 All West Sussex County Council Mental Capacity Policies and Guidance must be referred to and adhered to when working with customer who has a direct payment. The use of a direct payment to a suitable person must be in best interest of the customer.

12. Stopping a direct payment

12.1 A direct payments agreement or direct payments to a suitable person agreement can be terminated by West Sussex County Council for a number of reasons as follows.

The customer's death:

12.2 Payments to the direct payment account will be discontinued with effect from the date of death. However there may still be outstanding commitments from the account for things such as personal assistant wages, or tax and National Insurance bills. Independent Lives or the allocated worker will advise the family on how to meet any outstanding financial commitments.

The estate executor must be shown the signed direct payment agreement and PS15 Direct Payment Bank Details form as evidence and any funds left in the account be returned to the County Council.

A suitable person's death:

12.3 In the event of a suitable person passing away before the customer the direct payment must be stopped. A review for the customer must then take place, and if possible and suitable a direct payment to a new suitable person should be set up, or else a Council Managed Budget begun. The deceased suitable person's estate executor should be shown the signed PS16 Direct Payment to a Suitable Person Agreement and PS17 Direct Payment to a Suitable Person Bank details and any funds left in the account after meeting bills and fees be returned to the County Council.

The customer's or suitable person's withdrawal from the direct payment scheme:

12.3 Occasionally a direct payment user will decide not to continue to arrange their own social care, and will instead opt to receive a council managed budget. In these situations a review must take place and the least disruption to the provision of the customer's care must be aimed for.

12.4 Similarly an appointed suitable person managing a direct payment account for a customer may decide not to continue in that role. If there are no other potential suitable people in the customer's support network then they may then need to receive a council managed budget instead.

The customer becoming permanent resident in a long term care or nursing home:

12.5 In these circumstances the allocated worker and Independent Lives will advise the customer, nominee or appointed suitable person on how to meet any outstanding commitments on the account. The direct payments to the account will then be frozen and a Council Managed Budget set up to pay for their residential placement.

Termination by West Sussex County Council:

12.6 West Sussex County Council may withdraw its agreement to make direct payments if:

- The customer does not keep to the terms of the agreement: for example, by failing to use the funds lawfully, or by failing to send in the required returns.
- The customer is, in the view of West Sussex County Council, not able to manage the direct payment effectively to meet their assessed needs, and there is no available form of assistance that could support them in doing so.
- The customer permanently ceases to have capacity to consent to the council's making the payments, and there is no suitable person in the customer's support network to manage the direct payments for them.

12.7 Terminating an agreement should be seen as a measure of last resort, as the spirit of direct payments and the policy of West Sussex County Council require that all reasonable efforts should be made to support customers in making effective use of the scheme.

12.7 If a direct payment agreement is terminated and the customer continues to require (and be eligible for) social care services, the council is obliged to make alternative arrangements for to support the customer; either by a direct payment to a suitable person or by a council managed budget.

12.8 To end a direct payment an AS087 DP Closure Letter needs to be completed sent to the customer and the direct payments team need to be informed.

12.9 Whenever a direct payment is stopped for whatever reason the allocated worker must ensure that any funds left in the account (after meeting final bills) are returned to the County Council.

13. Direct Payment Bank Account Checklists

13.1 Direct Payment to a Customer bank accounts

Direct Payment to a Customer:

- ✓ Customer has mental capacity
- ✓ Customer is able to open a bank account
- ✓ Customer **hasn't** chosen to have a Nominee

Direct Payment to an account in the Customer's name.

Direct Payment to a Customer:

- ✓ Customer has mental capacity
- ✓ Customer is able to open a bank account
- ✓ Customer **has** chosen to have a Nominee
- ✓ There is no good reason why an account cannot be opened in the Customer's name

Direct Payment to an account in the Customer's name, Nominee can be counter-signatory.

Direct Payment to a Customer:

- ✓ Customer has mental capacity
- ✓ Customer is unable to open a bank account
- ✓ Customer **has** chosen to have a Nominee
- ✓ Nominee holds ordinary Power of Attorney for the Customer

Direct Payment to an account in the Customer's name opened by the Nominee.

