

**London Borough of Barnet  
Adults and Communities**

# Direct Payments Policy

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Relevant to	Adults and Communities
Author	Keith Arrowsmith-Oliver
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# London Borough of Barnet Adults and Communities

## Direct Payments Policy

### 1 Principles and purpose

- 1.2 Direct Payments embody the principles of independence, choice, flexibility and control for disabled people, older adults, children with disabilities and carers. The Direct Payment Act is in harmony with government agendas of Best Value and modernisation of social care services. The following policy has been produced to ensure consistent and equitable provision of Direct Payments in accordance with relevant government legislation and guidance.
- 1.3 The term 'care co-ordinator' will be used instead of social worker as other professionals in addition to social workers carry out assessment duties, for example in mental health services.
- 1.4 This document is comprehensive and consequently lengthy. It has been separated in to five main sections for ease of reference:
  - Care management
  - Direct Payments to carers
  - Employment
  - Financial guidelines
  - Independent Living Fund.
- 1.5 In order to make the information more accessible, a table summarising procedures, key tasks and responsibilities has been provided at the end of each section. This identifies 'who does what' for quick reference. These tables are repeated at the end of the document within the section headed 'Abridged Procedure Tables' for quick and easy reference.
- 1.6 Additional information beyond standard procedures has been included to assist care managers. For instance there may be doubts as to whether a service user meets the 'willing and able' criteria. In such instances care co-ordinators and/or their managers may find it helpful to consider additional support structures. An explanation of such systems has been included for reference purposes under the heading 'Structures that support the management of Direct Payments'.
- 1.7 Adults and Communities promotes the use of ILF funding as it increases service user's opportunities and quality of life. ILF is in-keeping with corporate objectives as it increases choice and service user control whether it is used in conjunction with Direct Payments and or direct provision.
- 1.8 The document has been produced to accompany the Direct Payments procedure document and further background detail may be found there.

## 2 Care Management

2.2 To enable a Direct Payment to be delivered effectively and within accepted time scales, the three Golden Rules below must be strictly adhered to before the payment can commence

- 1) A signed written agreement on Wisdom
- 2) A completed financial assessment
- 3) A start up form

### Assessment

2.3 Direct Payments legislation does not change the local authority's existing responsibility to meet service user and carer's needs under the respective legislation governing practice within each service area. The legislation, however, seeks to promote and allow alternative means of providing services to meet people's needs. Direct Payments can only be offered with the consent of the service user or, in the case of a carer's Direct Payments, the carer

2.4 If a person wants to be considered for a Direct Payment they must be entitled to a provision of services from Adult Social Services under the Fairer Access to Care Services criteria to meet their assessed needs.

2.5 A care co-ordinator will determine the appropriateness of a Direct Payment at the same time as undertaking a Community Care Assessment.

2.6 The care co-ordinator will need to be satisfied that the person:

- Is eligible to receive a service provision from Adults and Communities as prescribed by Fairer Access to Care Services criteria
- Has consented to a Direct Payment
- Is able to manage all of the responsibilities involved in taking on Direct Payments with or without assistance.
- Is not excluded from direct payments (see below).

2.7 A Direct Payment is a positive option and should not be used to relieve the council of its statutory responsibilities to a service user who is perceived as 'difficult' or 'uncooperative'.

### **People who are excluded from receiving Direct Payments.**

3.7 The regulations specify that Direct Payments may not be offered to certain people whose ability to arrange their care is restricted by certain mental health or criminal justice legislation in relation to drug or alcohol dependency as follows:

- Patients detained under mental health legislation who are on leave of absence from hospital;
- Conditionally discharged patients subject to home office restrictions;
- Patients subject to guardianship under mental health legislation and those

covered by the new power of supervised discharge introduced by the Mental Health (Patients in the Community) Act 1995;

- People who are receiving any form of aftercare or community care which constitutes part of a programme initiated under a compulsory court order;
- Offenders serving a community sentence subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency;
- Offenders released on licence subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency; and people subject to equivalent Scottish mental health or criminal justice.

### **People with an existing care plan**

- 2.8 People already receiving services purchased by Adults and Communities can request an assessment for Direct Payments. If the person has not been assessed within the last six months then a care co-ordinator from the relevant team will carry out a re-assessment of need. If the case is an open allocated case, the allocated care co-ordinator should carry out the re-assessment.

### **Initiating a Direct Payment following an assessment**

- 2.9 The process of costing and processing should not normally take more than four weeks. If a person's assessed need is urgent, then the respective service area will provide services until Direct Payments arrangements are put in place.

### **Care Co-ordinator's Tasks**

- 2.10 Care co-ordinators need to ensure they complete the following tasks:

2.11 **Agree care plan:** in accordance with usual procedures.

2.12 **Financial assessment:** As with all service provision, service users who have been identified as potential recipients of Direct Payments (other than carer's Direct Payments), must be financially assessed in accordance with the council's charging policy.

2.13 Contributions are deducted at source. Consequently, a Direct Payment cannot be implemented until the Direct Payments Payment's Officer has been advised of the contribution.

2.14 The recipient will be expected to pay their assessed contribution into their Direct Payment bank account or onto Barnet's Pre-Paid Card in order to ensure sufficient funds to purchase the necessary care.

2.15 **Start-up Form:** A start-up form has to be completed and sent to the Direct Payments Officer.

2.16 **Written Agreement:** The care co-ordinator will ensure that:

- The Direct Payments recipient has read and signed the written agreement, outlining both the council's and Direct Payment recipient's responsibilities.

- The care co-ordinator signs the agreement to confirm that they have discussed the Direct Payment agreement with the recipient.
- The team manager signs the agreement on behalf of the council.
- A copy is uploaded to wisdom and the recipient retains the original.

When signing the “Written Agreement” the recipient undertakes responsibility for arranging their own services and spending the payment to meet the needs identified in the care plan. The care co-ordinator will make it clear to the recipient what the money may or may not be spent on and how much flexibility the person has over the way the money is spent.

- 2.17 **Referral to the Direct Payments Advisor:** The care co-ordinator should make a referral to the Direct Payments Advisor. The advisor will ensure that the service user and the agent if applicable are fully aware of their commitments with regard to managing the Direct Payment as well as explain the monitoring arrangements.
- 2.18 The advisor can help and advise the recipient to plan their care package within the proposed money available to meet the person’s care needs. The advisor will also train the service user or carer / agent to manage the Direct Payments administration and support them with the implementation of the Direct Payment including recruitment and employer responsibilities.
- 2.19 The advisor will also ensure the recipient has created a bank account for the sole purpose of managing their Direct Payments. The recipient may seek the support of a Direct Payments Advisor to set up an account if necessary.
- 2.20 The recipient will forward their bank account details to the advisor. The advisor will inform the Direct Payments Administrator who will ensure Direct Payments are paid into the recipient’s bank account.
- 2.21 A referral to the Direct Payments Advisor is not usually necessary for one-off payments. However, advisors are available to assist if required.

**Extension of Direct Payments Regulations to people who had previously been excluded due to lack of capacity or were subject to certain provisions within mental health legislation.**

The Health and Social Care Act 2008 made amendments to the Health and Social Care Act 2001 to extend direct payments to adults who lack capacity to consent to receive them, where it is in their best interests and a suitable person is able to manage on their behalf.

The Department of Health has produced new Direct Payments Guidance to assist councils to implement this change (Guidance on direct payments, for community care, services for carers and children’s services (England, 4<sup>th</sup> Sept 2009).

The following summarises these changes. The full document is available using the following link:

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_104895.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_104895.pdf)

There is also a useful service user guide 'A guide to receiving direct payments from your local council. A route to independent living' (DH, Sept 2009) available at:

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_104894.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_104894.pdf)

### **Implementation date and summary of changes.**

With certain exceptions (see Mental Health and Exclusions below) from 9<sup>th</sup> November 2009 councils will have a duty to make direct payments in respect of a person lacking capacity, provided that there is a willing '**suitable person**' who meets all the required conditions.

In addition, Government has recognised that Mental Health service users are currently under represented nationally and the Regulations attempt to redress this by extending direct payments to people who are currently excluded due to certain mental provisions (see Mental Health below).

### **Appointing a 'suitable person'.**

In the first instance the council should determine whether someone who has offered to act as 'suitable person' qualifies as a 'representative'.

A '**representative**' is either someone:

- who has lasting powers of attorney in relation to the person needing services.
- who has been appointed a deputy by the Court of Protection under section 16 of the Mental Capacity Act 2005 in relation to the person requiring services.

Unless the council establishes that the representative is either unwilling, incapable of managing direct payments or for some other reason inappropriate to act as the suitable person, by virtue of the powers already given to them they would normally be the first choice of 'suitable person'. If the representative is not willing to act as the suitable person and is also a '**surrogate**' that is a representative (as defined above) who has the power to make decisions about securing services to meet the service users care needs. Then they must consent to the appointment of someone else as a suitable person.

If there is neither a surrogate nor other representative (as defined above), then the council itself must make the decision about whether or not someone should act as a suitable person to manage the payments on behalf of the person who cannot consent.

In all cases whether or not there is a surrogate or representative to assist the council in its decision making the council should as far as is practicable consult the views of the following people:

- Anyone named by the service user as someone who should be consulted.

- Anyone currently engaged in the care of the person lacking capacity or interested in their welfare.
- As far as possible the person who lacks capacity. Councils should take all reasonable steps to ascertain the wishes of the service user regarding who should act on their behalf.
- Any representative or surrogate.

