

# Swindon Borough Council

# Direct Payments Policy

April 2023

This updated policy comes into effect from 01 April 2023 and replaces all previous policies relating to Direct Payments.

Throughout this policy, the term 'Direct Payment' is used to mean a monetary payment made to adults who request it in order to meet some or all of their eligible care and support needs. Except where specifically stated, the policy applies equally to both adults with care and support needs and to adult carers.

The Care Act 2014 Sections 31, 32 and 33 and the accompanying regulations set out the legal framework for Local Authorities to provide adults with independence, choice and control over how to meet their care and support needs with Direct Payments.

This policy is a combination of statutory requirements of the Care Act and local choices based around the needs of the service and responses to national consultation. This updated policy reflects changing circumstances, business needs and the requirements of the Care Act 2014.

Recognising that inequality, disadvantage and discrimination exist in society, Swindon Borough Council accepts their responsibility to ensure that all vulnerable adults regardless of their ethnic origin, religion, language, age, sexuality, gender or disability have equal opportunity to access services and information and that the elements of this policy will be applied equitably.

This policy is in conjunction with the Council's Fairer Charging Policy and [www.mycaremysupport.co.uk](http://www.mycaremysupport.co.uk), which provides a wide range of information in relation to care and sources of support and advice.

## **1. Implications of the Care Act for Direct Payments**

Direct Payments along with personalised care planning which the Care Act makes mandatory provide the platform to deliver a care and support system of which places the adult at the heart of the care and support planning process.

The Care Act does not make major changes, but sets existing good practice in statute and requires Local Authorities to respond to requests from adults for direct payments to meet the costs of their eligible care and support and support needs.

Subject to meeting specified conditions alongside the personal budget indicating that the Local Authority must fund services, the Local Authority must make the payment. An adult, provided they have the capacity do so, can request a Direct Payment. Alternatively, if an adult lacks capacity then an authorised person can make this request on their behalf.

A Direct Payment has minimal restrictions on their use allowing it to be used in a flexible and innovative way on the basis that the payment is used to meet an eligible need. It cannot be used to pay for long-term care in a care home or for non-chargeable services such as reablement. Schedule One of the regulations sets out that Direct Payments cannot be made to people subject to a court order for a drug or alcohol treatment or similar schemes.

Direct payments cannot be used to pay for care from close family members living in the same household unless the Local Authority deem it necessary. However subject to consent from the Local Authority, the Act permits the use of direct payments to pay close family members living in the same household to administer or manage the direct payments.

Although the route to Direct Payments is through a request, the Local Authority and their representatives are expected to offer Direct Payments as one of the potential options to receive personalised care and support. Local Authorities should provide clear, timely and accessible information about Direct Payments and how they are used.

Local Authorities have a duty to monitor and review Direct Payments to ensure that they are being used appropriately in order to meet the needs set out in the care and support plan. The systems of monitoring and review must be proportionate, not impose unnecessary burdens of reporting and kept to the minimum necessary to enable the Local Authority to fulfil its statutory requirements.

## **2. Making Direct Payments Available**

Swindon Borough Council and its representatives will ensure that people are aware of their right to request Direct Payments and are supported to use and manage the payment.

The availability of direct payments will be included on [www.mycaremysupport.co.uk](http://www.mycaremysupport.co.uk). This will include what a Direct Payment is and how to request it, including the use of nominated and authorised persons to assist in managing the payment.

In addition to the above, this will include how Swindon Borough Council will monitor usage of the Direct Payment and responsibilities involved in managing a Direct Payment and being an employer.

Further information provided on [www.mycaremysupport.co.uk](http://www.mycaremysupport.co.uk) will signpost to support services for managing a Direct Payment commissioned by Swindon Borough Council, this currently being Enham. Examples of how to use the Direct Payment will also be included. By providing clear information, the Council will ensure that adults are fully aware of what direct payments are and can make informed choices about whether they would like to use them.

In addition to this general information, the Council will ensure that during the care and support planning process, people are made aware of which needs could be met by direct payments. This will start during assessment, and reviewed as part of the care and support planning and support planning process.

Swindon Borough Council recognises that direct payments are not the only way to receive personalised care and support. Alternative options are available, such as individual service funds (ISF) where care and support is arranged by a third party and directly managed services will also be offered. There is an option to have combinations of different types of service. Our key principle is to support the adult to make the choice which best fits their aspirations and needs and will make the maximum contribution to their wellbeing.