Direct Payment to a Customer:

- ✓ Customer has mental capacity
- ✓ Customer is unable to open a bank account
- ✓ Customer **has** chosen to have a Nominee
- ✓ Customer is adamant the account should be in the Nominee's name

Direct Payment to an account in the Nominee's name or a joint account between the Nominee and Customer.

Note: If the Direct Payment is going to be made to an account in the Nominee's or a joint account between the Customer and Nominee then this must be clearly noted on the Direct Payment agreement and communicated to the Direct Payment Finance team.

Note: If the Direct Payment is going to be made to an account in the Nominee's or a joint account between the Customer and Nominee it must be confirmed that both fully understand all responsibilities and that the money must only be spent on the Customer's care and any left-over must be returned to the County Council.

13.2 Direct Payment to a Suitable Person bank account

Direct Payment to a Suitable Person:

- ✓ The Customer does not have Mental Capacity
- ✓ The Suitable Person understands and agrees to being appointed
- ✓ The Suitable Person does not hold Power of Attorney for the Customer

A Direct Payment to an account in the Suitable Person's name.

Direct Payment to a Suitable Person:

- ✓ The Customer does not have Mental Capacity
- ✓ The Suitable Person understands and agrees to being appointed
- ✓ The Suitable Person holds **Lasting** Power of Attorney for the Customer

A Direct Payment to an account in either the Customer's or Suitable Person's name.

14. Direct payment processes

Setting up a direct payment process

Stage	Task Description	Responsible Party
1.	Record the customer or carer/representative's decision to receive their personal budget as a direct payment as part of their support plan.	Support Broker/Allocated Worker
2a.	Read through the agreement and terms and conditions ensuring the customer and nominee (where appropriate) fully understand and agree to it. Upload a copy of the signed agreement and Schedule 1 to the support plan episode. Leave the customer with a copy of the terms and conditions.	Support Broker/Allocated Worker
2b.	Read through the direct payment to a suitable person agreement and terms and conditions ensuring the customer and nominee (where appropriate) fully understand and agree to it. Upload a copy of the signed agreement and Schedule 1 to the support plan episode. Leave the customer with a copy of the terms and conditions.	Support Broker/Allocated Worker
3.	Open a new, or allocate an old, bank or building society account in the name of the customer/appointed suitable person to be used specifically for the direct payment.	Customer/appointed suitable person
4a.	Add a PS15 Direct Payments bank details to the support plan episode, and record all details of the designated bank or building society account.	Support Broker/Allocated Worker
4b.	Add a PS17 Suitable Person Bank Details to the support plan and record all details of the designated bank or building society account.	Support Broker/Allocated Worker
5.	Save a FS – DP Monitoring Form episode on the customer's Frameworki profile.	Finances – Direct Payment Team
6.	Complete a PS37 DP/DPSP IL IAA Service Referral or PS38 DP/DPSP PAES Service Referral form on the customer's Frameworki profile and send it to Independent Lives.	Support Broker/Allocated Worker
7.	Set a standing order for any contribution to the direct payment account.	Customer/appointed suitable person

Note: This must occur as part of the Support Plan Episode so will be carried out by Support Brokers, apart from CLDTs and AMHTs where the Allocated Worker will complete the appropriate stages above.

Disclosures and Barring Service process for employing Personal Assistants

Stage	Task Description	Responsible Party
1.	Identifying a potential employee.	Customer / Suitable Person
2a.	Asking potential employee for information.	Customer / Suitable Person
2b.	Declaring any criminal activity, cautions, reprimands or convictions on their record.	Potential Employee
3.	Using Independent Lives' services as an umbrella corporation to carry out the DBS check.	Customer / Suitable Person
4.	Supporting the customer or suitable person to apply for the DBS check.	Independent Lives
5.	Assessing the DBS check's records and deciding whether or not to employ the individual	Customer / Suitable Person
6.	Informing their employer (customer / appointed suitable person) of any criminal activity or involvement after the initiation of their employment.	Employee – Personal Assistant
7.	Carrying out a new DBS check for any employee who moves to a position that requires a check at a higher level, responsibilities not previously checked. For example starting to provide support services for a child as well as an adult.	Employer – Customer / Appointed Suitable Person