### **Conditions to be met by the suitable person**

The council must be satisfied that:

- the service user's needs are met by means of direct payments and that the suitable person is capable of managing the direct payments on their behalf.
- the suitable person will act in the best interests of the service user (see Principles of best interest below).

A Criminal Records Bureau check (CRB) will be required for a suitable person if they are **not** the spouse, civil partner, partner, close relative (or spouse or partner of a close relative) or friend involved in the provision of care of the person lacking capacity.

### **Principles of best interest.**

The DH has defined principles of best interest as follows. A person trying to act in the best interests of someone lacking capacity should:

- Do whatever is possible to permit and encourage the person to participate, or improve their ability to participate, as fully as possible, in acts and decisions.
- Try to identify and take into account all the things that the person who lacks capacity would take into account if they were acting themselves, including past and present wishes and feelings and beliefs and values which would be likely to influence their decisions.
- Not make assumptions about what might be in the interests of the person lacking capacity simply on the basis of the person's age, appearance, condition or behaviour.
- Assess the likelihood of the person regaining capacity.
- Consult others when making decisions, including anyone previously named by the person as someone to be consulted, anyone engaged in caring for the person, family members, close relatives, friends or others who take an interest in the person's welfare, any attorney appointed under a lasting power of attorney made by the person and any deputy appointed by the Court of Protection to make decisions for the person.
- For any major decisions keep a record of the process of working out the best interests of that person.

## **Mental Health**

Mental Health service users subject to restrictions by the 1983 Mental Health Act will no longer be excluded from receiving a direct payment for social care services. It is expected that, in most cases, people subject to mental health legislation will now enjoy exactly the same rights to direct payments as anyone else.

Under the Mental Health Act, service users on Community Treatment Orders, Guardianship or on s17 leave from hospital may be required to receive social care services specified by their treatment teams, after they leave hospital. From 9th November 2009 Councils will have a power (but not a duty) to make direct payments available with respect to such services.

Where there is a need for a social care service not imposed through the above measures, councils will now have the duty to offer direct payments to enable service users to make their own arrangements for their care.

## **Safeguarding**

The guidance recognises that people who lack capacity are potentially more vulnerable to abuse and possibly less able to notify anyone of abuse. Consequently the guidance highlights the councils requirement to develop a comprehensive risk management strategy which should inform the care plan and subsequent monitoring and reviewing arrangements and frequency.

A Criminal Records Bureau check (CRB) will be required for a suitable person if they are **not** the spouse, civil partner, partner, close relative (or spouse or partner of a close relative) or friend involved in the provision of care of the person lacking capacity.

## **Exclusions**

Direct Payments cannot be paid to offenders in relation to drug and alcohol dependencies as follows:

- Offenders on a community order, or serving a suspended sentence, under the Criminal Justice Act 2003, which includes a requirement to accept treatment for drug or alcohol dependency.
- An offender on a community rehabilitation order or a community punishment and rehabilitation order under the Powers of Criminal Courts (Sentencing) Act 2000, which includes a requirement to accept treatment for drug or alcohol dependency.
- Offenders released from prison on licence under the Criminal Justice Act 1991, the Criminal Justice Act 2003 or the Crime (sentence) Act 1997 subject to an additional requirement to undergo treatment for drug or alcohol dependency.
- People subject to equivalent provisions under Scottish criminal justice legislation.

## **Third Party Direct Payments Written Agreement**

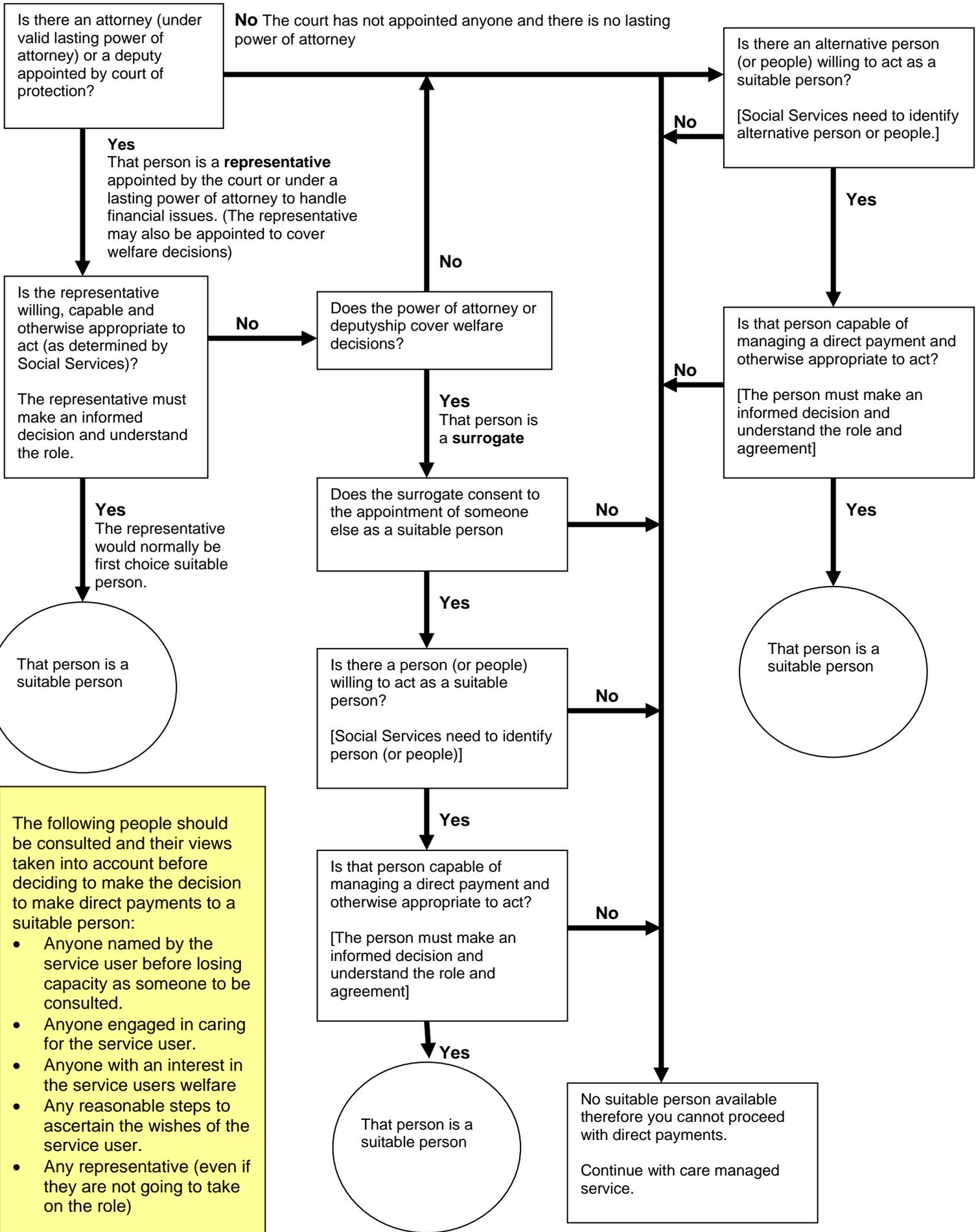
Care coordinators will need to complete a Third Party Direct Payments Agreement as the service user does not have capacity to sign the standard Direct Payments Agreement

## **Training**

Social workers who have not attended Direct Payments training are advised to do so in

order to understand these changes more fully. The training also covers Independent Living Funding and how both Direct Payments and ILF work within Personal Budgets.

# Procedure for Direct Payments for people without Capacity



The following people should be consulted and their views taken into account before deciding to make the decision to make direct payments to a suitable person:

- Anyone named by the service user before losing capacity as someone to be consulted.
- Anyone engaged in caring for the service user.
- Anyone with an interest in the service users welfare
- Any reasonable steps to ascertain the wishes of the service user.
- Any representative (even if they are not going to take on the role)

### 3 Structures to support the management of Direct Payments

- 3.2 The following are intended to act as support structures for the management of Direct Payments (in addition to family, friends and/or the Direct Payments Advisor).

#### **Power of Attorney**

- 3.3 A person who is mentally competent to manage their affairs but cannot deal with day-to-day transactions can give power of attorney to a person to act on their behalf.
- 3.4 Direct Payments may be provided through someone with power of attorney for the user or a user-controlled trust, for example in certain cases where the user has a fluctuating condition, which affects his or her ability to manage Direct Payments.
- 3.5 This may include people with:
- A degenerative condition
  - A cognitive impairment
  - A mental health problem.
- 3.6 It is likely that the person will nominate their attorney to manage their Direct Payment (either managing their Direct Payment bank account or being nominated to receiving the money into their bank account).
- 3.7 The care co-ordinator should ensure that the relationship between the user and the agent would honour the spirit of independent living in the interests of the service user before Direct Payments begin.

#### **Enduring Power of Attorney**

- 3.8 An enduring power of attorney is a power of attorney, which, subject to conditions and safeguards, continues in force even after the maker of the Enduring Power becomes mentally incapable of handling his or her affairs, provided that it is registered.
- 3.9 A person with legal capacity can make an enduring power of attorney (EPA). They may make it anticipating that they may lose capacity. This enables a person to select one or more people to act for them in the present, if they wish, and in the future, should they become mentally incapable.
- 3.10 If a person is capable of consent and agrees to a Direct Payment then the EPA can continue to receive Direct Payments on her / his behalf even after the individual loses capacity. Attorneys, however, cannot direct where the person lives, what medical treatment or what care they receive. The EPA therefore cannot give consent on behalf of the individual or change the Direct Payment, for example if a higher level of service becomes necessary it cannot be agreed by the EPA without consent. An increase in such instances therefore cannot be provided via a Direct Payment once the individual loses capacity.