### 3. Consideration of the request

The steps Swindon Borough Council will follow after a request for a direct payment will depend on whether the person has capacity to make a decision. Capacity in most cases will have been established as part of the assessment process. See the Council's Assessment and Eligibility Policy for more details.

#### 3.1 Adults with Capacity

Swindon Borough Council must make a payment towards the cost of meeting an adult's care and support needs if the personal budget identifies such. This includes if the adult requests that the Local Authority meet some or all of the needs by making direct payments to them or their nominee.

If the Council is satisfied that the person has capacity to make a request for direct payments to cover some or all of their care and support costs, it will consider each of the following four conditions as set out in Section 31 of the Care Act. A direct payment can only be made if all conditions are met in full.

*The adult has capacity to make the request and if there is a nominated person, they agree to receive the payment. The regulations do not prohibit the use of Direct Payments and the Council is satisfied that the adult themselves or their nominated person is capable of managing the Direct Payment either by themselves or with support from Enham or their personal support networks as explained in section 2. The Council should also be satisfied that making the Direct Payment is an appropriate way to meet the individual's care and support needs.*

When a request for a Direct Payment is received, Swindon Borough Council will work with the adult making the request to establish whether they will receive the payments or whether they are nominating someone to receive the payments on their behalf.

If a person has been nominated with the adult's consent, the nominee will be involved in the appropriate stages of the planning process. If the adult does not request this then the Council will suggest they consider it.

During the process the adult and their nominated person if one has been nominated, will be given information regarding the Council's direct payment processes as well as information and advice on using and managing the direct payment, so that they understand their legal obligations. In the case of a nominated person this will also include emphasising their role is to act in the best interest of the person requiring care and support.

Swindon Borough Council will use the discussions during the care and support planning process to establish that the 'conditions' above are met. After considering the suitability of the person requesting the direct payment against the conditions set out in the Care Act, the Council will make a determination about whether to provide a direct payment. The Council will consider whether the direct payment is an appropriate way to meet the needs.

Direct payments may be used to pay for services which are obligatory, for example services provided under the mental health Act unless regulations specifically prohibit their use e.g. drug or alcohol treatment.

Details of circumstances where regulations preclude the use of Direct Payments are listed in section 20 of this policy.

The Council will establish whether the adult or their nominee is able to manage the Direct Payment. As part of this process, it will explain the support available through Enham and ensure that the adult or their

nominee is clear about how to access this support. If deemed the most appropriate action then the care manager may contact Enham directly.

If the Council agrees to the request for a direct payment then the decision is recorded in the care and support plan together with details of which eligible needs will be met by direct payment. However, if the request is refused then the person making the request will be provided with a written explanation of that decision and be informed about how to appeal against the decision. The Council will explain which of the conditions have not been met and what the person should do in the future to obtain a positive decision.

Consideration of the request will be concluded in a timely a manner. The Council would aim to agree requests and confirm the amount of funding within four weeks of the request being made, and complete the process of setting up the direct payment within a further four weeks.

When the request has been declined, Swindon Borough Council will continue the care planning process so that it can seek to agree with the adult how best to meet the needs without the use of direct payments.

For more details, see Swindon Borough Council's Care and Support Policy.

### **3.2 Adults lacking Capacity**

In cases where the person in need of care and support has been assessed as lacking capacity to request a direct payment an authorised person can request a direct payment on the person's behalf.

Swindon Borough Council needs to be satisfied that the authorised person meets the five conditions set out in Section 32 of the Care Act. If all five conditions are met and subject to compliance with the regulations, the Council will make the payment.

Swindon Borough Council will ensure that the person is authorised in terms of direct payments. This would mean that either they are authorised under the Mental Capacity Act 2005 to make decisions about the adult's needs for care or support or they are authorised as being suitable to receive direct payments by someone who is authorised as above.

If neither of the above are applicable then the Council will consider that the person is suitable to receive Direct Payments.

The Council will then check that the authorised person meets the following conditions.