Note: Customers do not have to use Independent Lives as the umbrella corporation when carrying out DBS checks; they have the right to choose the service of other organisations

Direct Payment Account Monitoring Process

Stage	Task Description	Responsible Party
1.	Set up the customer/suitable person with a direct payment as part of the support plan.	Support Broker/Allocated Worker.
2.	Start a direct payment monitoring episode on the customer's Frameworki profile.	Finances – Direct Payment Team.
3.	Send monthly bank statements to the council.	Customer/Suitable person.
4.	Input balances of statements to the monitoring episode.	Finances – Direct Payment Team.
5.	If there is a surplus contact the customer or suitable person and ask if there is a reason for it.	Allocated Worker.
6.	If surplus remains without reason initiate return of surplus process (see below).	Finances – Direct Payment Team.
7.	Include account balances in the review of the customer's support package.	Allocated Worker.
8.	Alter the amount of money being paid to the customer in response to reviews, returns and pension contributions.	Support Brokerage Teams.
9.	Send customers letters notifying them of an alteration to their direct payment.	Finances – Direct Payment Team.

Alteration in Statement Responsibilities Process

Stage	Task Description	Responsible Party
1.	Send in six consecutive monthly bank or building society account statements.	Customer / Appointed Suitable Person.
2.	Keep to a balance below surplus.	Customer / Appointed Suitable Person.
3.	Spend the money appropriately to meet care needs as detailed in the support plan.	Customer / Appointed Suitable Person.
4.	Ensure stages 1 – 3 have been completed, and inform the allocated worker.	Finances – Direct Payment Team.
5.	Contact the customer or appointed suitable person and ensure they are happy to begin sending in statements on a quarterly basis.	Allocated Health or Social Care Worker.
6.	If the customer or appointed suitable person is happy to transfer to quarterly send them a letter with the dates they will be required to send their statements in by.	Direct Payment Finances Team.
7.	Begin sending statements in every three months.	Customer / Appointed Suitable Person.
8.	If statements aren't sent in, there is an unexplained surplus, or funds seem to have been spent inappropriately send a letter informing them that they must begin sending the statements in on a monthly basis again.	Finances – Direct Payment Team.
9.	Begin sending in statements on a monthly basis again.	Customer / Appointed Suitable Person.
10.	Repeat from stage 1.	Customer / Appointed Suitable Person.

Return of surplus process

Stage	Task Description	Responsible Party
1.	Send monthly direct payment bank or building account statements to the County Council.	Customer/Appointed Suitable Person
2.	Monitor account balances. Note any account with a balance above 8 weeks' worth of their Direct Payment as being in surplus.	Finances – Direct Payment Team
3a.	If the account stays in surplus for three months contact the relevant allocated worker and their team manager, and operations manager via email to inform them that if there isn't a valid reason for the surplus then a claw back will proceed in two weeks. Send monthly reports of surplus cases to the relevant Operations Manager.	Finances – Direct Payment Team
3b.	Contact the customer to enquire as to why there is a surplus – inform the finances team if there is a reason for it.	Allocated Worker
4a.	If there isn't a valid reason for the surplus send the customer an FS DP 13.11 Return of surplus letter informing them that they must return the surplus to the Council by cheque (or by BACs payment).	Finances – Direct Payment Team
4b.	If there is a valid reason for a surplus an end date must be agreed. If the surplus remains after the end date revert to 4a.	Finances – Direct Payment Team
5.	Transfer any phone calls from the customer to the allocated team.	Finances – Direct Payment Team
6.	Return surplus to the Council either by cheque or by BACs payment.	Customer/Appointed Suitable Person
7a.	If the surplus isn't returned within two weeks send the customer a letter informing them that their direct payment will be stopped for a set time until the account is out of surplus.	Finances – Direct Payment Team
7b.	Inform the allocated worker that the direct payment will be lowered.	Finances – Direct Payment Team
8.	If the surplus still hasn't been returned then reduce the amount of the weekly direct payment by the specified amount for the specified time.	Finances – Direct Payment Team / Support Brokerage – Purchasing Team
9a.	Carry out a review of the customer's care needs and support package within twelve months.	Allocated Worker
9b.	If the customer has a surplus again within six months they must have a review of their care package.	Allocated Team Manager