## **Lasting Power of Attorney**

3.11 The Mental Capacity Act introduces Lasting Power of Attorney (LPA). Unlike Enduring Power of Attorney, the LPA can make welfare decisions as long as the individual has specified (when they had capacity) that they want the Lasting Power of Attorney to have this power. In such circumstances Direct Payments can be increased or introduced even though an individual may have lost capacity.

## **Circles of support**

3.12 This is where a person chooses a group of people to support them with the big decisions in their lives. Such arrangements may be particularly useful for people with learning disabilities.

## **Advance Directives**

3.13 These are particularly useful for people with mental health problems who have fluctuating conditions. They enable the person to write down guidelines about what to do if they begin to behave in a certain way, including a crisis.

## **Trusts**

3.14 This is a legal structure, made up of a small group of people who the person knows well. They will carry out the person's wishes including managing their finances.

3.15 A trust fund enables a person who is unable to manage a Direct Payment, to benefit from the choice and control that Direct Payments bring. A group of people who are prepared to act on behalf of a Direct Payment recipient can take on the responsibility of managing the money and organising the care.

3.16 Ideally there should be three Trustees who should be drawn from family members, and wider contacts such as friends and neighbours.

3.17 If someone's ability to understand about Direct Payments only extends to expressing their preferences through their behaviour, the Trustees will need to know them very well to be able to act on their behalf.

3.18 The Direct Payment recipient cannot be one of the Trustees but, as the person getting the care, they should be central in any planning meetings and have their wishes respected. To ensure objectivity it is strongly recommended that a third Trustee is drawn from a wider circle of contacts.

3.19 Trustees have a number of duties imposed upon them by law for example:

- They must always exercise their powers in the best interests of the Direct Payment recipient
- They must not profit personally or cause a loss to the trust fund due to a conflict with their own interests
- They must comply with the terms of the trust.

3.20 Initially people need to meet and decide what the aims of the trust are, and how it

will be run. These ideas can be drawn up into a constitution, which will ensure that the group is clear about their purposes. It should include such things as who will be responsible for:

- Paying personal assistants including PAYE
- For their supervision
- For completing the monthly monitoring returns.

3.21 Once this is done, the trust deed can be drawn up. The council's legal department may wish to check the trust deed. After this has been done, and the amount of Direct Payment has been agreed. In keeping with usual procedures a bank account must be set up for the sole purpose of administering the recipient's Direct Payments. All trustees will be required to sign an agreement with the council.

3.22 The Trustees will be responsible for recruiting personal assistants, and all other employer responsibilities. The Direct Payments Advisor can provide advice and information about employing personal assistants, as well as sample adverts, job descriptions, application forms, and statement of employment particulars (see further guidance in these procedures).

### **Process of setting up a Direct Payment using a Trust**

- (i) Assessment by a care co-ordinator
- (ii) Direct Payment funding agreed.
- (iii) Decide who the Trustees will be.
- (iv) Decide the aims of the Trustees and make a constitution.
- (v) Draw up a trust deed.
- (vi) Check the documents with an independent solicitor if wished.
- (vii) Send the documents to the Income Team to be checked by the Legal Department.
- (viii) Open a bank account.
- (ix) Sign Direct Payments written agreement with the council.
- (x) Recruit personal assistants.
- (xi) Meet regularly as Trustees to review care and financial arrangements.
- (xii) Meet at regular intervals with the care co-ordinator to review care arrangements.

## **Advocacy**

- 3.23 An independent advocate can support the person to express their views and choices to others.

## **4 Reviewing and Monitoring**

### **Care co-ordinator's initial review at 7 weeks**

- 4.2 The care co-ordinator will undertake the initial monitoring visit no later than seven weeks after the commencement of the Direct Payment. Any increased expenditure assessed as necessary during the reviewing and monitoring processes must be submitted to the respective service manager for approval. A record of this seven-week visit will be documented and held on the service user's file.

### **Monthly returns**

- 4.3 Each month, service users will be expected to forward to the Direct Payments Monitoring Officer their bank statement and any proof of expenditure, for example receipts, payroll statements and any relevant invoices. The monitoring officer will reconcile the bank statement with expenditure and record the outcome on the reconciliation sheet. The Monitoring Officer will keep a copy of the bank statement and reconciliation sheet with the Income Team client file.
- 4.4 If the Monitoring Officer identifies a problem they will initially attempt to resolve this with the recipient. If this is not possible, they will refer the matter to the relevant team leader to allocate a worker to investigate and provide support.
- 4.5 The worker will report the outcome back to their Team Leader and Monitoring Officer.
- 4.6 The worker will refer the matter back to the care co-ordinator's team manager in the following circumstances:
- They are unable to resolve the matter
  - The recipient is in breach of any of the terms contained within the written agreement
  - If the worker considers that the service user may not be able to manage Direct Payments appropriately
  - There are any other care co-ordinator related issues.

### **Annual Review**

- 4.7 When a Direct Payment is made the council retains a duty of care even though the service user is arranging their own services. The service user is still a client of the council, and as such is entitled to the same level of care management support as those using provided services.
- 4.8 It is the responsibility of care co-ordinator team managers to ensure that reviews are arranged. The review should be carried out in accordance with current service guidelines using the Direct Payments review form.

- 4.9 The allocated reviewing officer or care co-ordinator is responsible for completing an annual review. The recipient must keep the following records available for inspection by the co-ordinator or reviewing officer.
- Care plan
  - Written agreement
  - Details of care providers
  - Bank statements with the attached reconciliation sheet (completed and signed by the monitoring officer)
  - Invoices
  - Receipts and/or receipt book
  - Cheque books and paying-in books
  - Payroll details (if applicable).
- 4.10 The allocated reviewing officer or care co-ordinator should contact the Direct Payments monitoring officer prior to a review to determine whether the service user:
- Has been regularly submitting their records
  - Is financially managing
  - Has any other issues which should be addressed at the review.
- 4.11 The Direct Payments Advisor will be able to help, advice and support care co-ordinators, however, as with all community care provision it is the care co-ordinators responsibility to ensure the appropriateness of care plans as well as the completion, monitoring and the frequency of reviews.
- 4.12 Effective joint working between the Direct Payments Advisor and the care co-ordinator should ensure that individuals have access to well-informed support and a stable Direct Payments care package.

**Table 3: Review and Monitoring Direct Payments**

<b>Task: Reviewing and Monitoring</b> All Direct Payments Care Packages will be reviewed in accordance with the council's reviewing procedures and are the responsibility of the care co-ordinator.		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Initial Review (after 7 weeks)	Care co-ordinator	Frequency: 7 weeks after the start of Direct Payments.  The purpose is to determine whether the Direct Payments care plan is working for the service user. Any changes would need to be agreed by the respective team manager. The care co-ordinator may decide to refer to the Direct Payments Advisor for assistance.
Monthly Financial Returns	Recipient / Monitoring Officer	Frequency: Every month.  The recipient will send a bank statement and any proof of expenditure to the monitoring officer.  The monitoring officer will reconcile the bank statement with expenditure and record the outcome on the reconciliation sheet. The monitoring officer will keep a copy of the bank statement and reconciliation sheet with the (DPA) service user's file.
Annual Scheduled Review	Reviewing Officer/ Care co-ordinator	Frequency: Every 12 months  The reviewing officer / care co-ordinator will liaise with the monitoring officer to determine whether the service user is managing financially and regularly submitting their records.  They will check the reconciliation sheets attached to the bank statements which should be kept within the 'Direct Payments Advice Pack' to ensure that the recipient is abiding by their agreements.  Given that financial monitoring is undertaken on a monthly basis, the reviewing officer / care co-ordinator will focus on the quality of care provided by the Direct Payment.

## 5 Direct Payments Advisors

5.2 The Direct Payments Advisors are there to provide support and advice to service users and their families to enable them to make effective use of Direct Payments.

5.3 The following outlines the procedures and responsibilities of the Advisors:

### **At the point of referral:**

5.4 The relevant Team Leader will allocate referrals. Referrals are usually allocated to the Advisor with specific responsibility for the service area. This is, however, dependent on work loads and service area demand.

5.5 The allocated Advisor will:

- Contact the referrer usually the care co-ordinator to get further information.
- Maintain a good working relationship with the referrer / care co-ordinator and liaise effectively.
- Offer advice and guidance to the care co-ordinator.
- Arrange a home visit to advise the service user and their family if appropriate.

### **Home Visit**

5.6 The allocated advisor will:

- Arrange a home visit. This could be a joint visit with the care co-ordinator.
- Explain Direct Payments regulations and responsibilities to the service user.
- Supply information leaflets and the advice pack.
- Help the service user and their family to arrange care services, including assistance with recruitment if required.
- Liaise with the care co-ordinator and recipient to agree a starting date.
- Ensure service user has a Direct Payments Advice Pack and is familiar with its use.

