

**THE LONDON BOROUGH OF
HILLINGDON**

**DIRECT PAYMENTS
POLICY AND PROCEDURES**

March 2006

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1. INTRODUCTION

Direct Payments incorporate the principles of independence, choice, flexibility and control for people who receive care from Social Services. Direct Payments intermesh with the Government agendas on Best Value and modernisation of Social Services.

What is a Direct Payment?

The Community Care (Direct Payments) Act 1996 and Regulations 2003, places on the London Borough of Hillingdon the duty to make cash payments to eligible individuals in lieu of care services assessed under the NHS and Community Care Act 1990. People who receive these payments use the money to secure services to meet their assessed needs. The Local Authority can only make payments to individuals who meet the published eligibility criteria for Social Services.

The Carers and Disabled Children's Act 2000 further extends this duty to make cash payments to Young People with Disabilities (aged 16-17), Carers under the Carers (Recognition and Services) Act 1995 and people with parental responsibility for a Child with a disability under the amended section 17a of the Children Act 1989.

A Direct Payment is the means by which a Service User/Customer may independently secure the services that the assessment process determines they require to meet their individual needs.

Who can make a Direct Payment and for what purpose?

Social Services departments may give Direct Payments in lieu of community care services to eligible Service Users/Customers. A Direct Payment must be at least as cost effective as the services which could otherwise be arranged by the Social Services Department to meet the Service User/Customer's needs.

2. ELIGIBILITY FOR DIRECT PAYMENTS

Who can receive a Direct Payment? A person, a carer or an individual with parental responsibility whose needs must have assessed under:

- **The Community Care Act 1990**
- **The Children Act 1989**
- **The Carers (Recognition and Services) Act 1995**
- **The Carers and Disabled Children Act 2000**

They must also be either:

- **Aged 16 (or over)**
- **A carer (aged 16 or over) who provide or intend to provide a substantial amount of care on a regular basis to another individual aged 18 or over**
- **A person/people with parental responsibility for a child with a disability**

Eligibility for Hillingdon's Direct Payments Scheme

A Person, carer or individual with parental responsibility for a child with a disability must be '**willing and able**' (alone or with assistance) to receive a Direct Payment. The Care Manager is responsible for establishing if a Service User/Customer meets the 'willing & able' criteria.

With assistance means – a person, carer or individual with parental responsibility for a child with a disability, can receive support from another person to assist them in managing their payment and care. However, the Service User/Customer must remain in control of the Direct Payment. A significant factor influencing the assessment will be the answer to the question "*Does the person currently take other important decisions for her/himself?*" Where the service user has a deteriorating condition, they can make a decision for a person to manage their finances on their behalf even when they are no longer able to make decisions due to impairment or illness. The London Borough of Hillingdon must be assured that the appointed person is continuing to act in the best interest of the person receiving Direct Payments.

The London Borough of Hillingdon reserves the right under the 1996 Act, and Regulations 2003, to refuse Direct Payments to individuals it feels are not suitable for receiving Direct Payments.

People excluded from Direct Payments:

- People under the age of 16 years
- A person who is required to submit to treatment for his/her mental condition or for his/her drug or alcohol dependency by virtue of a requirement of a community rehabilitation order within the meaning of section 41 of the 2000 Act or a community punishment and rehabilitation order within the meaning of section 51 of that Act;
- A person who is subject to a drug treatment and testing order within the meaning of section 52 of the 2000 Act;
- A person who is released on licence under section 37 of the Criminal Justice Act 1991(b) subject to a condition that he/she submit to treatment for their mental condition or for their drug or alcohol dependency;
- A person who is placed under guardianship in pursuance of
 - (i) An application made in accordance with section 7 of the 1983 Mental Health Act; or if
 - (ii) An order made under section 37 of that Act;
- A person who is absent from hospital with leave given in accordance with section 17 of the 1983 Mental Health Act;
- A person who is subject to after-care under supervision within the meaning of section 25A of the 1983 Mental Health Act;
- If there is in force in respect of the person a condition imposed in accordance with section 42(2) or 73(4) (including such a condition, which has been varied in accordance with section 73(5) or 75(3) of the 1983 Mental Health Act;
- If there is in force in respect of the person a supervision and treatment order within the meaning of Part 1 of Schedule 2 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (d);

- A patient subject to after-care under a community care order under section 35A of the 1984 Act (e);
- A patient who is absent from hospital on leave under section 27 of the 1984 Act;
- A person who is subject to guardianship order within the meaning of section 57 of the Adults with Incapacity (Scotland) Act 2000(f) by reason of, or by reasons that include, incapacity through mental disorder;
- A person who is a restricted patient within the meaning of section 63(1) of the 1984 Act who has been given a conditional discharge under section 64 or 68 of that Act;
- A person who is subject to an order of a court under sections 57(2)(a), (b), (c) or (d), 58 or 59 of the 1995 Act;
- A person who is required to submit to treatment for their mental condition or their drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the 1995 Act or are subject to a drug treatment and testing order within the meaning of section 234B of that Act (g);
- A person who is released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989(h) or under section 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993(i) and is subject to a condition that they submit to treatment for their mental condition or for their drug or alcohol dependency

People with a high level of need (complex needs)

‘A high level of need’ refers to people who are more severely disabled due to their impairment or illness and to those who have fluctuating or deteriorating health needs that affect their ability to make decisions, express their wishes and manage independently in the community. In relation to Direct Payments, this means that the individual may not be able to manage their finances or care on their own and they will need the assistance of another person on a temporary or on an on-going basis.

This may include people with learning disabilities, people with mental health needs, older people who are very frail, people affected by Alzheimer's or other cognitive related illnesses and people with fluctuating or deteriorating health e.g. people living with HIV/AIDS.

The London Borough of Hillingdon will look at each case individually and will consider all applications for Direct Payments equally. The Care Manager needs to assess:

- What formal or informal support is available to assist the person with a Direct Payment
- What support can be provided from Hillingdon's Direct Payments Team
- What support can be offered through the Direct Payments Support Service
- What financial support systems are available, for example: Independent Living Trust, Power of Attorney (incl. Enduring Power of Attorney) and Circles of Support and
- Take into consideration how the customer expresses him/herself and makes decisions

The Department will also look at enabling people to make decisions through support from various methods, including advocacy projects in the borough.

Whatever support is in place, the Department must be assured that the INDIVIDUAL, CARER OR PARENT (person with parental responsibility) IS STILL IN CONTROL of the Direct Payment.

3. THE DIRECT PAYMENTS TEAM

The role of the team

The role of the Direct Payments team is to offer expert advice to Social Services staff, Service Users/Customers and their representatives. The team will set up the Direct Payments once the Care Managers have submitted duly authorised paperwork relating to packages of care. The Team will then be responsible for the financial monitoring of the packages and ongoing reviews to ensure the needs are being met and financial records are being kept appropriately.

In addition to the Direct Payments team at Hillingdon Social Services an external Direct Payments Support Service is funded by the London Borough of Hillingdon to offer the following advice/support to Service Users/Customers and/or their representatives:

- Explanation of Direct Payments arrangements
- Support on all aspects of Independent Living and managing own care including: job descriptions, advertising and recruitment of staff, contracts of employment, wages, tax and national insurance, staff problems and other personnel issues
- Support and practical assistance to manage the administration and paperwork associated with the scheme
- Availability of agencies
- Availability of payroll services
- Health and Safety advice
- Support and assistance with financial reconciliation
- Training for Service User/Customer and their PA's
- Running User Groups
- Attend reviews and NLA for existing Service Users when needed
- Police checks on PA's

The above advice will be supplemented by a guidance pack.