*Although the authorised person is not authorised under the Mental Capacity Act 2005 to make decisions about the adult's care and support, there is at least one person who is authorised and they support the authorised person's request. The regulations do not prohibit the use of direct payments. The Council should be satisfied that the authorised person will act in the adult's best interest when using the direct payment and arranging the provision of care and support that it will be used for. The Council should also be satisfied that the authorised person is capable of managing the direct payment either by themselves or with support that the Council thinks the authorised person will be able to access. The Council must be satisfied that a Direct Payment is the most appropriate way to meet the person's needs.*

When assessing if the above 'conditions' are met, Swindon Borough Council will also consider that as far as reasonably practicable and appropriate, consult and take into consideration the views of anyone named by the adult as someone to be consulted on the matter of a whether a direct payment should be made to the authorised person. They will also consider anyone engaged in caring for the adult or interested in the adult's welfare and anyone who is authorised under the Mental Capacity Act 2005 to make decisions about the adults care and support needs.

Swindon Borough Council will consider the adults wishes, feelings, and in particular any relevant written statement made by the adult when they had capacity to request Swindon Borough Council meet their needs by making a direct payment. The Council will also consider any beliefs and values that would be likely to influence the adult's decision if they had capacity and any other relevant factors that the adult would be likely to consider if they were able to do so.

Swindon Borough Council will obtain an enhanced criminal record certificate issued under Section 113B of the Police Act 1997 in respect of the authorised person unless they are an individual who is neither a close family member nor friend who is acting as a Carer. For bodies corporate or unincorporated a check on the individual who will have overall responsibility for the day-to-day management of the payments on the body's behalf.

#### **4. Timing of Requests**

Most requests for Direct Payments will occur during the planning stage; however, Swindon Borough Council will consider requests for Direct Payments made at any time. In all cases, the Council will assess the request on the same basis as a request made during care and support planning. It may be practical to consider the request at the same time as a review of the care and support plan. In these cases, the review should be brought forward so as not to delay the consideration of the request.

#### **5. Conditions of making Direct Payments**

Swindon Borough Council will set conditions relating to the Direct Payment and these conditions will be notified in advance and shall be set out in the Council's Direct Payment Agreement.

The conditions will require that the adult or their authorised person sets up a dedicated bank account to receive the payment and pays an assessed contribution to care and support cost into the above account.

It will also include that the adult or their authorised person uses the Direct Payment as agreed in the care and support plan in order to meet needs, achieve the outcomes of the plan and improve wellbeing.

The adult or their authorised person should make contingency arrangements, which can be used if the usual care / support arrangements break down and that they notify the Council of any changes of circumstances or any change in how the payments will be used.

The adult or their authorised person must use the payment legally and appropriately, keep financial records, act as a responsible employer complying with all relevant legislation and provide information to the Council for the monitoring and review purposes.

At its discretion, the Council may require that care and support is not provided by a particular organisation or individual if the Council deems that organisation or individual is not able or suitable to provide adequate care. The Council will require repayment of either all or part of the Direct Payment if the conditions set out above are not met.

#### **6. Using the Direct Payment**

The direct payment can be used flexibly and innovatively and thus Swindon Borough Council will place no unreasonable restriction on the use of the payment as long as it is being used to meet eligible care and support needs, and what is being proposed is legal and does not bring the Council into disrepute.

## **7. Payment to Family Members**

In accordance with the provisions of the Care Act, Swindon Borough Council will not permit the use of Direct Payments to pay for care from a close family member who lives in the same household except where the Council deems this to be necessary.

However, in accordance with the Act, Swindon Borough Council will consider Direct Payments being used to pay a close family member to provide administrative and management support in order to support the recipient of the Direct Payment to comply with their legal obligations or to monitor the receipt and expenditure of the Direct Payment. For the purpose of this policy, a close family member will be considered as any of the below.

1. The spouse or civil partner of the adult or a person who lives with the adult as if their spouse or civil partner
2. A person living in the same household as the adult who is the adult's parent or parent in law, son or daughter, son-in-law or daughter-in-law, stepson or stepdaughter, brother or sister, aunt or uncle, or grandparent
3. The spouse or civil partner of any person specified in point 2 above who lives in the same household as the adult
4. A person who lives with any person specified in in point 2 above as if that person's spouse or civil partner.

Swindon Borough Council will require that consent is obtained from the Council before a Direct Payment is used to pay a close family member to provide administrative and management support.