Pension enrolment process

Stage	Task Description	Responsible Party
1a.	Send a staging date to the personal assistant employer (direct payment recipient).	Pensions Regulator
1b.	Send all existing direct payment customers a letter detailing pension enrolment responsibilities and how they will work. Inform all new direct payment customers at their support plan.	Finances – Direct Payments Allocated Worker / Support Broker
2a.	Send a letter to any employee (personal assistant) earning below £10,000 offering them the option of enrolling into a pension scheme.	Customer/Appointed suitable person
2b.	Automatically enrol any employee earning over £10,000 into a pension scheme, send them a letter to inform them.	Customer/Appointed suitable person
3a.	If the personal assistant is earning more than £5,824 and chooses to opt into the pension scheme an employer contribution of 1% must be made.	Customer/Appointed suitable person
3b.	If the Personal Assistant is earning less than £5,824 and chooses to opt into the pension scheme then enrol them into it without making an employer contribution.	Customer/Appointed Suitable Person
4.	If the personal assistant earns more than £5,824 and opts in/chooses to stay in the pension scheme then increase the personal budget by 1%.	Support Brokerage – Purchasing
5.	Adjust the customer's direct payments monitoring episode on Frameworki to monitor the annual pension contribution.	Finances – Direct Payment Team
6.	Inform the council if the personal assistant is no longer employed or opts out of the pension scheme or if the 1% estimate is not enough.	Customer/Appointed suitable person – or – Independent Lives
7.	Adjust the direct payment amount accordingly and send a pension contribution letter to the direct payment recipient.	Support Brokerage - Purchasing
8.	Ask to see evidence of the annual pension contribution (last payslip of the tax year) and latest bank statement as part of the annual review.	Allocated Worker
10a.	If the 1% increase was not enough or too much then adjust the direct payment amount accordingly.	Support Brokerage – Purchasing Team
10b.	If the 1% increase was too high then return any surplus to the council.	Customer/Appointed Suitable Person

Note: From October 2017 the minimum employer contribution will increase to 2% and from September 2018 it will increase to 3%. The £5,824 lower earnings limit may also increase year on year.

Redundancy Payment Process

Stage	Task Description	Responsible Party
1.	In the event of a redundancy provide West Sussex County Council with a copy of the employee's contract, their length of service, age, the date of termination of contract and any other such relevant information.	Independent Lives – Customer/Appointed Suitable Person
2.	Send in the latest copy of the account statement to West Sussex County Council to show the current balance.	Customer/Appointed Suitable Person
3.	Calculate the redundancy liability.	Finances – Direct Payment Team.
4.	Minus the redundancy liability cost from the accounts balance.	Finances – Direct Payment Team.
5a.	If the balance accrued in the direct payment account is less than the statutory redundancy cost, agree to the releasing of funds.	Operations Manager.
5b.	Pay the money into the account.	Support Brokerage – Purchasing.
6.	Send a redundancy payment letter to the customer/appointed suitable person detailing what the money is to be spent on.	Support Brokerage – Purchasing.
7.	Pay the employee their redundancy.	Customer, nominee, state administrator or Appointed Suitable Person
8.	Keep evidence of having paid the redundancy.	Customer, nominee, state administrator or Appointed Suitable Person

Stopping a Direct Payment Process

Stage	Task Description	Responsible Party
1.	Identify potential reasoning for the Direct Payment being stopped; death, withdrawal, a move into full time residential care, or not adhering to the agreement.	Allocated Worker
2.	Talk to customer, suitable person, carer, support network, and ensure stopping the Direct Payment is the correct option.	Allocated Worker
3.	If the customer has continued care needs carry out a reassessment and support plan. Ensure services are in place before the Direct Payment is stopped.	Allocated Worker
4.	Complete an AS087 Direct Payment Closure Letter and send it to the customer/appointed suitable person.	Allocated Worker
5.	Complete a Direct Payments Closure Episode on Frameworki.	Finances – Direct Payment Team.
6.	Return any unspent funds in the account to the County Council.	Customer / Suitable Person