The Support Service will offer support and assistance to the new Direct Payments user.

The Direct Payment Officer can visit the Service User/Customer at any time during the process.

Reviews will be held to check the Service User/Customer's financial records and identify any changes in care needs. If a Service User/Customer's needs have changed the Direct Payment Officer will contact the appropriate Care Manager or raise a referral to the correct Assessment Team forwarding the information.

In addition, the Direct Payments Team will offer support and advice as well as monitor the financial reconciliation of the Direct Payments user on a quarterly basis.

The Direct Payments Officer has the following responsibilities:

- To manage all aspects of the DP Scheme
- To work closely with the Direct Payments Advisors and Care Managers.
- To be the main contact person for Care Managers, Direct Payments Advisors and customers for financial matters.
- To review and improve all existing literature
- To co-ordinate the central database. The DP Advisors provide the Direct Payments Officer with monthly progress updates.
- To support Care Managers by regularly attending Team Meetings
- To liaise closely with the Social Services Finance Team and with the Management of Information Team.
- To closely inspect the financial records submitted by DP users/customers.
- To report to the DP Steering Group on any DoH policy updates and other best practise.
- To give presentations on the DP Scheme, as and when required.

4. REFERRAL & ASSESSMENT

A Direct Payment is a different way for the Social Services Department to fulfil its Community Care responsibilities. From referral for assessment through to service package agreement, Care Managers and Service Users/Customers will complete the same process, whether or not a Direct Payment is being considered as a way of meeting the assessed need. Departmental policy and procedures i.e. current eligibility and priority criteria, will be used. *The purpose of Direct Payments is to provide people with control of the Community Care services provided to meet their assessed need and are eligible to receive.*

The process (see appendix 1) identifies a series of key stages in the progress of a referral to the Direct Payments Scheme, which leads to an agreement for a Direct Payment to be made. This identifies the role of Care Managers and the role of the Direct Payments Team within the process.

Care Managers, before referral, should: -

- a) Discuss Direct Payments with the Service User/Customer;*
- b) Where necessary provide (or continue to provide) directly commissioned services whilst Direct Payments are being considered; &*
- c) Arrange for appropriate authorisations for the proposed package.*

Care Managers need to include the following information when referring Service User/Customers to the DP Officer:

- ✓ Copy of the Assessment of Need
- ✓ Copy of the Carer's Assessment, if the referral is for a Carer
- ✓ Copy of service provision form/authorisation of funding
- ✓ Copy of the Care Plan
- ✓ How DP will be used and for how long.

Community Care Assessment/Children in Need Assessment

The assessment process will determine the person's eligibility and priority to receive services to meet assessed need. When it is agreed that the person is both eligible for services and a priority to receive services, a number of service options may be considered. The Direct Payments Scheme is one option in a range of service options available; it is not an alternative way of funding them.

Whether or not a Direct Payment is being considered, the same principles and robust quality standards must be practiced; to identify needs and objectives and secure the greatest degree of independence for the person. This process recognizes that Direct Payments can secure a greater degree of independence for many individuals.

Priority for a service

All people receiving Direct Payments will be subject to the Local Authority's eligibility and priority criteria, both during the Community Care/Children in Need Assessment process and at any future review. Any changes in assessment will result in the Direct Payment being re-calculated in line with the assessed need and standard rates.

In determining to what extent any individual is eligible for services within the department's eligibility and priority policy, it will be essential for the Care Manager to maximize all potential personal resources where appropriate. These resources could include funding from the Independent Living Fund '93. If a Service User/Customer has their care needs funded by health it is illegal for them to receive a Direct Payment. This should be discussed with the Service User/Customer when continuing care assessments are arranged.

When is a Direct Payment appropriate?

Hillingdon has eligibility criteria for receiving a Direct Payment across all Service User Groups. They are: -

- A Direct Payment may be made to a person who receives (or is assessed as being eligible to receive) services to meet assessed need or who is a carer of someone.
- A Direct Payment may be made to any person who is willing and able (with or without assistance) to manage that arrangement:

During the assessment process it will be necessary to determine: -

Willing – Is the customer willing (with or without assistance) to receive a Direct Payment and all the responsibilities involved? The person receiving a Direct Payment must understand (with or without assistance) all the conditions they will be required to meet. These conditions include taking day-to-day control of their personal assistants, payment of bills, managing the bank account, preparation of accounts and financial returns, and making arrangements to cover emergencies.

Able – The person receiving the Direct Payment must have the ability to express (with or without assistance) a preference about the way in which they wish to have services provided. This can be illustrated by looking at what the person does now and how much control they are able to exert upon their own personal care.

Capacity to manage – The Care Manager, the Direct Payments Officer and the Service User/Customer will need to agree that the person understands the nature of the agreement they are entering into. The Direct Payments agreement is legally binding upon the Local Authority and the Service User/Customer. It is essential, therefore, that the individual is either personally able to keep the necessary records, e.g.

National Insurance and tax, or with the support of the Direct Payments Team, makes appropriate arrangements for assistance with these responsibilities. Such support in managing a Direct Payment will need to be identified before a Direct Payment agreement can be made.

Competence – The Community Care (Direct Payments) Act 1996 is clear that the service user/customer must remain in control of the arrangements and remains accountable for the way in which the Direct Payments are used. It does not allow social services departments e.g. to make payments to third parties to manage on behalf of the user where the user is not in control.

Judgment as to the suitability of Direct Payments as a service for the individual:

Whilst in the majority of circumstances the four criteria listed above will be met, the most important element in agreeing that a person is eligible for a Direct Payment is the joint decision of the Service User/Customer and the Care Manager. This decision will be arrived at as a result of good practice followed through the assessment of whether a person meets the Direct Payments eligibility criteria. In all cases the four elements (willing, able, capable to manage and competence) will be clearly recorded and discussed with all appropriate parties.

It is only possible to make a Direct Payment with the consent of the Service User/Customer. Whilst the Direct Payment provides greatest control and potential independence, it also carries related responsibilities. It will be necessary for each person and/or representative to understand what is involved and believe that they are able to manage with or without the assistance indicated above.

Flexible care packages

Direct Payments can be provided on a flexible basis, so that service users/customers with fluctuating needs can access care as and when needed.

Flexible care packages are particularly relevant to people with mental health needs and those with fluctuating health issues such as HIV related illnesses.

The Service User/Customer may use more money one week than they do the next according to their fluctuating needs. The Direct Payment Team will complete the financial monitoring in the usual manner.

What if there are doubts about the person's ability?

Situations may arise where the Service User/Customer or representative seems to understand what is involved and is willing to take on the responsibilities of a Direct Payment. The Care Manager, however, may have doubts about the person's ability to manage. In such circumstances the Care Manager should use the following nine questions as a guide to deciding if Direct Payments is a suitable service for a person: -

Does the Service User/customer (with assistance if necessary) and/or their representative

- 1) Understand the nature of the Direct Payments Scheme?
- 2) Express preferences between different types of service?
- 3) Currently take important decisions for him/herself?
- 4) Able to access appropriate support to enable them to manage Direct Payments?
- 5) Be able to keep the necessary records?
- 6) Understand the legal responsibilities that may arise if he or she becomes an employer, and can he or she cope with them?
- 7) Be able to ensure that he or she receives the services paid for?
- 8) Likely to be able to manage the scheme on an ongoing basis, as opposed to having a fluctuating or deteriorating condition, which may affect his or her ability to manage?
- 9) Will this arrangement secure the greatest degree of independence for the recipient?