Before agreeing that a Direct Payment can be used to pay a close family member to provide administrative and management support, the Council will need to be satisfied that it is necessary to make a payment to provide this service and that it will only be used for administration and management of the Direct Payment. This payment is not intended as an income supplement.

Consideration will be given to the level and complexity of the payment and the likely time needed to administer and manager the payment.

The amount to be paid for administration and management of the Direct Payment will be decided and agreed with the person requiring care and support, the family member, Swindon Borough Council and any advocate. Swindon Borough Council will endeavor to ensure that all parties agree. The decision will be recorded in the care plan, including the amount of the payments, their frequency and the activities that are covered. The sum being paid will be taken into account in setting the personal budget.

Swindon Borough Council will ensure that there is an agreement in place between all parties about what steps to take in case of a dispute about management of a payment by a family member.

Swindon Borough Council will not allow payments to a family member if it has reasonable grounds to believe that there is a conflict of interest or the person is not suitable. In case of any dispute arising from use of the payment, Swindon Borough Council will refer to the above agreement to effect a resolution.

## **8. Short Term Care in a Care Home**

Swindon Borough Council wishes to use direct payments to promote independence. For this reason and in accordance with the Care Act, payments cannot be used to pay for care in a care home except for short periods of no more than four consecutive weeks in any twelve-month period. The four weeks does not need to be taken together as long as each occurrence is separated by more than four weeks.

## **9. Long Term Care in a Care Home**

People who are living in care homes may receive direct payments in relation to non-residential services but not to secure long term stays in a care home.

## **10. Becoming and Employer**

Swindon Borough Council has commissioned a third party organisation, currently Enham, to ensure that the recipients of Direct Payments have support to set up and manage the payments and fulfil the full range of employment responsibilities.

Enham offer a free support service which support with setting up and managing contracts, dealing with payroll, tax and national insurance, how to recruit and employ a personal assistant, planning for contingencies to ensure that there is cover in the case of the personal assistant being unavailable and saving to cover any redundancy costs.

The organisation also offer a managed account service where the direct payment is paid to the organisation who manage it on the adult's behalf. There is a charge for this service.

Where a direct payment is made under Section 32 of The Care Act 2014 to an authorised person, Swindon Borough Council will ensure that the authorised person is aware how to access Disclosure and Barring Service checks on individuals they wish to employ. This will assist in ensuring that a check has been made by the agency providing the service, the Council or by another body.

As individuals cannot apply for checks on other individuals, the Council will ensure that people are made aware of this and the importance of thorough checks and employment references in the recruitment process.

## **11. Direct Payments and Hospital Stays**

Swindon Borough Council will not normally suspend direct payments whilst the person requiring care and support is in hospital. Consideration will be given as to how the Direct Payment can be used to meet non-health needs or to ensure that employment arrangements are maintained.

If the nominated or authorised person managing the Direct Payment requires a hospital stay, the Council will conduct an urgent review to ensure that the person continues to receive care and support; this could be through a temporary nominated/authorised person or through short-term authority arranged care and support.

## **12. Direct Payments for Swindon Borough Council Services**

Direct Payments should not be used to pay for care provided by Swindon Borough Council or their representatives as it would be less bureaucratic to provide the service directly. However, there may be situations where this is the best option if for example someone wants to make a one off purchase from the Council but is generally using their Direct Payment elsewhere.

This does not preclude people from using their direct payment to pay for care and support from a different Local Authority.

### **13. Administering, Monitoring and Reviewing Direct Payments**

Swindon Borough Council will derive the level of the Direct Payment from the Personal Budget and as such the payment will be set an amount which is sufficient to meet the eligible care and support needs, including employment costs if that is appropriate. Payments will be made net of any costs to the Council and will be based on local market rates. For more details about how the Council calculates Personal Budgets, please see Swindon Borough Council's Personal Budget Policy.

Swindon Borough Council is responsible for ensuring that the Direct Payment is being used to meet the care and support needs set out in the plan. To achieve this we will review all direct payments regularly. The frequency of reviews will be case dependent on the amount of the payment, the complexity of the services being purchased and any issues arising from the review. Reviews will generally happen monthly at the beginning of an arrangement, reducing to six monthly and then twelve monthly.