### **Record keeping**

5.7 Files will be kept in accordance with Adults Social Services formats and guidelines. Also:

- Meeting forms will be used to record each visit.
- Contact sheets will be used to record all contacts regarding the recipient or potential recipient.
- Check list and care arrangements forms will be used to ensure the recipient is aware of all their responsibilities. The checklist also identifies any further action or training needs. This has to be signed and dated by the recipient and the advisor.
- A copy of signed checklist should be kept in the service user's file and a copy sent to the care co-ordinator. The original should be kept by the service user

### **Follow-up visits**

5.8 The allocated advisor will visit recipients as necessary until the care package and

arrangements are finalised. This may include assistance with recruitment and payroll services.

### **Employing Directly**

- 5.9 The advisor will inform the recipient that all employment processes and decisions have to take regard of equal opportunities, sex and race discrimination legislation as well as employment legislation.

### **Criminal Records Bureau checks (CRB checks)**

- 5.10 The care co-ordinator will provide the recipient and family with the CRB leaflet. They will inform the service user of the importance of CRB checks.
- 5.11 Similarly they will inform both the agent acting on behalf of a disabled child that CRB checks are extremely important in relation to people working with disabled children.
- 5.12 Advisors will explain the procedure outlined in the CRB leaflet (see Criminal records Bureau checks and procedures).
- 5.13 A record that this advice was given will be recorded on the check list and care arrangements form (DPCL.1).
- 5.14 The care co-ordinator should make it clear to the recipient that it is an offence under the Criminal Justice and Courts Services Act 2000 if an individual knowingly offers work with children to, or procures work with children for, an individual who is disqualified from working with children or allows such an individual to continue in such work.

### **Pay Roll Service**

- 5.15 The advisor will explain the benefits of a payroll company to the recipient as such services can:
- Pay staff
  - Pay the Inland Revenue including national insurance.
  - Provide pay slips (legal obligation)
  - Advise the recipient how much they will be able to pay their worker after deductions.
  - Complete year returns on behalf of the recipient.
- 5.16 The advisor will inform the recipient of companies that offer such support.

### **Recruitment**

- 5.17 The advisor can assist the recipient with recruitment, for example providing sample job descriptions, adverts and employment contracts.

### **Back up arrangements**

5.18 The advisor should ensure the recipient has a back-up plan for when their employee is unavailable. This may take the form of:

- Friends, neighbours or family
- Agencies
- Other personal assistants.

5.19 The advisor will inform the recipient that they can seek assistance from:

- The Direct Payments Advisory help-line
- Their respective care co-ordinator duty team who can arrange temporary cover if required
- The Out of Hours Emergency Service.

### **Independent Living Fund (ILF)**

5.20 Both ILF and Direct Payments promote independent living, service user choice and control. Often people who receive Direct Payments also receive ILF. The advisors can assist the service user and the care co-ordinator to organise a combined care plan using both Direct Payments and ILF.

5.21 However, the care co-ordinator is the lead in relation to ILF and is the contact between the council and ILF. It is the care co-ordinators role to liaise with ILF social workers and attend reviews, however, advisors will be available to assist and or attend reviews if requested.

## **6 Direct Payments to Carers**

### **Legislative background**

6.2 The Carers and Disabled Children 2000 Act empowers local authorities to make Direct Payments to carers (including 16 and 17 year old carers) for the services that meet their own assessed needs.

6.3 The legislative framework relating to Direct Payments for carers was subsequently updated through Section 57 of the Health and Social Care Act 2001.

6.4 The introduction of the Carers (Equal Opportunities) Act 2004 meant for the first time, local authorities must, when carrying out carers' assessments, consider how service provision will impact on the carer's life in relation to their opportunities to work or undertake education / training or leisure activities.

6.5 Local authorities now have to consider these issues and the carer's wishes when planning the care package for the person they care for, and where possible should look to using flexible carers' services and / or Direct Payments to help put in place a package of support designed to meet the holistic needs of the carer to support them in their caring role.

6.6 Accordingly care co-ordinators are encouraged to be innovative and creative when working with the carer to identify the most appropriate support to meet those needs within the context of their caring role and the need to maintain their health and well being within this context.

## **Eligibility**

- 6.7 For the purposes of this guidance, adult carers of adults aged 18 and over are eligible to receive a carer service. Applications for Direct Payment services for this category should be made to Adult Social Services.
- 6.8 Parent carers of disabled children and 16 and 17 year old young carers are also eligible. Applications for Direct Payment services for this category should be made to Children and Families services.
- 6.9 Carers assessments must be carer centred with the care co-ordinator valuing the carers experience and assessing the impact that the caring role is having on the carer.
- 6.10 A carer's assessment must be completed to determine eligibility for a carer's service and to identify appropriate support to be provided before a Direct Payment can be considered.
- 6.11 Carers may be entitled to a Direct Payment following a carer's assessment if they provide substantial care i.e. more than 20 hours per week.

## **Permitted use of Direct Payments**

- 6.12 A Direct Payment can be made to a carer for the provision of a holiday or activity but it cannot be paid to the carer for the purposes of providing services to the disabled adult or older adult. In such an instance, any Direct Payment required to meet the needs of the cared for person will have to be paid to the service user.
- 6.13 Examples of how a Direct Payment might be used include:
- Domestic support
  - Driving lessons
  - Moving and handling training
  - A mobile phone to reduce anxiety and facilitate social interaction whilst maintaining contact with the person cared for
  - Taxis to work to maximise the carer's time
  - Swimming sessions to relieve stress and reduce social isolation.
- 6.14 This is not a definitive or exhaustive list. The carer's assessment of need will determine what the payment will be used for.
- 6.15 The local authority will usually pay a maximum amount of £250 (2006/07) to a carer via a carer's Direct Payment within a financial year. However, in exceptional circumstances a greater amount may be considered on an individual basis.
- 6.16 If the cost of the service or equipment purchased by the carer is higher than the Direct Payment amount given by the council, then the recipient is responsible for covering the shortfall in the cost.

## **When the use of a Carers Direct Payment is not permitted**

- 6.17 Carers (other than those with parental responsibility to care for disabled children) are not currently entitled to a Direct Payment to purchase services to meet the assessed needs of the person they care for e.g. their personal care needs (para136, Community Care, Services for Carers and Children's Services (Direct Payments) Guidance England 2003).
- 6.18 A Direct Payment for the provision of respite care has therefore to be made to the disabled person or older adult (except disabled children) and cannot be paid to the carer. A Carer's Direct Payment could however be used to pay for a short holiday for the carer.
- 6.19 As with all Direct Payments, Carers Direct Payments cannot be used to secure services from a close relative living in the same household other than in exceptional circumstances (see Employing Close Relatives p. 38).

### **Administration**

- 6.20 Administration and monitoring of Direct Payments should not be overly burdensome to the recipient. There is, however, a need to demonstrate that the payment has been used to meet the needs identified in the care package.
- 6.21 If a carer's assessment identifies the need for a 'one-off' payment, for example the purchase of a washing machine, it would be unrealistic and unduly burdensome to expect the carer to open a separate bank account and complete finance returns as per usual requirements for on going Direct Payments. In such circumstances it is adequate for the carer to provide a receipt / evidence that the money was spent appropriately.
- 6.22 The carer should forward this to the care co-ordinator. The care co-ordinator should record this and keep a copy on file. The original receipt should then be returned to the carer. If the cost of the service or equipment purchased by the carer is higher than the Direct Payment amount given by the council, then the service user is responsible for covering the shortfall in the cost.
- 6.23 A referral to the Direct Payments Team is not usually necessary for 'one-off payments'. However, advisors are available to assist if required.

### **No charge for Direct Payments to carers**

- 6.24 The local authority will not charge carers for Direct Payments made to meet their assessed need consequently carers will not be financially assessed. However a carer's Direct Payment cannot be used to circumvent a chargeable service.

**Table 4: Initiating a Carers Direct Payment**

<b>Task: Initiating a Carers Direct Payment</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Complete a carer's assessment to identify need and appropriateness of carer's Direct Payments	Care co-ordinator and Team Manager	To identify appropriate provision taking into account eligibility criteria and Direct Payment guidance.
Care plan agreement	Care co-ordinator Team Manager / Panel	The care plan will be agreed in accordance with usual procedures.
Complete a Direct Payments Start-up Form	Care co-ordinator	Complete relevant sections and send the form to the Direct Payments Administrator.
Complete a Carer's Written Agreement	Care co-ordinator	Ensure the carer understands the written agreement and all signatories sign the document.  A copy should be kept on file and the original returned to the carer.
<i>A referral to the Direct Payments Team is not usually required, however, they will provide advice if required.</i>		

## 7 Employment

### **Employing Personal Assistants**

- 7.2 If a service user employs staff directly from the labour market (e.g. from local press or the job centre), they have responsibility for:
- Any legal requirements as an employer
  - Recruitment (advertising, short listing, interviewing, appointing, writing employment contracts)
  - Recruiting individuals who have a National Insurance number, a Home Office Work Permit, a 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).
- 7.3 The Direct Payments Team will be available to support the service user with these processes. If the recipient is employing directly Direct Payments Advisors will encourage service users to make use of payroll companies to assist them with these responsibilities however, this would remain the decision of the service user.
- 7.4 If recruiting from an agency of their choice, the user must pay and liaise with the agency over all issues.