In addition, the Care Manager needs to consider whether offering the Service User/Customer Direct Payments on a trial period might give the opportunity to both Service User/Customer and Care Manager to identify if a Direct Payment is the right option for the individual.

The final decision

Whether a Direct Payment is appropriate or not, the Care Manager must take into consideration whether the person will be able to cope with the associated responsibilities. The Department of Health policy guidance states "there is nothing to be gained and much to be lost, not least for the person concerned, from passing this responsibility to people who are not able to cope with it". In making this decision the Care Manager must always take into account the support and advice available as well as the individual's ability to cope with the responsibilities.

If the Service User/Customer has requested a Direct Payment but is refused, the Care Manager needs to write to the Service User/Customer to clearly inform them of the reasons for the refusal. The Care Manager needs to ensure the Service User/Customer is fully aware and has a copy of the Department's Complaints procedure, in case they wish to appeal against the Care Manager's decision.

Reassessment/Review

The Care Manager should re-assess or review Direct Payment Service User/Customer within the same time period as other care packages. If there are no outstanding issues the Care Manager can be close the case. The Direct Payment Officer will review the Direct Payments package after 3 months then annually. If any changes in need are identified at this point the Direct Payment Officer will raise an internal referral to the appropriate team/Care Manager.

5. Service Provision with Direct Payments

What cannot be purchased?

The regulations prevent people from using Direct Payments to purchase personal assistance from: -

- (a) Their spouse
- (b) A person who lives with the Service User/Customer as if his/her spouse
- (c) A person living in the same household as the Service User/Customer who could be their:
 - Parent or parent-in-law
 - Son or daughter
 - Son-in-law or daughter-in-law
 - Stepson or stepdaughter
 - Brother or sister
 - Aunt or uncle
 - Grandparent
- d) The spouse of any of the above-mentioned persons in (c) who lives in the same household as the Service User/Customer
- e) A person who lives with any of the above-mentioned persons in (c) as if that person's spouse

These restrictions are not intended to prevent people from employing a live-in personal assistant, provided that the person is not someone who would be usually excluded by the Regulations 2003. The restriction applies where **the relationship between the two people is primarily personal rather than contractual**, for example, if the people concerned would be living together in any event.

Also, a Direct Payment may not be used: -

- To relieve the Social Services Department of its statutory responsibilities to a Service User/Customer who is perceived as troublesome or difficult:
- To purchase Local Authority services.
- For Health funded services.
- For fostering and adoption of a child

- For permanent or long term Nursing Home Care
- For permanent residential care.

What can the money be spent on?

A Direct Payment, except for permanent residential care, could replace a Service, which is defined as a Community Care service. The actual cost of the service will depend upon the way the customer decides to secure the service. **The authority is not obliged to fund the actual cost associated with the customer's preferred method of securing the service if the service can be secured more cheaply in another way.**

When signing the Direct Payments agreement, the Service User/Customer will be taking responsibility for arranging their own personal assistance and spending the payment in the way shown in the Direct Payments agreement, (see appendix 2 & 3 pp 38-46). It is essential that the Care Manager, Direct Payments Team or Support Service make it clear to the Service User/Customer what the money may or may not be spent on and how much flexibility the person has over the way the money is spent. This will be determined during exploration of all possibilities for use of Direct Payments with Service User/Customer.

The London Borough of Hillingdon is very keen to provide Direct Payments that purchase innovative services in lieu of more traditional service provision.

What a Direct Payment can be used for?

Direct Payments may be used for:

Employing a personal assistant:- the Service User/Customer arranges the services and pays for them in a way that suits them and provides them with the choice and control, as they require. If people employ personal assistants directly, the Direct Payments recipient must make adequate arrangements to fulfil their responsibilities as an employer.

Buying services from an agency: this is an equally acceptable way for the Service User/Customer to use their Direct Payments. However, if the cost of the service purchased by the customer is higher than the Direct Payments amount given by the London Borough of Hillingdon, then the Service User/Customer is responsible for covering the shortfall in the

cost. There may be exceptions to this, where the appropriate care has to be provided from a specialist agency e.g. black and minority ethnic groups; people who are deaf; people who are visually impaired; needing carers with specialist languages or skills, which may incur a slightly higher rate. A higher rate will need to be agreed and approved via the normal funding approval process. The Care Manager needs to keep in mind that if the Agency is registered with CSCI, they cannot charge VAT to the Service User/Customer.

For Adults

All services provided through a Direct Payment have to be for a service relating to an assessed need under the Community Care Act 1990 and meet the local eligibility criteria. The services can include:

- **Domiciliary Care**
- **Support with laundry & shopping**
- **Day Care**
- **Respite**
- **24 – Hour Care**

For Young people with disabilities (aged 16-17)

All services must be related to an assessed need under the Children Act 1989.

Services that can be provided include:

- **Domiciliary care**
- **Day Services**
- **Respite**

Services purchased by 16-17 year olds to meet their assessed need/s, are likely to be deemed by a court as “necessaries”. This means they are subject to any contract of employment with the carer or agency, which is the same as those receiving Direct Payments aged 18 years or above.

This would include such areas as paying carers the minimum wage, paying tax and National Insurance for their employees and adhering to the Direct Payment financial monitoring procedure required by the London Borough of Hillingdon.

For People with Parental responsibility for Children with Disabilities

The London Borough of Hillingdon will provide Direct Payments to people with parental responsibility for a child with a disability, within Part III of the Children Act 1989, which requires the Council to provide a range of services to safeguard the welfare of a child in need. All people with Parental Responsibility for a child with a disability assessed under the Children Act will be eligible for an assessment for a Direct Payment.

The London Borough of Hillingdon will work in partnership with those who have Parental Responsibility and will only make arrangements that are designed to safeguard and promote the welfare of the child. If the Council is satisfied the arrangements are appropriate for the child, the London Borough of Hillingdon is relieved of its responsibility for those services.

The London Borough of Hillingdon still has a duty to review and support cases where there are concerns. Some situations by their very nature may not be suitable for Direct Payments e.g. child protection issues. The London Borough of Hillingdon reserves the right to stipulate the frequency of contact or review with a social worker in all cases.

Services that can be purchased include:

- **Short Breaks/Residential Respite**
- **After school clubs**
- **Holiday play schemes**
- **Personal/domestic care for assistance with the child**
- **Community participation**

Services for Carers

Under the Carers and Disabled Children's Act 2000, Carers - people who are providing or intending to provide a substantial amount of care to an individual on a regular basis - can now receive assessed services to support them in the caring role, via a Direct Payment.

A Direct Payment cannot be used for carers to purchase services for the person they care for, however, all carers are eligible for a Direct Payment, subject to them meeting the Direct Payments eligibility criteria i.e. “Willing and Able” to manage Direct Payments (alone or with assistance).

Carer’s assessed needs will be decided as a result of a Carers Assessment completed by the Care Manager. A Carer’s support plan will be created in partnership with the carer, from which a Direct Payment maybe provided for the assessed service. Carers can receive a Direct Payment for respite including:

- **Residential Home/Nursing Home Respite (equivalent cost to local authority run or purchased services, less residential care allowance or other contributory factors)**
- **Personal and domestic care to give the carer a break (using Direct Payment rates)**
- **Alternative arrangements e.g. Gardening services, driving lessons, night sitters, washing machine in lieu of more traditional respite provision**

The carer would then be responsible for arranging the respite.