The Council will always carry out a review in the case of a payment made to an adult who had capacity, when the Council considers based on information given to it that the adult no longer has the capacity to request a direct payment.

In the case of a payment made to meet the needs of an adult who lacked capacity if the Council has reason to believe that the adult no longer lacks capacity to request a direct payment.

Reviews will also be undertaken where the Council is notified of concerns that the direct payment may not have been used to meet the needs for which the payment was made. If the Council is no longer satisfied that the authorised person will act in the adult's best interest in arranging the provision of care and support for them and using the direct payments to pay for it.

In addition to the above a review will be undertaken if the Council is no longer satisfied that the authorised person is capable of managing direct payments either by themselves or with support their own support network or Enham.

Reviews will usually consist of an office-based analysis of information, which is submitted to the Council, with home visits taking place if additional clarification is necessary. The review will include managing and using the direct payment and any long term support arrangements in areas such as payroll and insurance.

Swindon Borough Council will ensure that there are robust links between the financial review and the review of the care and support plan. The outcome of the review will be summarised and entered onto Swindon Borough Council's case management system and a copy given to all parties.

The Care Manager will be informed that a review of the Direct Payment has taken place and thus ensure that the use of direct payments is a key area of focus in the care and support plan review. The reviews will consider how the use of the Direct Payment is achieving the adult's desired outcomes and thus improving their wellbeing. Please see Swindon Borough Council's Policy on Review of Care and Support Plans for more details.

Any home-based review will involve the nominated authorised person and any family member who is being paid for administrative support as well as the person in need of care and support.



## **14. Terminating Direct Payments**

Swindon Borough Council will only terminate a Direct Payment as a last resort or where there is a clear and serious contradiction of the Council's conditions, the Care Act regulations or where the 'conditions' outlined in sections 3.1 and 3.2 above are no longer met excluding cases of fluctuating capacity.

The Council will take all reasonable steps to address any situations without the termination of the payment. Issues will be dealt with as they arise and specifically through the review process.

If it is necessary to terminate a Direct Payment then the Council will ensure that there is no gap in the provision of care and support and conduct a revision of the care and support plan to ensure that the plan is appropriate to meet the needs. The Council will reclaim any outstanding balance relating to the Direct Payment.

## **15. Discontinuing Direct Payments**

Swindon Borough Council recognises that someone who is in receipt a Direct Payment, whether to purchase support for themselves or on behalf of someone else may decide at any time that they no longer wish to continue receiving the payments.

In such case, the Council will ensure that there are no outstanding contractual liabilities and conduct a review of the care plan to consider other arrangements to meet needs. The Council will normally require four weeks' notice prior to discontinuing the payments

The Council will stop payment if the person no longer appears capable of managing a Direct Payment even with the support available. If a managed account is not applicable, the Council will conduct a review of the care plan to consider other arrangements to meet needs.

The Council will stop a Direct Payment if the person no longer needs the support for which the direct payments are made.

Direct Payments can be suspended on a temporary basis. This could be because the individual does not require assistance for a short period because their condition improves. The Council will discuss with the person, their carer and others as appropriate how best to manage this. The person will be able to resume responsibility for their own care after the interruption if that remains their wish, unless there has been a change of circumstances, which means that the conditions of the Act and/or regulations are no longer met.

If there is a change in circumstances that affects the care and support plan the Council will revise the plan to ensure that it is still meeting needs.

The Council may discontinue the payments if the person fails to comply with a condition or if for some reason the Council no longer believes it is appropriate to make payment. For example, the Council may discontinue the Direct Payment if it is apparent that they have not been used to achieve the outcomes of the plan.

Where a Direct Payment is discontinued because of criminal justice legislative provisions, the Council will ensure that services are put in place in lieu of the Direct Payment to ensure continuity of support.

## **16. Discontinuing Direct Payments of Persons with Capacity to Consent**

Where someone with capacity was receiving a Direct Payment but loses capacity to consent, the Council will discontinue direct payments to that person and consider making payments to an authorised person instead. In the interim the Council will make alternative arrangements to ensure continuity of support for the person concerned.

If the Council believes the loss of capacity to consent to be temporary, it may continue to make payments if there is someone else who is willing to manage payments on the person's behalf. When the person has regained capacity, they will be able to resume control over their Direct Payment.