### **Employing Close Relatives**

- 7.5 Local authorities now have discretion as to whether to allow a Direct Payment recipient to employ a close relative living in the same household. Great care, however, should be taken before agreeing to such an arrangement.
- 7.6 The Direct Payment recipient should be able to demonstrate that they have made significant attempts to recruit. Evidence should be submitted in writing to the relevant service manager.
- 7.7 A meeting should take place between the care co-ordinator and service user. The close relative living in the same household, who is the potential employee, should not usually be present at this meeting. The meeting should clarify the following points and a summary of the meeting should be forwarded to the relevant service manager:
- What attempts have already been made to recruit and whether this can be evidenced
  - Could a direct service continue as further attempts are made to recruit?
  - Would an enhanced hourly rate relieve the recruitment difficulties?
  - The grounds for the request are clearly identified and supported by the care co-ordinator and Direct Payment recipient.
  - Is there a financial incentive to this request?

- 7.8 It is not intended that Direct Payments should replace or interfere with informal care. Where someone is already in an informal caring role it would usually be inappropriate to arrange for him / her to be employed through a Direct Payment.
- 7.9 Where the Direct Payment recipient and their proposed paid close relative living in the same household are financially dependent on the Direct Payment there is the danger that the service user and their close relative may become at risk i.e. the close relative does not perform their paid duties and the Direct Payment recipient is unable to advise the local authority as the consequences would be financial hardship or possibly even abuse.
- 7.10 Any agreement to use the exceptional circumstances clause should be agreed and recorded by the service manager for six months in the first instance. The agreement should be reviewed again regularly, with evidence that alternatives continue to be explored.
- 7.11 This restriction is not intended to prevent people using their Direct Payments to employ a live-in personal assistant, provided that the primary relationship between the two people is contractual rather than personal (i.e. if the people concerned would not be living together in any event).

### **Criminal Records Bureau checks**

- 7.12 The Criminal Records Bureau is an agency of the Home Office that provides access to criminal records and other information to organisations in England and Wales, through a service called Disclosure. Organisations in the public, private or voluntary sector can ask for a CRB check.
- 7.13 A CRB check will identify people who may be unsuitable to undertake care work because they have a criminal record. This reduces the risk of abuse by ensuring that those who are unsuitable are not able to work within the caring professions.
- 7.14 A CRB check is not compulsory, but the council strongly recommends that recipients have all potential workers checked.
- 7.15 The council recommends that CRB checks are undertaken prior to the recipient appointing personal assistants.
- 7.16 Individuals cannot apply to have a CRB check completed themselves. Only organisations can do this. The council therefore facilitates this process.

### **CRB Procedure**

- 7.17 The care co-ordinator will give the prospective recipient of a Direct Payment the CRB leaflet and stress the importance of CRB checks. The Direct Payments Advisor will also ensure that the recipient is aware of the importance of CRB checks when employing directly or if through an agency the importance of only

using agencies who CRB check their staff.

- 7.18 A record that this advice was given will be recorded on the check list form (DPCL/1). The original document should be kept on file within the Direct Payments Team and a copy should be sent to the recipient and the care co-ordinator to keep on file.
- 7.19 Both the care co-ordinator and the advisor will inform the service user that if they chose to have a CRB check completed then it should be an enhanced check.
- 7.20 If the recipient would like a CRB check completed then they should contact the Direct Payments Team. An advisor will send the service user an application form to be completed by the worker. The worker will need to provide several forms of identification. Information about this is provided in the application form.
- 7.21 Once the worker has completed the application form, then it should be returned to the Direct Payments Team. The completed form will be forwarded to the Human Resources department to process.
- 7.22 When the CRB check has been completed, a copy of the information will be sent to the worker and the Human Resources department. Human Resources are not allowed to send a copy of the check to the service user but they can write to inform the service user of the outcome.
- 7.23 The service user should ask to see the workers CRB certificate and seek confirmation of the outcome from Human Resources.
- 7.24 The council, in order to protect Direct Payments recipients, will pay the cost of the CRB which will be charged to the recipient's service area.
- 7.25 The CRB is committed to the Data Protection Act, so any information given is protected and the council will comply with the Criminal Records Bureau's Code of Practice, which ensures that the process works fairly and securely.

**Table 5: Criminal Records Check**

<b>Task: Criminal Records Bureau checks</b>		
<b>Task:</b>	<b>Responsibility</b>	<b>Instruction</b>
Inform the recipient of the importance of CRB checks.	Direct Payments Advisor / Care co-ordinator	<p>The care co-ordinator will give the prospective recipient of a Direct Payment the CRB leaflet and stress the importance of enhanced CRB checks.</p> <p>The Direct Payments advisor will also ensure that the recipient is aware of the importance of enhanced CRB checks when employing directly or if through an agency the importance of only using agencies who CRB check their staff.</p> <p>The advisor will ensure that the check list form (DPCL/1) is completed and signed by the recipient or agent acting on behalf of the recipient (if applicable).</p>
Providing Application for CRB check	Direct Payments Advisor	The recipient will contact the advisor in order to obtain an application and guidance leaflet.
Completing the application	The recipient and their prospective personal assistant.	The recipient and their prospective employee will complete the application. The advisor can offer assistance if required.
Returning application	The recipient or their prospective personal assistant.	The application should be returned to the Direct Payments Team.
Processing the application	Direct Payments Advisor/ Human Resources/ Criminal Records Bureau	<p>The Direct Payments Advisor will forward the application to Human Resources.</p> <p>Human Resources will send the application to the Criminal Records Bureau for processing.</p> <p>The Criminal Records Bureau will send the results to the personal assistant / worker and to Human Resources.</p>
Informing the recipient of the outcome of the CRB check.	Human Resources	Human Resources will write to the recipient informing them of the outcome of the CRB check. A copy of this letter will be forwarded to the DPA Service to be kept on file.

## 8 Financial Guidelines

- 8.2 This guidance summarises how the Direct Payment should operate and the recipient's responsibilities in managing their Direct Payment.
- 8.3 The council, for legal reasons, is obliged to monitor how people are spending their Direct Payments and Direct Payment recipients are expected to keep records of all their expenditure relating to the Direct Payment within their Direct Payments Advice Pack for this purpose.
- 8.4 The local authority will need access to these records and may take copies of the documents for auditing and file keeping purposes. The council should aim to minimise the administrative work expected of service users, however, a Direct Payment is public money and record keeping and monitoring of how money is spent has to satisfy audit requirements.
- 8.5 If a service user has any difficulty in keeping records up to date or understanding what is required, then they should be referred to the Direct Payments Team who will be able to advise, train and assist the service user.
- 8.6 The Council, however, reserves the right to cease Direct Payments if financial guidelines are not adhered to.

### **Direct Payment Rates**

- 8.7 Direct Payment rates will be reviewed and agreed at the Senior Management Team Meeting on an annual basis prior to the beginning of the financial year.
- 8.8 Increases in Direct Payment rates should at least match the average percentage increase agreed with contracted home care agencies.
- 8.9 Changes to the Direct Payments rates will be applied to every Direct Payment agreement from 1st April of the next financial year.
- 8.10 Senior Management will ensure that social work teams, Direct Payments Administrator and the Direct Payments Team are informed of any changes in Direct Payment rates in advance of this date to ensure efficient implementation.
- 8.11 The Direct Payments Monitoring Officer will in turn notify Direct Payments recipients.

### **The Direct Payment Calculation**

- 8.12 A Direct Payment is based on the cost of the recipient's assessed needs net of the service user's contribution. The service user's contribution will be reassessed on an annual basis. An initial Direct Payment may also include a Start-up payment (see below).

### **Start-up payment**

- 8.13 A standard start up payment of £200 will be paid to Direct Payments recipients who employ their own staff, as an initial payment to cover overheads such as advertising costs, and public liability insurance. Staff should advise individuals who are employing someone directly that they should ensure they have public liability insurance in place.
- 8.14 Start-up payments are not paid to Direct Payments recipients who are using agencies to provide services.
- 8.15 On-going overheads, such as statutory sick pay or paid annual leave for personal assistants, are included within the Direct Payments rate and are the responsibility of the recipient.

### **Frequency of payments**

- 8.16 Direct Payments will be made on a monthly basis in advance during the financial year. Payments will be made direct to the recipient's bank or building society account via a BACS payment.
- 8.17 The Direct Payment amount can be adjusted to take into account large one-off items of expenditure e.g. respite care, purchase of equipment.
- 8.18 In the event of an emergency, where the normal monthly payment is not sufficient, the recipient must inform their care co-ordinator team (usually the social work team) immediately so that appropriate action may be taken.

### **Bank Holiday Payments**

- 8.19 Bank holiday payments will be paid at time and a half. It is the responsibility of the service user to pay the additional bank holiday costs.
- 8.20 Once Independent Sector Payments are implemented within SWIFT (target date 1st April 2007), bank holiday payments will be included within the Direct Payment Rate.

### **'One off' Payments**

- 8.21 If a Community Care assessment identifies the need for a 'one off' payment, for example the purchase of a washing machine, it would be unrealistic and unduly burdensome to expect the recipient of a Direct Payment to open a separate bank account and complete finance returns as per usual requirements for on going Direct Payments. In such circumstances it is adequate for the recipient to:
- Sign a Written Agreement for 'One off' payments (see below)
  - Provide a receipt / evidence that the money was spent appropriately.
- 8.22 The recipient should forward this to the care co-ordinator. The care co-ordinator should record this and keep a copy on file. The original receipt should then be returned to the recipient.
- 8.23 If the cost of the service or equipment purchased by the recipient is higher than the

Direct Payment amount given by the Council, then the service user is responsible for covering the shortfall in the cost.