Police Checks and References

The Care Standards Act 2000 requires the London Borough of Hillingdon or Direct Payments Support Scheme to carry out police checks on carers employed via Direct Payments, when the care is provided to or for a child (to parents of children with disabilities 0-18 years and 16-17 year old young people with a disability). This service is the function of the Criminal Records Bureau (CRB) established in March 2002. They are a specialist agency that provides a checking system to clarify if individuals have a criminal record. All carers employed to work directly with children must be police checked before they start working for the Direct Payment recipient. The CRB undertakes all checks of criminal records for all relevant posts that need checking.

At present the London Borough of Hillingdon will pay the fee. The London Borough of Hillingdon may also refer to the Protection of Children list.

The Care Manager and the Direct Payments Team need to advise the Service User/Customer that it is best practice for all new employees, working with adults, to be police checked. However, if a customer wants their staff member to start working prior to a police check being completed, the Service User/Customer needs to be advised that an offer of employment should be subject to a satisfactory police check and that the Service User/Customer reserves the right to terminate the contract if an adverse police check is received.

Joint care packages

Direct Payments can run in conjunction with all other types of Social Services support, e.g. in house, agency provision, day care and so on, as well as with funding from ILF. The Care Manager must apply for Independent Living Fund (for service users under 65) if the care package with Direct Payments exceeds £200. The Care Manager needs to keep in mind, that if a Service User/Customer is in receipt of ILF, it is Independent Living Fund that will pay the customer's liability insurance.

Money from the Independent Living Fund can be paid into the same account as the Direct Payment and dealt with jointly by the Scheme User.

Working out the amount of the payment

An agreement will be reached about the amount of money each recipient will receive on a weekly basis. In general this agreement is based on the number of hours care assessed for the recipient and is calculated using the standard payment rate, minus any contribution by the Service User/Customer. The Finance Team deducts all financial contribution by Service User/Customer at source. The exact figure will be calculated by the Direct Payment Officer and is shown on the Agreement.

A Service User/Customer who has advertising expenses and/or any additional administrative costs will be issued one off payments to cover these costs where appropriate.

The London Borough of Hillingdon will pay the Service User/Customer's annual employers and public liability insurance. The Direct Payments Officer will pay these fees direct to the Service User/Customer on request.

Creating a Care Package

Referral to the Direct Payments Team:

- Once the Service User/Customer has been assessed as eligible for Direct Payments, the Care Manager can make a referral by contacting the Direct Payments Team on 01895 556657, ext 6657 or e-mail or by taking the appropriate paperwork to the Direct Payments Team (2N/08).
- The Care Manager may wish to give the Service User/Customer a copy of the Direct Payments literature. Copies of the DOH Direct Payment Booklet can be ordered free from [mailto: dh@prolog.uk.com](mailto:dh@prolog.uk.com). In addition, the Care Manager has already ensured the Service User/Customer has received a Home and Day Care Financial Assessment Form (Booklets are available from the Home/Day care charging team in 2S/09, ext 7390/7391).
- DASH also has information on Direct Payments. The Support Service will visit each new Service User to explain how Direct Payments work.
- The Direct Payments Team will then process the Direct Payments paperwork.

Setting up a Direct Payment

The Direct Payments Team is responsible for calculating the cost of the proposed care package. Please contact the team for this information before applying for funding.

If funding is agreed the authorised paperwork is passed to the Direct Payments Team. A Personal Support Plan will be developed, attached to an e-mail and sent to the Support Service who will arrange an initial visit within five working days of receipt of the e-mail. On receipt of all the necessary documentation, the Direct Payments Team will set up the payments, including the results of the financial assessment.

The Service User/Customer will be sent a letter from the Direct Payments Team stating the amount they will be paid and when the payments will commence. Direct Payments agreement will be enclosed for the Service User/Customer to check, sign and return.

Payment processes

The Direct Payment is paid 4-weeks in advance of the service. The Service User/Customer will have already opened a bank account solely for the use of Direct Payment and, if applicable, ILF. The London Borough of Hillingdon will make BACS payments directly into these accounts. The payments will be net of any assessed contribution.

Accounting for the Money

Direct Payments have to be monitored on an on-going basis, as it is public money. A Service User/Customer will be shown how to keep accurate records. These records will be checked during Direct Payments reviews.

Charging policy

In all circumstances recipients of Direct Payments will be subject to the Local Authority Social Services Department's Home/Day Care charging policy. Parents of disabled children and carers are exempt from the charging policy.

6. WHEN PROBLEMS ARISE

Keeping in touch when things change

Whilst Direct Payments are about independence, it is vitally important that if circumstances change, the recipient notifies the Care Manager or the Direct Payments Team as soon as possible.

Arrangements in emergencies and other difficulties

It is essential that each person receiving a Direct Payment has made arrangements to meet potential emergencies e.g. if one of their personal assistants has a period of sickness. The Support Scheme will offer advice and support in developing contingency plans to meet these potential problems.

In the event that these plans break down the London Borough of Hillingdon may arrange services to cover emergency problems.

Responsibilities when there are emergencies/difficulties

If the monitoring review process identifies that the Service User/Customer's needs are not being met or if the person regularly contacts the Direct Payments Team and/or Care Manager to seek emergency assistance, careful consideration should be made about whether the person should continue to receive Direct Payments.

Making a Direct Payment available to a Service User/Customer does not relieve the Local Authority of its overriding legal responsibility to support that person.

For many people who have received directly provided services for many years, the first months receiving Direct Payments may be a very anxious and testing time. The Local Authority should not consider withdrawing a Direct Payment at the first sign of difficulty.

When problems persist Care Managers and the Direct Payments Officer should jointly agree a course of action. The Department of Health practice guidance suggests that they should ask themselves the following questions in determining whether Direct Payments remain a viable service option: -

- Has the person's needs changed or has there been a significant change in their circumstances?
- Is the amount of money sufficient to enable the person to secure the relevant services?
- Is the person able to manage Direct Payments with the existing arrangements or additional assistance?
- Does the person wish to continue receiving Direct Payments?
- Has all of the money been spent on the services for which it was intended?
- Have services, for which the user has paid, been received?

Disputes with People with Parental Responsibility/Young Persons

The London Borough of Hillingdon reserves the right to refuse Direct Payments, if a person with parental responsibility or young person with a disability wishes to recruit an unsuitable person e.g. there are concerns following a police check.

Under the DoH guidance “Working Together To Safeguard Children para. 6.27” (1999), the London Borough of Hillingdon, has a responsibility to inform a parent, person with parental responsibility and users to any risks of abuse and provide advice to minimise the risk of abuse. (Confidentiality prevents the London Borough of Hillingdon from informing the user, carer or parent of the nature of the concern).

Complaints Procedure

The Social Services Department's Complaints Procedure applies to Direct Payments. The Care Manager and the Direct Payments Advisors need to ensure the Service User/Customer is fully aware of the procedure issuing copies of the Complaints Procedure on request.

7. MONITORING AND REVIEWING

Quarterly Monitoring Financial returns

Each recipient is required to complete quarterly monitoring return forms. These will be sent out via the Direct Payments Assistant. The Service User/Customer is required to enter how much they have received, spent and the balance remaining in the account. The Direct Payments Advisors will assist Service Users/Customers to complete the forms during a home visit if required. The Direct Payments Team reconciles each form. If it is felt that the balance of the account is too high, discussions will take place with the Service User/Customer to resolve the issue and may involve a home visit.