If the loss of capacity becomes prolonged, the Council will consider making more formal arrangements for an authorised person to take over receipt of the Direct Payment on the person's behalf. The Council will make it clear that the arrangement is temporary so that the person managing the Direct Payment does not commit to any long-term contractual arrangements.

### **17. Discontinuing Direct Payments of Persons lacking Capacity to Consent**

Swindon Borough Council will discontinue a Direct Payment without notice if it is no longer satisfied that the authorised person is acting in the best interests of the individual being supported within the meaning of the 2005 Mental Capacity Act.

The Council may discontinue the Direct Payment if it has sufficient reason to believe that the conditions imposed on the authorised person under regulations are not being met. The Council may consider if someone else can act as an authorised person or whether to arrange services for the adult as an alternative to a Direct Payment.

The Council will discontinue a Direct Payment to an authorised person under section 32 of the The Care Act 2014 where the Council has reason to believe that someone who lacked capacity to consent has now regained that capacity on a long- term or permanent basis.

The Council will give eight weeks' notice of termination of the Direct Payment to the authorised person before beginning to make payments to the adult themselves or to arrange services for them according to their wishes.

If the Council is satisfied that the regaining of capacity will only be temporary, then it will continue to make payments to the authorised person.

### **18. The procedure for discontinuing a Direct Payment**

Except for cases where there are serious concerns about the use of the payments such as but not limited to the authorised person not acting in the adult's best interests, Swindon Borough Council will start discussions early if it is considering discontinuing a Direct Payment.

Discussions will involve the adult, their carers and any person managing the Direct Payment and will explore all available options before making the final decision to discontinue.

If the Council does decide to withdraw a Direct Payment, except in the case of serious concern, the Council will give a minimum of 4 weeks' notice. During this period unless care and support is no longer needed, the Council will carry out a review of the care and support plan, so that alternative care and support can be arranged. The review will involve the person, their carer and independent advocate if they have one.

If a Direct Payment is discontinued, the Council will ensure that the adult or their authorised person is supported to discharge any remaining contractual obligations. Any outstanding balance will be reclaimed by the Council.

## **19. Payments under other legislation**

Where adults also receive a Direct Payment under Section 12A of the National Health Service Act 2006, Swindon Borough Council will take reasonable steps to co-ordinate its systems, processes and requirements relating to the making of Direct Payments with the relevant NHS procedures in order to keep the administration on the adult to the minimum.

## **20. Exclusions**

Adults may not receive direct payments if they are:

1. Subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence or imprisonment, within the meaning of section 189 of that Act;
2. Subject to an alcohol treatment requirement as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
3. Released on licence under Part 2 of the Criminal Justice Act 1991, Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of the Crime (Sentences) Act 1997, subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour;
4. 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;
5. Subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000
6. Required to submit to treatment for their drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 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
7. Released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989 or under section 1 or 1AA 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.

A local authority has the discretion to decide not to meet needs by making direct payments where legislation has imposed obligatory services. These are

1. Part 1 of Schedule 1A to the Criminal Procedure (Insanity) Act 1964
2. Section 8, 17 or 17B of the 1983 Act or section 40(2) read with section 8 of that Act
3. section 57A of or Schedule 4 to the Criminal Procedure (Scotland) Act 1995
4. section 41, 53, 127, 179, 221 or 224 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or section 66 read with section 64 or 65 of that Act

5. section 177 or 189 of the Criminal Justice Act 2003 in so far as those sections relate to a person who is subject to a mental health treatment requirement as defined by section 207 of that Act
6. section 41 or 51 of the Powers of Criminal Courts (Sentencing) Act 2000 insofar as those sections relate to a person who is required to submit to treatment for their mental condition;
7. section 227A of the Criminal Procedure (Scotland) Act 1995 insofar as they relate to a person who is required to submit to treatment for their mental condition;
8. section 22 or 26 of the Prisons (Scotland) Act 1989 insofar as those sections relate to a person who is subject to a condition that they submit to treatment for their mental condition;
9. section 12 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 insofar it relates to a person who is subject to a condition that they submit to treatment for their mental condition;
10. section 37(4) of the Criminal Justice Act 1991 insofar as it relates to a person who is subject to a condition that they submit to treatment for their mental condition.