**Table 6: Processing Payments**

<b>Task:</b> Processing Payments. The process of costing and processing a Direct Payment following an assessment should not normally take more than <b><u>four weeks.</u></b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Start-Up Form	Care co-ordinator	Send completed Start-Up form to the Direct Payments Administrator.
Inputting Direct Payments recipient as a 'provider' on SWIFT.	Direct Payments Administrator	On receipt of Start Up Form.
Acquiring vendor number	Direct Payments Administrator	On receipt of Start Up Form via email.
Supply of vendor number	Accounts Payable	Supply vendor number within three working days of request from the Direct Payments Administrator.
Recipient Contribution	Income and Assessment	Input contribution on SWIFT. Send a copy of the letter notifying recipients of their contribution to the Direct Payments Administrator (see Financial Assessments and Contribution).
Deducting Contribution from Direct Payment	Direct Payments Administrator	Direct Payments Administrator will deduct contribution and calculate net Direct Payment and input onto SWIFT.
Authorising and triggering payments	Direct Payments Administrator	Direct Payments Administrator to complete SWIFT tasks in order to trigger payment by Accounts Payable. To complete Payment Certification forms.
Payments to recipient	Accounts Payable	Make payments into recipient's bank account.
Control report to list all new service users added as providers each month.	Contracts Section	To create report and send to Team Managers for audit / confirmation purposes.
Audit / confirmation of accuracy of Control report	Team Managers	To email confirmation to Contracts or investigate if incorrect.

**Table 7: Financial Assessment and Contribution**

<b>Task: Financial Assessment and Contribution</b> All service users who have been identified as potential recipients of Direct Payments (other than Carer's Direct Payments) must be financially assessed in accordance with the council's Fairer Charging Policy.		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Issuing of Financial Assessment Form	Care co-ordinator	To mark form as Direct Payments application as Income and Assessment will prioritise Direct Payments.  To issue form to recipient and advise and support him / her and or their family to complete if required.
Complete Financial Assessment Form	Recipient of Direct Payment	To complete and return the form to the Financial Assessment and Income Team promptly as payments cannot start until contribution is determined.
Processing the Financial Assessment	Financial Assessment and Income Team	To prioritise Direct Payments assessments.  To complete the assessment in accordance with the council's Fairer Charging Policy.  Send a copy of the letter notifying recipients of their contribution to the Direct Payments Administrator and care co-ordinator.
Deducting client contribution from Direct Payment	Direct Payments Administrator	Direct Payments Administrator to deduct contribution and calculate net Direct Payment and input onto SWIFT (see Processing Payments).
Subsequent Financial Reviews	(see Amending Contributions)	

**Table 8: Reviewing and Amending Contributions**

<b>Task: Reviewing and Amending Contributions</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Financial Review / Reassessment	Financial Assessment and Income Team	To reassess the service users contribution on an annual basis.
Inform Direct Payments Administrator of change.	Financial Assessment and Income Team	Input contribution on SWIFT. Send Direct Payments Administrator a copy of the service user's notification and copy of SWIFT input Tab showing new contribution.
Amending contributions	Direct Payments Administrator	Amend contribution and net payment on receipt of a copy of the service user's notification and copy of SWIFT input tab showing new contribution from the Financial Assessment and Income Team.  (This should be automated with the implementation of Independent Sector Payments)
Report to identify errors i.e. no change in payments following change in contribution.	Business and Performance Team	Produce a monthly error report identifying where there has been no change in payment following a change in contribution.
Monitoring changes in contribution	Direct Payments Administrator line manager	To check error report to identify when change in Direct Payments has not been implemented by the Direct Payments Administrator following a change in client contribution.
Investigate and ensure amendment to payment is implemented.	Direct Payments Administrators line manager / Direct Payments Administrator	Ensure that the Direct Payments Administrator corrects any errors so that payments take account of any changes of contribution.

**Retrieving Surpluses**

8.24 The monitoring officer is responsible for ensuring that surpluses are retrieved, including reconciliation of the Direct Payments balance in the event of death. They should seek assistance from the Direct Payments Team to help them identify the true surplus i.e. after outstanding commitments are met.

8.25 A Direct Payments Advisor will visit the recipient, agent or close relative (in the

event of a death) to help identify the true surplus i.e. after outstanding commitments are met.

8.26 Commitments which need to be considered include:

- Outstanding payments to directly employed personal assistants. It is normal practice to give a directly employed personal assistant a month's notice and pay (excludes agency staff).
- In the event of the death of a Direct Payment recipient the local authority accepts that any directly employed personal assistant is entitled to at least one month pay (excludes agency staff) and unpaid holiday entitlement . This would normally be taken from any unspent money in the recipients account, however, any shortfall will be made up by the respective service area.
- Outstanding bills e.g. PAYE payments, agency or provider bills.

8.27 The recipient should ensure that sufficient funds are kept in the Direct Payment account to meet all unpaid invoices. In the event of any unforeseen or unusual expenses the recipient is advised to contact the Direct Payments Advisor for advice as well as their respective care co-ordinator.

8.28 Once any outstanding commitments are accounted for the advisor will inform the monitoring officer of the outstanding surplus amount.

8.29 The monitoring officer will produce an invoice for the surplus amount and forward this and a request for a cheque to the service user / agent acting on behalf of the service user or close family member in the event of death. The cheque should be made payable to the London Borough of Barnet.

8.30 If the service user / agent or family member does not respond then the matter should be referred by the monitoring officer to the Income Section for debt retrieval. The monitoring officer should also inform the care co-ordinator team.

8.31 The recipient is responsible for paying any bank charges for overdrafts unless it can be shown that the Council is responsible for the overdraft e.g. late payments.

8.32 Under spending if not accounted for may require the care co-ordinator team to consider whether the recipients care package should be reviewed and amended.

**Table 9: Recovery Procedures - Retrieval of Surpluses**

<b>Task: Recovery Procedures - Retrieval of Surpluses</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Identifying Surpluses (at schedule review)	Care co-ordinator / Reviewing Officer	To inform the monitoring officer who will identify any outstanding commitments and calculate the net amount to be returned to the council with the assistance of an advisor if required.
Home visit to identify outstanding commitments and net surplus	Direct Payments Advisor	A Direct Payments Advisor will work with the monitoring officer to identify any outstanding commitments and the net surplus amount to be retrieved.
Identifying Surpluses (monthly monitoring)	Monitoring Officer	To identify any outstanding commitments and calculate balance to be returned to the council with the assistance of an advisor if required.  The monitoring officer will raise an invoice and write to recipient notifying them of the amount to be returned to them on behalf of the Council.  An invoice should accompany the letter.  Recipients should be informed that cheques are payable to the London Borough of Barnet.
Initiate Debt Retrieval	Monitoring Officer	Will inform the Income Section that the recipient has not responded to requests for surpluses to be returned and debt retrieval procedures are to be applied.  The Monitoring Officer will forward a copy of the Invoice to the Income Section.
Debt Retrieval	Income Section	Will retrieve debt following retrieval procedures.

**Suspension or Cancellation of the Direct Payment**

8.33 Failure to maintain accurate records, or failure to comply with other requirements set out in the Direct Payments guidelines and the written agreement, may result in the suspension or removal of the Direct Payment and recovery procedures being initiated (see Retrieving Surpluses p.49).

- 8.34 The care co-ordinator should initiate and co-ordinate such proceedings as they have a duty of care to the service user and may have to substitute Direct Payments care with direct provision, with the agreement of the respective Team Manager. The care co-ordinator should inform the Direct Payments Administrator and the Direct Payments Team of their intention to suspend/cancel.
- 8.35 As per 'Retrieving Surpluses' a Direct Payments Advisor should visit the service user to calculate outstanding commitments and determine the surplus to be recouped. Other reasons for suspension may include:
- Prolonged stay in hospital or a prolonged stay abroad.
- 8.36 The service user should notify the care co-ordinator in advance if they intend to remain abroad or will be in hospital for more than one month.
- 8.37 A suspension of the Direct Payment for any reason requires a 'Head of Service' agreement (no exceptions) the suspension would trigger a review of service and could lead to the termination of the direct payment and the offering of alternative services.

In the event that it is believed that Fraud has occurred, a referral to CAFT (Corporate Anti-Fraud Team) should be made for an investigation to CAFT

CAFT Fraud Line 020 8359 2007.

### **Holidays and short stays in hospital**

- 8.38 A Direct Payment can continue if a service user is on holiday or in hospital as a Direct Payment is intended to facilitate independent living opportunities, which may require the support of a personal assistant. The appropriate period for the continuation of the Direct Payment will be determined by the care co-ordinator and will be dependent on individual circumstances.
- 8.39 The co-ordinator will need to consider:
- Whether the service users requires the support of the personal assistant to facilitate independent living opportunities
  - Whether the service user has employer responsibilities i.e. do they employ directly and would it be detrimental to the service user if they were to lose the service of a valued employee.
- 8.40 A retainer payment to the personal assistant may have to be considered depending on the service user's length of stay in hospital.
- 8.41 It is, however, not appropriate to use the Direct Payment to pay for any expenses relating to a holiday e.g. travel or accommodation costs for the personal assistant or the service user, unless this has been previously agreed as an alternative to residential respite by the care co-ordinator.
- 8.42 The recipient should ensure that sufficient funds are kept in the Direct Payment account to meet all unpaid invoices. In the event of any unforeseen or unusual expenses, the recipient is advised to contact the Direct Payments Advisor for

advice as soon as possible with details so that additional money, if deemed appropriate, can be made available.

