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A guide to a *Suitable Person* administering Direct Payments

The Social Services and Wellbeing (Wales) Act 2014 (SSWBA) places a duty on Local Authorities to consider Direct Payments as an integral part of meeting a person's needs through care and support planning.

Following an assessment completed with a Social Care Practitioner where the outcome is that a person meets the criteria to receive statutory social care services, the Local Authority must consider and discuss direct payments with the person, so they are aware that they have a choice to receive one. Direct Payments is an alternative to directly provided Care and Support from the Local Authority.

There may be situations where someone lacks the mental capacity to consent and agree to receive Direct Payments. A Local Authority can appoint someone to act on behalf of the person who lacks mental capacity to administer and run a Direct Payment on their behalf. This is referred to as an appointed *Suitable Person*.

However, anyone authorised under the Mental Capacity Act 2005 to make decisions about the persons need for care and support can request a Direct Payment on their behalf and would act as the appointed *Suitable Person*.

Who can be a *Suitable Person*?

A *Suitable Person* will agree to act in the best interests of the person who lacks capacity. They sign the service

agreement (contract) with the Local Authority and agree to abide by the terms and conditions and take on the responsibilities of administering and running a Direct Payment.

The following are those that can act as the appointed *Suitable Person*:

- Someone with Lasting Power of Attorney for Finances/and or Health and Social Care
- Someone who is acting as Deputy under Court of Protection
- Someone who the Local Authority asks to act as *Suitable Person*.
- Someone who asks to be the individual's *Suitable Person* (family, friend, peer)
- Third party organisation

Being appointed as a *Suitable Person*

When considering acting as a *Suitable Person* to receive Direct Payments on behalf of someone the following information may be useful:

- *Suitable Person* acts on behalf of an individual who lacks mental capacity to consent to receiving Direct Payments.



- *Suitable Person* must be willing, able, and capable to carry out the role.
- The role may include legal responsibilities, e.g. employing staff, adhering to employment law and regulations, commission a service with a registered care agency or purchase a piece of equipment.
- There is no financial gain/income related to the role of *Suitable Person*.
- *Suitable Person* will receive as much or as little support as they require to manage the Direct Payment.

Roles and Responsibilities as an appointed Suitable Person

Appropriate Identity and safeguarding checks will be completed when someone agrees to act as a *Suitable Person*. If an LPA or a Deputy under Court of Protection, they will be asked for evidence of this.

Safeguarding measures and criminal proceedings will follow if anyone dishonestly or fraudulently abuse their position to benefit themselves or others and/or cause loss or expose the person to risk and/or loss. *Suitable Person* must work in the best interests of the individual.

- *Suitable Person* is accountable for the way the Direct Payments are used.
- *Suitable Person* must involve the individual as far as is reasonably practicable and give them as much control and independence as possible.

- *Suitable Person* agrees to inform the Local Authority of changes or difficulties, especially if they believe the person has regained capacity.
- *Suitable Person* will sign a Direct Payment Agreement with the Local Authority and be bound by the terms of the agreement.
- If the *Suitable Person* employs Personal Assistants, they must ensure they act lawfully as an employer.
- *Suitable Person* may commission registered care agency to provide care and support; and will be responsible for the level of care and support purchased in line with the persons Care and Support Plan.
- If a *Suitable Person* gives up the role, they must contact the Local Authority
- If the person they represent has fluctuating capacity, the *Suitable Person* must ensure during periods when they regain capacity, they involve them as much as is practicable in any decision making.
- A *Suitable Person* cannot be employed as a PA for the individual.
- There must be a contingency plan in place to cover in the event of the *Suitable Person* no longer being able to act as the *Suitable Person*.

What support is available to the Suitable Person?

The Direct Payments Support Service is available to provide information and support in relation to Direct Payments in the same way that they would support anyone receiving Direct Payments.

Useful Contacts

Each Local Authority have experienced Direct Payments Support Teams to support with queries or information.

They provide as much help and reassurance as is needed, until the DPR is confident to manage arrangements themselves.

This guide provides basic information on a Suitable Person and Direct Payments.

For further information please contact your local Direct Payments Support Service.

Blaenau Gwent County Borough Council Direct Payments Team Office

e. directpayments@blaenau-gwent.gov.uk t. 01495 355265

Caerphilly County Borough Council Direct Payments Team Office

e. directpayadvisors@caerphilly.gov.uk t. 01495 235522

Monmouthshire County Borough Council Direct Payments Team

e. mccdirectpaymentteam@monmouthshire.gov.uk

Newport City Council Direct Payments Support Team

e. direct.payments@newport.gov.uk

Torfaen County Borough Council Independent Living (Direct Payments) Team

e. independentlivingteam@torfaen.gov.uk