



Gogledd Cymru **Gyda'n Gilydd**
North Wales **Together**

Gwasanaethau ddi-dor i bobl ag Anableddau Dysgu
Seamless services for people with Learning Disabilities

Direct Payments

A summary of the Part 4
Code of Practice



All Wales Forum
Fforwm Cymru Gyfan

The Social Services & Well-Being (Wales)

The Social Services & Well-Being (Wales) Act came into force on 6 April 2016. The Act provides the legal framework for improving the well-being of people who need care and support, and carers who need support.

The SSWB (Wales) Act is split into 11 sections. Each section has a Code of Practice. Each Code of Practice sets out what each local authority **must** and **must not** do in its duty to support the well-being of Welsh Citizens.

This leaflet gives a summary of part 4 of the Social Services and Wellbeing Act 2014. The full part 4 code of practice that deals with 'meeting needs' can be found here;

<https://gov.wales/sites/default/files/publications/2019-05/part-4-code-of-practice-meeting-needs.pdf>

What is a Direct Payment?

A Direct Payment is money from the council to help individuals and their carers to arrange and pay for support to meet their assessed needs and agreed well-being outcomes.

A direct payment can be used to pay for things like;

- Personal care
- Support to live a full and active life of your choice
- Support for unpaid Carers
- Equipment, goods and services
- Support to create more flexible and creative solutions

Who can get a Direct Payment?

Nearly everyone who is eligible for care and support from Social Services can get a Direct Payment.

To get a Direct Payment, an individual must be able to show that you can manage the money in the right way. They can do this on their own or with help.

The Principles of the Social Services and Wellbeing Act 2014

The Social Services and Wellbeing Act is governed by a number of principles.

They are;

Voice and control -

putting the person and their needs at the centre of their care, giving them a voice in (and control over) reaching the outcomes that help them achieve personal well-being.

Prevention and early intervention -

increasing preventative solutions within the community to help prevent people falling into crisis.

Well-being -

supporting people to achieve their own well-being and measuring the success of the care and support they receive.

Co-production -

encouraging individuals to become more involved in the design and delivery of services. This means Local Authorities working in equal partnership with people who rely on social care support.

Local Authority Powers to provide Direct Payments

Under the Act local authorities have powers to provide Direct Payments under:

- section 50 - to meet the care and support needs of an adult
- section 51 - to meet the care and support needs of a child
- section 52 - to meet the support needs of a carer.

Please see our leaflet on eligibility for care and support including Direct Payments

Local Authority Responsibilities under the Act

The Welsh Government states that Direct Payments are an important way of enabling people to exercise choice, voice and control. People should be able to decide how to meet their own need for care and support and achieve their own personal outcomes.

Direct Payments can replace care and support provided directly or commissioned by a Local Authority. They can be used to meet all or part of a person's care and support needs. A person can receive a mix of Direct Payments and arranged care and support services.

General Principles of Part 4 of the Act

Once a decision has been made that a person is eligible for care and support to meet their outcomes, the Local Authority must consider the following things;

Where an eligible person or their representative asks to have a Direct Payment, the Local Authority must make this option available in all cases.

Direct Payments must only be refused where it is clear after extensive exploration that a Direct Payment would not achieve the person's agreed outcomes. **That decision should be clearly explained to the individual or their representatives.**

- A Local Authority **must** be innovative and creative when working in partnership with people or their representatives to explore ways a Direct Payment can be used to meet their personal outcomes.
- Local Authorities **must** promote self-management and aim to increase a person's independence by enabling people to become actively involved in shaping their care and support.
- A Local Authority **must** encourage and support people to determine their own personal outcomes and the care and support they require to achieve these outcomes. The person's existing support networks should be taken into account.
- The Local Authority **must** encourage people to find creative, flexible and innovative ways to maximise their personal outcomes.
- Individuals **must** not be refused a Direct Payment purely because they are unable to manage their Direct Payment, or are worried about managing the payment.
- If an adult lacks the mental capacity to agree to and manage a Direct Payment or chooses not to manage the payment themselves, the Direct Payment can be paid to, and managed by, someone acting on their behalf.

A 'Suitable Person' is someone appointed by the Local Authority to receive and manage the Direct Payments on behalf of a person who lacks mental capacity to receive a direct payment in their own right.

- When discussing how needs might be met via Direct Payments, a Local Authority **must** be prepared to be open to new ideas and be as flexible as possible.
- People **must** be encouraged to explore innovative and creative ways to identify how they might most effectively achieve outcomes in a way that aligns with their personal preferences.