**Table 10: Hospital Admission or Holiday**

<b>Task: Hospital Admission or Holiday</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Informing the council of extended hospital admission or holiday i.e. more than 1 month.	Direct Payments Recipient / agent or family member	To inform the respective care co-ordinator team
Decision to continue, suspend or cease Direct Payments	Care Co-ordinator Care Co-ordinator Team Manager	The appropriate care co-ordinator team manager should be informed if the recipient is admitted to hospital or taking an extended holiday i.e. more than 1 month.  The care co-ordinator team manager will determine whether a Direct Payment should continue, be suspended or cease.
Suspension or cancellation of a Direct Payment	Care Co-ordinator Team Manager	The care co-ordinator team manager will inform the Direct Payments Administrator and the Direct Payments Team (via an allocated care co-ordinator if applicable) that the recipients Direct Payment will be suspended or cancelled.
Recovery Procedures	Care co-ordinator team manager	Will initiate the Recovery Procedure and request the Monitoring Officer to identify surpluses (see Recovery Procedures).

**Table 11: Failure to comply with Direct Payments**

<b>Task: Suspension or Cancellation of the Direct Payment</b> Failure to maintain accurate records, or failure to comply with other requirements set out in the Direct Payments guidelines and the written agreement may result in the suspension or removal of the Direct Payment and recovery procedures being initiated.		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Identifying failure to comply with procedures	Care Co-ordinator / Reviewing Officer / Direct Payments Advisor / Monitoring Officer	The appropriate care co-ordinator team manager should be informed if the recipient fails to comply with Direct Payments requirements.  The care co-ordinator team manager will then initiate an investigation.
Investigation	Care Co-ordinator Team Manager	The care co-ordinator team manager will determine whether a Direct Payment should continue, be suspended or cease.  It will be their responsibility to ensure that appropriate provision to the service user is maintained whilst the investigation takes place and or if the Direct Payment is suspended or cancelled.
Need for further training	Care Co-ordinator Team Manager / Direct Payments Team	If the Team Manager decides that failure to comply is related to a misunderstanding then they may decide to continue payments subject to training by the Direct Payments Team.  The Team manager should then ensure the service user's use of Direct Payments is reviewed.
Suspension or Cancellation of a Direct Payment	Care Co-ordinator Team Manager	The care co-ordinator team manager will inform the Direct Payments Administrator and the Direct Payments Team (via an allocated care co-ordinator if applicable) that the recipients Direct Payment will be suspended or cancelled. If suspension is due to suspected fraud then a referral should be made to CAFT
Recovery Procedures	Care co-ordinator team manager	Will initiate the Recovery Procedure and request the Monitoring Officer to identify surpluses (see Recovery Procedures – table 9).

## 9 Recipients - Record Keeping

### **Designated Bank Account**

- 9.2 Direct Payment recipients must open a bank or building society account for the sole purpose of administering the purchase of care provision and associated costs via the Direct Payment.
- The bank/building society account should only be used for purchasing care arrangements.
  - The Direct Payment recipient should pay their contribution as determined by a financial assessment (if applicable) into this bank account.
  - The account should not contain any of the service user's private money (other than their expected contribution towards the care package).
- 9.3 The council accepts that it may be more practical for some service users to combine the money they receive from the Independent Living Fund into the same bank account as their Direct Payment since it:
- May prove impossible or unduly difficult for some service users to obtain three separate bank accounts (personal, DP and ILF)
  - Is more practical to manage a combined package of care (Direct Payments and ILF) from the same bank account.
- 9.4 Copies of all bank statements must be kept in the appropriate section of the Direct Payments Advice Pack supplied by the Direct Payments Team. The Direct Payments Monitoring Officer will inspect bank statements as part of the monthly monitoring process (see Reviewing and Monitoring p.25).
- 9.5 Recipients can only use their Direct Payment to purchase services to meet their needs as identified within the Community Care Assessment.

### **Direct Payments Advice Pack**

- 9.6 Documents that should be retained by the service user include:
- All invoices and receipts
  - Signed receipts for cash payments (these should be avoided whenever possible)
  - Bank Statements, cheque books and paying-in books
  - Direct Payment Reconciliation Sheets
  - Payroll details (if applicable).
- 9.7 Each recipient will be expected to keep these documents and any other important documentation and information about the arrangements for their care as listed within their Direct Payments Advice Pack.
- 9.8 Although the Direct Payments Advice Pack is maintained by the recipient, it needs to be made available to officers of the Council as and when requested, either at review meetings or when an Audit requirement has to be met.

## **Direct Payments Advice Pack used as an auditing tool.**

- 9.9 The 'Direct Payments Advice Pack is an essential audit tool and the continuation of a Direct Payment is dependent on the service user returning monthly bank statements and proof of expenditure to the Direct Payments Monitoring Officer. This information should be kept within the Direct Payments Advice Pack for audit purposes.
- 9.10 The local authority will keep a copy of each month's bank statement and reconciliation sheet. This shows that the Monitoring Officer has reconciled expenditure e.g. receipts and invoices against the outgoings presented in the bank balance.
- 9.11 The Council will keep these records for six years in addition to the current year. The original documents including invoices will be returned to the recipient to be kept in their Direct Payments Advice Pack.
- 9.12 The recipient should keep these records within the Direct Payments Advice Pack until they have been verified at the Annual Review. If the Annual Review is satisfied that the Direct Payment has been spent appropriately then the Council will no longer require the documentation.
- 9.13 It is, however, important to make the recipient aware that if they employ their own staff then they have additional responsibilities in relation to record keeping and they will have to keep records in accordance with Her Majesty Revenue and Customs Policy.

## **Payments and receipts**

- 9.14 Payments should be made in the form of cheques or by direct debit to ensure an adequate audit trail. Recipients are strongly advised not to make payments in cash. Where this may be unavoidable, recipients are required to keep a written record of any payments made in cash as well as a signed receipt.
- 9.15 Where the Direct Payment includes an element for overheads relating to a live-in personal assistant, the recipient should, after receiving a Direct Payment, transfer that amount by cheque from the Direct Payment account to the account from which the overheads e.g. electricity bills, gas bill, are paid.
- 9.16 Receipt details should include the date, the amount, services provided and the signature of the person paid.

## 10 The Independent Living Fund (ILF)

10.1 The Independent Living Fund was originally set up by Central Government to enable disabled people to buy the support they need to live independently in their own homes rather than in residential care. ILF funding can be used to purchase personal assistance and domestic care in a similar manner to Direct Payments. The ILF Deed has been updated and will be operational as of 1<sup>st</sup> Oct. 2007. The purposes for which ILF can be used are more clearly specified in the new Deed (see below). Their criteria is such that it enables service users to have greater choice and access to social opportunities in addition to meeting service users basic care needs.

Qualifying Support and Services means support and services only in respect of:

- cleaning and other domestic duties
- cooking and preparing food and drink
- laundering and ironing
- shopping
- personal hygiene and grooming
- dressing
- eating
- drinking
- physical movement such as turning, walking
- supervision in order to avoid substantial danger to themselves or others.

10.2 There are two separate funds, the Extension Fund and the 93 Fund. The Extension Fund is the original ILF fund. Service users who receive money from this fund can currently get up to £785 per week (Oct. 2006) to pay for their support. They do not have to receive funding from Social Services in order to be eligible for this, although in practice service users do receive funding from both the ILF Extension Fund and Social Services.

10.3 Importantly the Extension Fund was closed to new applicants in April 1993, and a new fund was opened. This is called the ILF 93 Fund. The maximum weekly amount from this fund is now £455 (Oct. 2006). This is the fund that most care co-ordinators need to familiarise themselves with.

### **Eligibility Criteria**

10.4 Service users who wish to apply to the ILF must meet the following eligibility criteria:

- They must be aged between 16 and 65 (this will be lowered to 64 years Oct 2007) at the time of making the application. Please note that once ILF is agreed it will continue for life if still appropriate.
- They must be in receipt of Disability Living Allowance Care Component at the high rate.
- They must be expected to live within the community for at least 6 months following funding.
- They must have savings and or capital of less than £18500 (inclusive of their partners) (Oct. 2006).

- 93 Fund service users must also receive at least £200 worth of money or services from their Local Authority per week. This will change to £10,400 per annum as of 1<sup>st</sup> Oct, 2007. This differs from the Extension Fund where input from the Local Authority is not required.

### **How much will the ILF contribute?**

- 10.5 The ILF will pay a service user up to £375 per week (Oct. 2006). They can pay up to a maximum of £455 per week. However this higher amount must be matched pound for pound (beyond the £375 limit) by the Local Authority.
- 10.6 For the first 6 months, the service user's combined care package from the local authority and ILF must not exceed £785 per week (Health or Supporting People funding is not counted) (Oct.2006). If it is more than this, the ILF will not become involved.
- 10.7 After the first 6 months, the local authority may increase the combined care package to a value of more than £785 per week if necessary without effecting the ILF contribution.
- 10.8 If the local authority input into the care package is reduced in any way after being set up, there is a danger that ILF will pull out of funding the care package. If the local authority input is reduced to less than £200 (£10,400 per annum as of 1<sup>st</sup> Oct, 2007), the service user will no longer be eligible to receive ILF funding, as they will no longer meet the eligibility criteria.
- 10.9 The ILF pays the client every 4 weeks in arrears, so there are 13 payments per year.