Opening up a Separate Bank Account

A prerequisite when going on Direct Payments is that the person opens a separate bank account for the Direct Payment, so that the bank statements show the Direct Payment income (including ILF if applicable) and expenditure only. The London Borough of Hillingdon bank form will

need to be signed and completed by the Service User/Customer, (see appendix 4 page 47).

Responsibilities of a Direct Payments Receiver

If a person decides to go on to Direct Payments, they are responsible for the expenditure of the payment and ensuring they receive the appropriate care. They are responsible for arranging their care services, as this is **NO** longer the responsibility of the London Borough of Hillingdon.

However, the London Borough of Hillingdon still has a duty to protect a child in need under the 1989 Act and to protect vulnerable adults. (A copy of the "Safeguarding Adults" Leaflet will be provided to Direct Payments users over 18). If there are sufficient concerns about the Service User/Customer or carers' well being, physical, mental or emotional, the Social Services Department may take appropriate action to protect the parties involved.

If a Service User/Customer employs staff directly from the labour market (e.g. from local press or the job centre), they have responsibility for:

- **Recruitment (advertising, short listing, interviewing, appointing, writing employment contracts)**
- **Recruit individuals who have a National Insurance number, a Home Office Work Permit, Passport or other documents that allow them to find employment in England.**
- **Payment of staff (including registering with the Inland Revenue, paying tax and NI for Staff and as an employer)**
- **To resolve staffing issues (disagreements, disciplinary or dismissal using the relevant employment legislation)**

If recruiting from an agency of their choice, the user must pay and liaise with the agency over all issues.

In Adult Services, it is advisable to emphasise to the customer that it is best practise to obtain a police check on their employee, prior to their PA starting work.

In Children Services, it is absolutely essential for the CRB form to be obtained before the PA can begin their employment with the Direct Payment Service User/Customer.

All the above responsibilities should be actioned under the appropriate Race Relations, Sex Discrimination, Disability, Employment and Health and Safety legislation.

The Support Service will advise/assist with all the above procedures.

An Appointee

A person may need the assistance of an appointee to manage their Direct Payments, including assistance with:

- Receiving and administering the money
- Employing, managing and paying care staff
- Liasing with the Inland Revenue
- Liasing with Care Agencies, if required
- Monitoring payments and providing the appropriate information to the London Borough of Hillingdon Finance Team

To set-up an appointee, the Care Manager should follow the procedure listed below:

- The customer has to clearly indicate who they want to become their appointee and sign this responsibility over to that person (Appendix 5 pp 48-49)
- The appointee has to then agree to take on that responsibility by signing the relevant form (Appendix 5 pp 48-49)
- The Care Manager should keep copies of the relevant form on file and give the originals to the Direct Payments Officer and copies to the Service User/Customer and the appointee.

Trusts

Care Managers should discuss, as necessary, extra support options needed for people managing their finances and care using Direct Payments. The Care Manager should not recommend any option, as this is the choice of the individual. The Direct Payments Support Service may provide more detailed advice.

A trust is a legal deed drawn up by a Solicitor, so that a small group of people (2-4) can act as trustees for a person who may have severe difficulty managing their finances and other aspects of their life.

A trust consists of the Service User/Customer plus two to four members, chosen by the Service User/Customer. The trust has the power to receive money and hold property on behalf of the person. They would have the power to assist the customer to employ personal assistants or purchase care via an agency using the Direct Payment. They may also act as an advocate on behalf of the customer. The trust would have responsibility for monitoring the Direct Payments and making sure the person receives the appropriate care.

A trust would be set-up by the Service User/Customer or the people acting on his/her behalf with a solicitor. However, the Service User/Customer has to be in control and make the decision to set up a Trust. The Direct Payments Team would advise the individual and the people acting on their behalf.

Circles of Support

Similar to the Trust, the circle of support is a group of people who support the individual to be independent. A contract is drawn up (a solicitor is not needed), stating what each person is undertaking to enable the Service User/Customer to be independent.

For example, a sister who has Power of Attorney could be responsible for organising the finances; the Direct Payments Advisor could help to employ staff and; the Care Staff could help the Service User/Customer to live independently in the community.

The Circle of Support is not implemented by a solicitor, but would have to be arranged by the Service User/Customer and the Direct Payments Team. The principle is for the person to be in control of the circle of support. An agreement is drawn up to indicate what are the

responsibilities of the circle members, e.g. finance, recruitment etc, which is agreed by all parties concerned. The Service User/Customer and the support scheme, not a solicitor, would devise the agreement.

The circle of support would communicate with one another and the Service User/Customer on a regular basis. If the person's health needs or disability increases, the circle may agree to meet more regularly.

Power of Attorney

'Power of Attorney' is where the Service User/Customer gives the responsibility for managing their finances to a named person, as they cannot manage the finances themselves. They have to give their on-going consent for this arrangement to continue.

'Enduring Power of Attorney' is where the Service User/Customer decides to give the Power of Attorney to the named person on a permanent basis, even if their illness or disability increases to such a level they can no longer make informed decisions.

Power of Attorney is a private matter between the customer and the person they give the authority to. However, this may be discussed with the Service User/Customer and person/s already acting on their behalf, when Direct Payments are seen as the way forward to provide services.

The person receiving the Direct Payment and the person agreeing to be the appointee complete an appointee letter. The London Borough of Hillingdon has to agree with this arrangement and be assured that the appointee will act in an appropriate and honourable way in managing the Direct Payment for the person.

Respite

If a customer goes into residential respite, the Direct Payment will not be paid for that period, as the local authority would otherwise be funding two services at the same time.

If the person is having a Direct Payment for residential/community respite, then the usual payment will be topped up to meet the cost of the residential or community respite care assessed (less any contributions/residential care allowance).

Service Users/Customers should either synchronise their employee's annual leave with their own respite or keep a small staff retainer (from the Direct Payment) to cover the period when they are on respite.

When things go wrong!

If something goes wrong when receiving a Direct Payment, the London Borough of Hillingdon has a duty to investigate and review the situation. The investigation/review would be in partnership with the Service User/ Carer/Parent and may not necessarily mean that Direct Payments will be suspended.

It maybe that the person has miscalculated expenditure or not completed the paper work properly. In such cases it is likely that with support and advice, the situation can be resolved.

Any investigation will be carried out in partnership with the Service User and their Carer. The Support Service would also be involved to see what help they could provide.

Any disputes between the Service User/Customer and their appointee are private and not an issue for the London Borough of Hillingdon.

Deliberate misuse of the Direct Payment

If there is deliberate misuse of Direct Payment monies by either the Service User/Customer or their appointee, the London Borough of Hillingdon reserves the right to suspend the payment and re-instate directly provided services too;

- 1 Investigate the situation
- 2 Protect the customer as a vulnerable person/child in need
- 3 Protect abuse of public funds
- 4 Reclaim the misused monies either in part or full

Appropriate care is not being provided

If the Service User/Customer is not receiving and/or able to manage their care support, even with assistance, then the London Borough of Hillingdon has a duty to make sure they receive the appropriate care support for them to remain safe in the community. This may mean (pending investigation and review) that Local Authority directly provided services are re-instated.

The Appointee has deliberately mis-spent the money

If the appointee deliberately mis-spends the Direct Payment, they are responsible to the person who appointed them. The Direct Payment recipient should be advised to seek legal advice, as they are responsible to the Council for receiving the Direct Payment. Care Managers should also consult the Council's Safeguarding Adults/Children policies. The Care Manager may intervene to restart care-managed services

What if there has been overspending?