- A Local Authority **must** stop making a Direct Payment where it is satisfied that the recipient's care and support needs, or their personal outcomes, are not being met and it is not possible to amend the provision of the Direct Payment to do so.

Support Available

- A Local Authority **must** provide appropriate, accessible information and support to enable people to decide whether they wish to receive Direct Payments.
- A Local Authority **must** develop local support services for Direct Payment recipients which are able to provide the assistance a recipient requires to manage a Direct Payment effectively.
- Where difficulties are identified, a local authority **must** ensure the right level of support to overcome this is available.
- A Local Authority, in partnership with the person, **must** explore all the options in supporting the individual to manage their Direct Payments; this may include support on a **short term** basis to help the individual to **familiarise** themselves or on a medium or long term basis.

Employing Personal Assistants

One way to use a Direct Payment is to employ personal assistants.

A Local Authority **must** ensure that Direct Payment recipients and their representatives, are fully aware of their legal responsibilities as an employer. Recipients or their representatives must receive the necessary support and resources to manage their employment responsibilities.

In promoting a person's personal outcomes, a Local Authority **may** authorise Direct Payments to pay a relative living in the same household as the recipient, if they provide care and support or they manage the recipient's Direct Payments. When considering whether employing the relative will provide the best well-being outcome for that individual, the local authority **must** consider the views of the recipient before coming to a decision.

In each case, the Local Authority, after considering the recipient's views, must be satisfied that the employment of a close relative living in the same household is the best way of promoting and delivering their personal outcomes.

Local Authorities **must** ensure their Disclosure and Barring Service (DBS) policies in relation to Direct Payments comply with current legislation, guidance and safeguarding guidelines.

Financial Information

- A Local Authority **must** ensure the value of a Direct Payment made is equivalent to the reasonable cost of securing the care and support required, subject to any assessed financial contribution the recipient is required to make.
- Local authorities **must** ensure their financial monitoring arrangements for Direct Payments are proportionate. Reports which are completed by a Direct Payment recipient or their representative must be user friendly and not over burdensome.
- A local authority **must** assess when it is appropriate to seek recovery on a case by case basis based on the individual circumstances. They **must** not operate a blanket policy of recovery that does not take into account the individual circumstances. Local Authorities should only seek to recover money that has been diverted from the purpose for which it was intended, or has simply not been spent at all.
- Direct Payment recipients, or their representatives, **must** be able to adjust the amount of the Direct Payment they use from week to week. They **must** be able to 'bank' any unused payment to use as and when extra needs arise. As long as overall the payment is being used to achieve the recipient's personal outcomes, the actual weekly pattern of care and support does not need to be predetermined.

For other sources of information on direct payments please visit;

<https://northwalestogether.org/direct-payments/>

<https://socialcare.wales/service-improvement/direct-payments-a-guide>

<https://www.dewis.wales/using-direct-payments>

<https://www.citizensadvice.org.uk/wales/family/looking-after-people/direct-payments-w/>

Thank you to Mark Cooper, Direct Payments lead in Flintshire County Council for helping to develop this summary.

Developed in partnership with All Wales Parent and Carer Forum.

- **Flintshire**

Adult Social Services - Single Point of Access

Telephone: **01352 702000**

E-mail: ssduty@flintshire.gov.uk

- **Children's Social Services**

Main point of contact number

Telephone: **01352 701000**

- **Wrexham Contacts**

You can contact us with general enquiries about adult social care by emailing contact-us@wrexham.gov.uk or calling **01978 292066**

Children's Single Point of Access

SPOAchildren@wrexham.gov.uk

(SPoA) on **01978 292039** during normal office hours.

- **Conwy SPOA**

Adults -

Phone us: **0300 456 1111**, Monday to Friday

Email us: wellbeing@conwy.gov.uk

Send us a text (for general enquiries only): **07797 870 361**

Children and families -

- please speak to Duty Officer on **(01492) 575111**

Denbighshire

You can contact SPoA for help or advice by:

Phoning **0300 4561000** between 8am and 6pm Monday to Friday, and between

- 10am and 4pm at weekends and Bank Holidays (except Christmas Day and Easter Sunday).

Gwynedd

Adult Contact methods

01286 682888

Childrens phone: **01758 704455** (9:00 - 17:00, Mon - Fri)

Out of hours phone: **01248 353 551** (any other time and Bank Holidays)

- E-mail: cyfeiriadauplant@gwynedd.llyw.cymru

Ynys Môn

Adult Social Services

Tel: **(01248) 752752** or **(01248) 750057**

Teulu Môn is a free and inclusive service for families on Anglesey and the SPOA

Call us on **01248 725 888** Monday to Friday between the hours of 8.45am to 5pm.

Ask for Teulu .



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