If there is a problem with a recipient overspending, the Direct Payments Team will offer support and advice to help rectify this situation. If the problem persists then both the Care Manager and the Direct Payments Team need to reassess the ability of the recipient to manage Direct Payments (with support if necessary).

If a recipient spends more money than is allowed for in the Direct Payment package then they are liable for this extra support from their private funds.

What if all the money is not spent?

There may be a number of reasons why a Direct Payments Quarterly Return shows a balance in credit, for instance there may be payments not yet due. Any credit in the users account is returned when the Direct Payment ends.

If the Direct Payments Officer identifies that monies are being accumulated in the customer's bank account, then the Care Manager will be asked to review the care package and for the case to be investigated further.

Repayment

The Act gives the Local Authority the power to seek a repayment if the monies made available have not been used to purchase the services identified in the agreement. It is essential before anyone receives a Direct Payment that they understand completely the conditions that they will be required to meet. It is essential that honest mistakes are seen as such and repayments should only be sought where money has been spent inappropriately or not at all.

8. DISCONTINUING DIRECT PAYMENTS

The Service User/Customer or the Local Authority may decide that they no longer wish to continue with Direct Payments.

Before a decision to discontinue is made, full and frank discussion must take place by all parties involved. A written record of the reasons why and when Direct Payments will be discontinued must be made and sent to all parties.

Suspending payments

The London Borough of Hillingdon reserves the right to suspend a Direct Payment with 7 days notice, if

- 1 The customer is not receiving the appropriate care and is at risk, *and/or*
- 2 Direct Payment monies are being used for items other than those stated on the care plan or carers support plan

Cancelling Payments

Payments can be cancelled, if pending investigation, the London Borough of Hillingdon considers that the user no longer meets the criteria for Direct Payments i.e. is no longer "Willing and Able" to manage Direct Payments (alone or with assistance), unless prior appointee arrangements have been made.

If a Direct Payment recipient Dies

If a Direct Payments recipient dies, the Direct Payment ceases from that day forward. Money maybe used to pay care staff statutory redundancy pay. This should be written into the contract between the user and the staff they employ.

The Direct Payments Officer needs to identify who is dealing with the Service User/Customer's affairs, in order to notify in writing the Service User/Customer's representative or executor of possible monies owed to the Council.

The Direct Payments Officer will need to ensure the final quarter of the customer's financial records are reconciled and a final figure is agreed with the Estate or Service User/Customer's representative. If monies are not forthcoming, then the Direct Payments Officer will need to request,

via an invoice request form, for the Service User/Customer's representative or Executor to be invoiced for the monies owes to the Council.

Hospital Admission

Where a Service User/Customer goes into hospital for longer than three weeks then the Care Manager needs to consider whether to temporarily suspend the funding. When they are deciding on a course of action they need to consider that when a Service User/Customer directly employs their workers:

- Staff will be entitled to a period of notice, of not less than 4 weeks;
- Staff may also be entitled to redundancy payments;
- If the Direct Payment is discontinued, the Service User/Customer will no longer have support arrangements in place when they are fit enough to return home.

The Care Manager should therefore consult carefully with the Direct Payments Team, as well as with the Service User/Customer, about the details of the employment package to ascertain the implications of suspending the Direct Payment funding before making a decision.

Discontinuing Direct Payments Permanently

If a decision is made to discontinue on a permanent basis the same contractual obligations need to be considered. The following will need to be considered:

- A period of notice of at least 4 weeks for the workers; *or*
- A payment in lieu of this notice if the termination is sudden and unexpected;
- Redundancy payments if the workers have been employed for more than two years;

Again the Direct Payments Team will need to be consulted to ensure that the Service User/Customer meets their statutory obligations. The end date of the package will therefore be when these periods of notice expire.

The Direct Payments Team will ask the user to return any unused monies in their Direct Payments account when the package ceases.

Service User/Customer cancelling Direct Payments

If the Service User/Customer wishes to cancel the Direct Payments and return to the London Borough of Hillingdon directly provided services, the Care Manager should liaise with the Direct Payments Advisor and the Direct Payments Officer as well as discussing with the Service User/Customer the reasons for cancelling Direct Payments.

If the Service User/Customer still wants to cancel Direct Payments, then the Care Manager would need to re-instate services from the Home Care Agency if appropriate. The Service User/Customer is expected to give the London Borough of Hillingdon one month's notice to re-instate services. However, under exceptional circumstances a shorter notice period will be accepted.

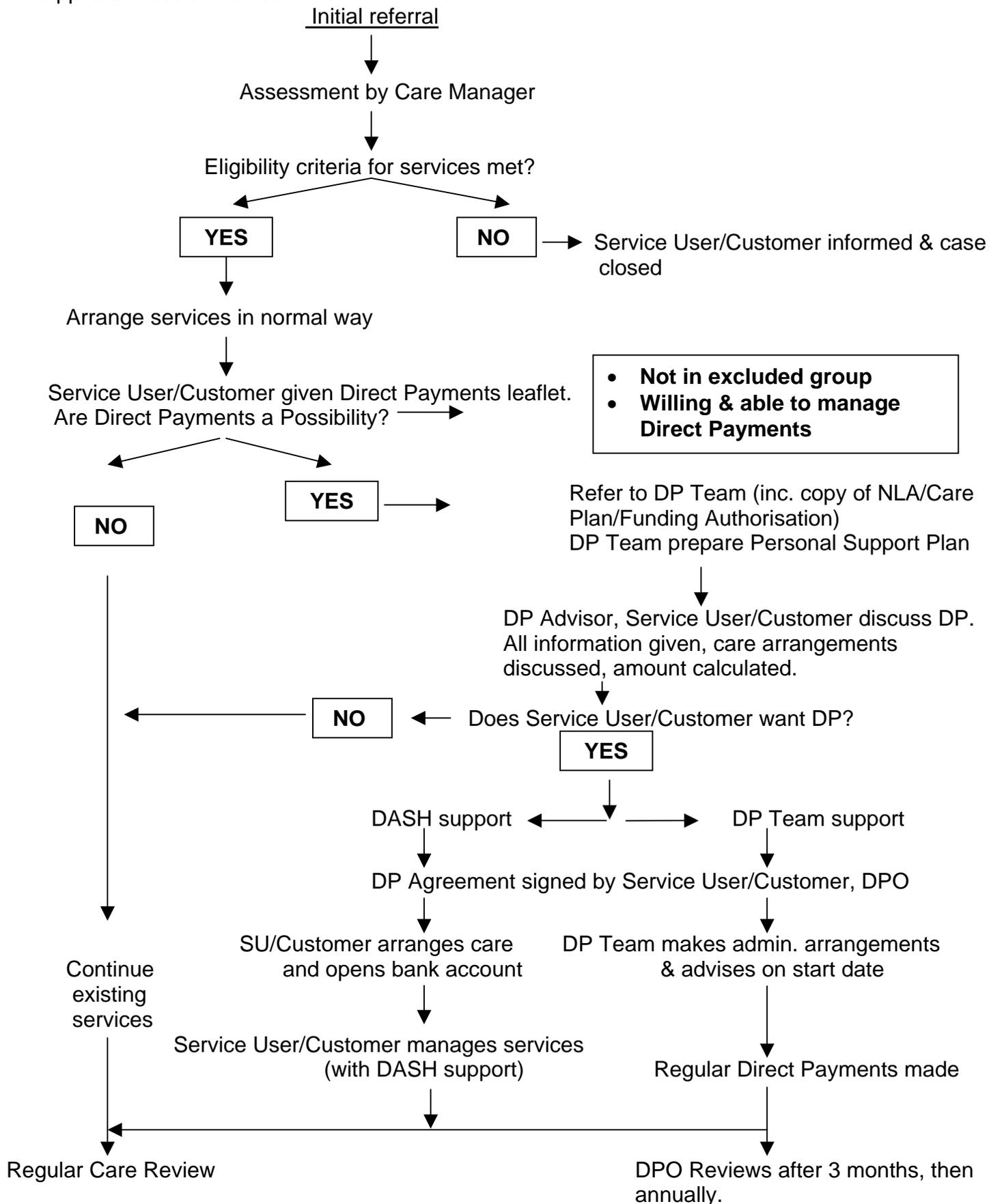
The Care Manager should:

- Re-assess the person's needs
- Create a new care plan
- Seek funding authorisation
- Commission Care Package
- Liaise with the Direct Payments Officer for reassessment of Service User/Customer's financial contribution, cancelling Direct Payments, re-instating London Borough of Hillingdon directly provided care services and cancelling any insurance payments
- Agree a cancellation date with the Finance Team and a start date with the new Care Provider for directly provided care services

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Appendix 1: Referral Process.



KEY: NLA = Needs Led Assessment
 DPO = Direct Payments Officer
 DASH = Disabled Association for Hillingdon
 DP = Direct Payments

- 5) The payment amount will increase by a percentage rate, as agreed by the “Contracts” department, on the first payment date each April.
- 6) The Service User/Customer will use the Direct Payment to secure for him/herself the Services.

N.B. The Service User/Customer should be aware that the Direct Payment may be insufficient to meet the costs of the Services, as indicated in the Care Plan, as provided by an Agency. The Service User/Customer may supplement the Direct Payment from their own funds to meet the extra costs of their chosen provider but the London Borough of Hillingdon cannot be held responsible for any debts incurred as a result of this action. You should contact the Direct Payments Support Service for advice.

- 7) The Service User/Customer will not use the Direct Payment to secure the Services from any partner (married or unmarried) or a close relative living in the same household. (Close relative means parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, stepson or daughter, brother, sister or the spouse or the partner of any of the preceding).
- 8) The Service User/Customer will not use the Direct Payment to secure the Services from anyone living in the Service User/Customer's home other than by a contractual arrangement, unless the Council agree otherwise in writing.
- 9) The Service User/Customer may use the Direct Payment to secure the Services from a close relative (as defined in Paragraph 7) who does not live in the same residence as the Service User/Customer.
- 10) The Council has the right to require the Service User/Customer to change the person or organisation who is providing the Services (the Service Provider) if in the opinion of the Council the Service Provider is either not able to provide an adequate service or is unfit to provide a service. If the Council does not in any way require the Service User/Customer to change the Service Provider, this does not in any way constitute a recommendation by the Council of the Service Provider's ability to provide the Services.
- 11) Subject to paragraph 13 the Service User/Customer agrees that it is his/her responsibility to make all appropriate arrangements to secure the Services and agrees to comply with all legal requirements that may arise in making such appropriate arrangements.
- 12) a) The Council may increase or decrease the amount of the Direct Payment to the Service User/Customer at any time on account of a change in assessed care needs.
b) The Council will review the amount of the Direct Payment on 1 April each year in the light of the movement of the Council's contracted rates for domiciliary care.
c) Before decreasing the amount of the Direct Payment the Council will give the Service User/Customer at least 4 weeks' notice in writing and the reason for such decrease.
- 13) The Council will review the care needs of the Service User/Customer and the operation of this agreement at intervals of not more than one year. That review will determine whether the Service User/Customer's care needs have changed and how the Service User/Customer is coping with the arrangements for ensuring the provision of the Services.
- 13.1) In order to enable the Council to monitor the use by the Service User/Customer of the Direct Payment, the Service User/Customer will:-

- a) Use the bank account in paragraph 4 above or ensure it will be used for all transactions in respect of his/her Care Plan.

This account can also be used for the administration of income from other organisations (e.g. the Independent Living Fund) in respect of the Service User/Customer's care needs and for the Service User/Customer's own contribution to the cost of meeting his/her care needs.

- b) Provide to the Council on a quarterly basis (and in a form specified by the Council) a summary of all income received and expenditure incurred in relation to the administration of the Direct Payments account specified in paragraph 4 (the Quarterly Return).
- c) Provide the Council (when requested to do so) access to all documentation held by the Service User/Customer in respect of his/her care package. This shall include bank statements, cheque books, invoices, receipts, PAYE, National Insurance, other payroll records and a record of personal assistance received using the Direct Payment.
- d) Retain the records outlined above for a minimum period of 2 years or for a minimum period of 6 years if the records have tax implications.

13.2) On receipt of any Quarterly Return or Returns, the Council, after consultation with the Service User/Customer, may adjust future payment(s) of the Direct Payment in order to recover any over payment arising from a previous quarter(s).

14) In the event that the arrangement by the Service User/Customer for the provision of the Services to him/herself breaks down (whether in an emergency or not) the Council undertakes to ensure that the Service User/Customer receives the Services arranged directly by the Council.

15) Without prejudice to its rights under paragraphs 16 and 21 the Council may require the Service User/Customer to repay to the Council the Direct Payment or any part of it if the Council is satisfied:-

- a) That the Direct Payment or any part of it has not been used to secure the provision of the Services or some part of the Services, or
- b) That the Service User/Customer has not met the conditions set out in paragraphs 7 and 8 or any other conditions of this agreement, or
- c) The Service User/Customer has received payment from a third party (for example, Independent Living Fund) for the Services or some part of the Services.

16) The Council may suspend payment of the Direct Payment temporarily if the Service User/Customer has to go into hospital or is otherwise temporarily unable to receive the Services.

17) The Service User/Customer has the right to complain under the Council's Social Services Department's Complaints Procedure about the operation of this Agreement.

18) In the event of the Service User/Customer's death the Council will carefully consider what contractual responsibilities the Service User/Customer had when determining what balance of the Direct Payment is to be repaid to the Council.

- 19) The Service User/Customer is required to notify the Council of all relevant changes in his/her circumstances, including a change of address.
- 20) Either party may terminate this Agreement by giving to the other party 4 weeks' notice in writing.
- 21) The Council may terminate this Agreement with immediate effect if:-
 - a) It is not satisfied that the arrangements made by the Service User/Customer are adequate for securing the Services, or
 - b) Any of the terms and conditions of this Agreement are not being met by the Service User/Customer, or
 - c) The Service User/Customer is not spending the Direct Payment on the Services or any part of them.
- 22) The Service User/Customer is entitled to receive ongoing support from the Direct Payments Support Service whilst in receipt of a Direct Payment.
- 23) Notwithstanding any other provision of this Agreement nothing in this Agreement confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.

I confirm that I understand and will comply with the conditions contained in this agreement.

Title (Service User/Customer)

.....
Signature (Service User/Customer)

Date:

Name (Service User/Customer)

.....

**Direct Payments Officer
 2N/08 Civic Centre
 Uxbridge
 UB8 1UW**

Signature (Council Officer)

Date:

- 4) The first payment will include an extra £20.00 to help with 'start-up' costs. Furthermore, up to £100.00 in each year, will be available (on production of receipts) towards the costs of recruiting carers-
- 5) The payment amount will increase by a percentage rate, as agreed by the "Contracts" department, on the first payment date each April.
- 6) The Parent will use the Direct Payment to secure services for their Son/Daughter.

N.B. The Parent should be aware that the Direct Payment may be insufficient to meet the costs of the services, as indicated in the Care Plan, as provided by an Agency. The Parent may supplement the Direct Payment from their own funds to meet the extra costs of their chosen provider but the Council cannot be held responsible for any debts incurred as a result of this action.

- 7) The Parent will not use the Direct Payment to secure the Services from any partner (married or unmarried) or a close relative living in the same household. (For the purposes of this agreement close relative means parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, step-son or daughter, brother, sister or the spouse or the partner of any of the preceding).
- 8) The Parent will not use the Direct Payment to secure the Services:-
 - a) From a close relative (as defined in paragraph 7) living elsewhere, or
 - b) From anyone living in the Service User/Customer's home other than by a contractual arrangement, unless the Council agrees otherwise in writing.
- 9) The Council has the right to require the Parent to change the person or organisation who is providing the Services (hereinafter called "the Service Provider") if in the opinion of the Council the Service Provider is either not able to provide an adequate service or is unfit to provide a service. If the Council does not require the Service User/Customer to change the Service Provider, this does not in any way constitute a recommendation by the Council of the Service Provider's ability to provide the Services.
- 10) Subject to paragraph 12 the Parent agrees that it is his/her responsibility to make all appropriate arrangements to secure the Services and agrees to comply with all legal requirements that may arise in making such appropriate arrangements.
- 11) a) The Council may, at its discretion, increase or decrease the amount of the Direct Payment to the Parent at any time on account of a change in assessed care needs.
 - d) The Council will review the amount of the Direct Payment on 1 April each year in accordance with the movement of the Council's contracted rates for domiciliary care.
 - e) Before decreasing the amount of the Direct Payment the Council will give the Parent at least 4 weeks' notice in writing and the reason for such decrease.
- 12) The Council will review the care needs of the Service User/Customer and the operation of this agreement at intervals of not more than one year. That review will determine whether the Service User/Customer's care needs have changed and how the Service User/Customer is coping with the arrangements for ensuring the provision of the Services.

- 13.1) In order to enable the Council to monitor the use by the Parent of the Direct Payment, the Parent will:-
- e) Use the bank account in paragraph 3 above or ensure it will be used for all transactions in respect of their son/daughter's Care Plan.
 - f) Provide to the Council on a quarterly basis (and in a form specified by the Council) a summary of all income received and expenditure incurred in relation to the administration of the Direct Payment account specified in paragraph 3 (hereinafter called "the Quarterly Return").
 - g) Provide the Council (when requested to do so) access to all documentation held by the Parent in respect of their son/daughters care package. This shall include bank statements, cheque books, invoices, receipts, PAYE, National Insurance, other payroll records and a record of personal assistance received using the Direct Payment.
 - h) Retain the records outlined above for a minimum period of 2 years or for a minimum period of 6 years if the records have tax implications.
- 13.2) On receipt of any Quarterly Return or Returns, the Council, after consultation with the Parent, may adjust future payment(s) of the Direct Payment in order to recover any over payment arising from a previous quarter(s).
- 14) In the event that the arrangement by the Parent for the provision of the Services to their son/daughter breaks down (whether in an emergency or not) the Council undertakes to ensure that the Service User/Customer receives the Services arranged directly by the Council.
- 15) Without prejudice to its rights under paragraphs 16 and 21 the Council may require the Parent to repay to the Council the Direct Payment or any part of it if the Council is satisfied:-
- d) That the Direct Payment or any part of it has not been used to secure the provision of the Services or some part of the Services, or
 - e) That the Service User/Customer has not met the conditions set out in paragraphs 7 and 8 or any other conditions of this agreement, or
- 16) The Council may suspend payment of the Direct Payment temporarily if the Service User/Customer has to go into hospital or is otherwise temporarily unable to receive the Services.
- 17) The Parent has the right to complain under the Council's Social Services Department's complaints procedure about the operation of this agreement.
- 18) In the event of the Service User/Customer's death the Council will carefully consider what contractual responsibilities the Service User/Customer had when determining what balance of the Direct Payment is to be repaid to the Council.
- 19) The Parent is required to notify the Council of all relevant changes in their sons/daughter's circumstances, including a change of address.
- 20) Either party may terminate this agreement at any time by giving to the other party 4 weeks' notice in writing.

- 21) The Council may terminate this agreement with immediate effect if:-
 - d) It is not satisfied that the arrangements made by the Parent are adequate for securing the Services, or
 - e) Any of the terms and conditions of this agreement are not being met by the Parent, or
 - f) The Parent is not spending the Direct Payment on the Services or any part of them.
- 22) Notwithstanding any other provision of this agreement nothing in this agreement confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.

I confirm that I understand and will comply with the conditions contained in this agreement.

Title (Parent of Service User/Customer)

Name (Parent of Service User/Customer)

.....
Signature (Parent of Service User/Customer)

Date:

**Direct Payments Officer
 2N/08 Civic Centre
 Uxbridge
 UB8 1UW**

.....
Signature (Council Officer)

Date:



Social Services and Housing
People with Physical & Sensory Disabilities Team

Tel: 01895 556657
Fax: 01895 556233

Hillingdon **NHS**
Primary Care Trust

Direct Payment Bank Details

Name:

Address:

I authorise payment of monies allocated to me under the Direct Payment scheme to be paid into the bank account below:

Bank Name:

Branch address:

Branch Postcode:

Bank Sort Code:

Payee account name:

Payee account number:

Payee home address (if different from above):

Signed:

Date:

Please sign and return the completed form to the address above for the attention of Direct Payments Team. Many Thanks

HILLINGDON COUNCIL SOCIAL SERVICES
COMMUNITY CARE (DIRECT PAYMENTS ACT) 1996

APPOINTEE FORM

Part One

The Customer (Service User/Customer/carer or person with parental responsibility)

I agree for

to be my appointee to manage my Direct Payment on my behalf. This will include assisting me with the management of the payment and care as required by one of the following pieces of legislation -

Community Care (Direct Payments) Act 1996; The Carers and Disabled Children's Act 2000; Carers (Recognition and Services) Act 1995 Section 17a of the Children Act 1989 (as amended)

and the requirements of the London Borough of Hillingdon Social Services Department.

I understand that if the above named person, , does not adhere to the requirements of the Direct Payment scheme, does not manage my payment or care, harasses or abuses my staff/PA's, they are responsible to me. I will then be responsible to the London Borough of Hillingdon Social Services Department, if there is any misuse of Direct Payments monies.

Signature:

Print name:

Date:

Or

Person signing on the Customer's behalf

Signature:

Print name:

Address:

Date:

Part Two

The Appointee

I _____ agree to become the appointee for

_____ who is in receipt of Direct Payments from the London Borough of Hillingdon Social Services Department I understand my role is to provide assistance with:

Receiving Payments

Monitoring payments

Employing and managing staff or care agencies

And to make sure the payments are spent on the appropriate care.

I understand that if I misuse the Direct Payments monies, mistreat or mismanage staff or care agencies that I will be responsible to

_____ as the Direct Payment receiver. If monies are misused the Direct Payment receiver may take legal proceedings against me.

Signature:

Print name:

Date:

**I have Power of Attorney/Enduring Power of Attorney/Contract for a Trust
(delete as appropriate)**

List of additional payments available

(Prices as at May 2006)

		£
Payroll Service	(Up to)	165.00
Personal Assistant Employment Protection		84.00
CRB Checks		34.00
Advertising (costs will vary)		