### **ILF Financial Assessment**

- 10.10 Service users wishing to receive money from the ILF have to complete an ILF financial assessment. This assessment is separate from the local authority financial assessment.
- 10.11 All service users who receive ILF funding are expected to contribute half of their DLA care component towards the cost of their care every week.
- 10.12 In addition service users who receive the Severe Disability Premium as part of their Income Support are expected to contribute all of this money towards their care costs every week. This is because the Government intends these benefits to be used to meet the disabled person's care costs.
- 10.13 Any pension that the service user or their partner receives will also be taken into account however any earnings will be ignored.

### **What will the ILF pay for?**

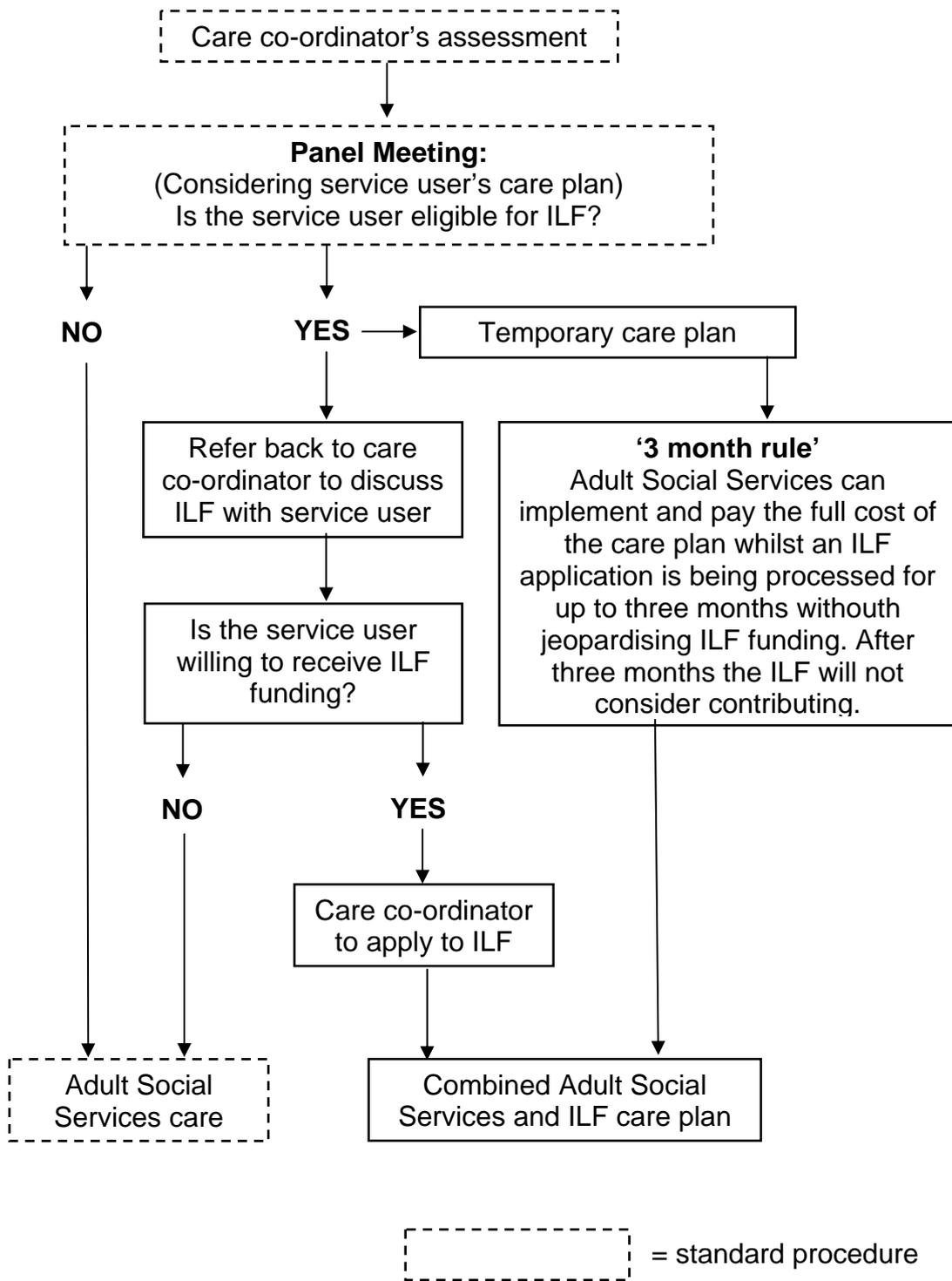
- 10.14 They will pay for a privately employed personal assistant or an agency worker (see Qualifying Support and Services on previous page). However, unlike Direct

Payments, they will not pay for a service user to employ relatives living in the same house.

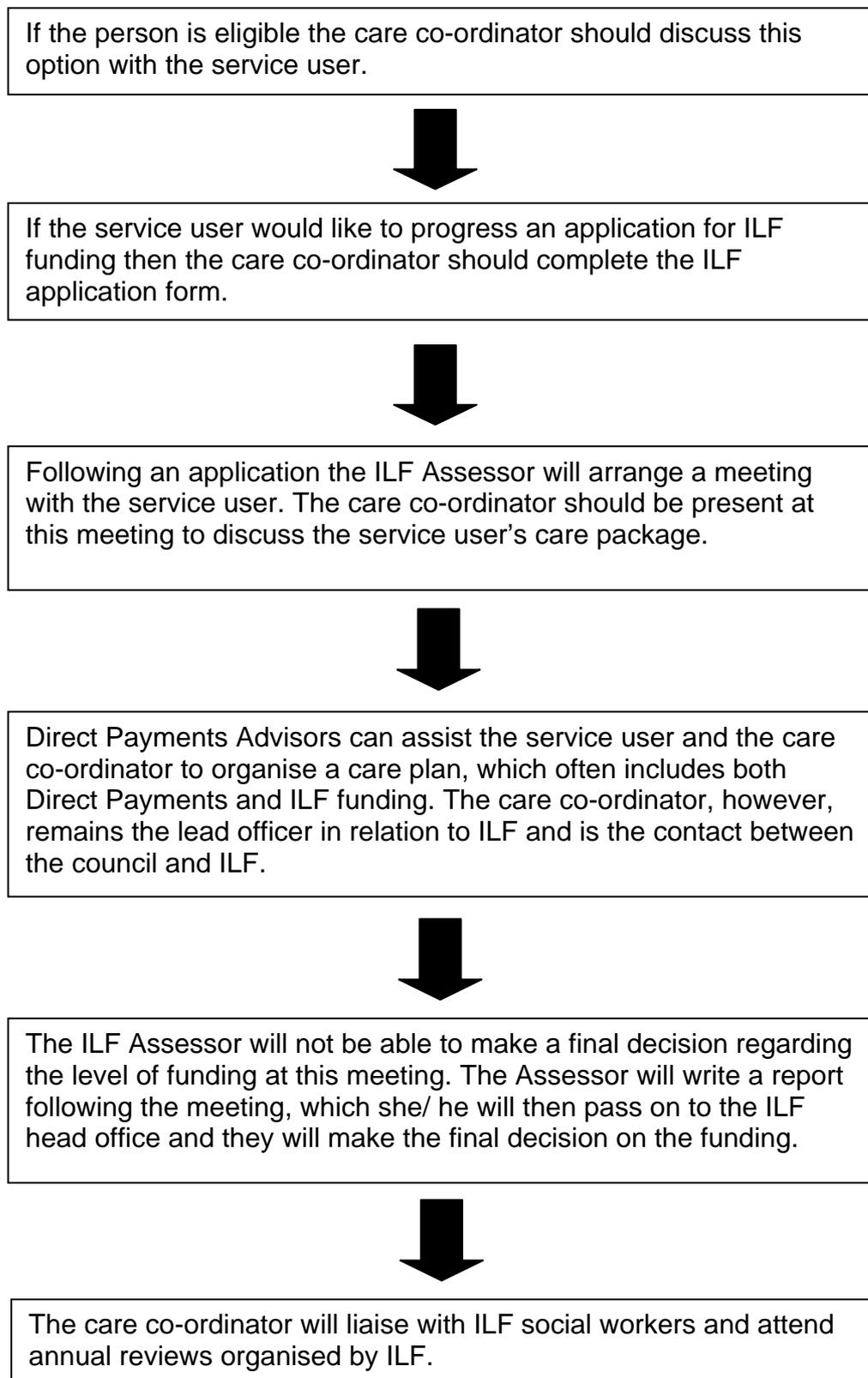
**ILF Procedure.**

- 10.15 Care co-ordinators should consider if the care plan they are proposing, whether a new package or an extension to an existing package will meet ILF criteria.
- 10.16 Panel / management should also consider whether a proposed care plan will be eligible for ILF funding and if so they should refer the matter back to the care co-ordinator for consideration.
- 10.17 Please note that it is acceptable for the local authority to temporarily cover the cost of a care plan whilst applying for an ILF contribution for up to 3 months, however, if a care plan has been funded by the local authority for more than three months they will not consider making a contribution.

**Diagram 2: Independent Living Fund – Flow Chart**



### **Diagram 3: Independent Living Fund Process**



## 11 Abridged Procedure Tables

**Table 1: Initiating a Direct Payment (following a Community Care Assessment)**

<b>Task: Initiating a Direct Payment following a Community Care Assessment</b> (identified in bold are care co-ordinator tasks in addition to usual procedures)		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Community Care Assessment	Care co-ordinator and team manager	To identify appropriate provision, taking into account eligibility criteria and Direct Payment guidance.
Financial assessment	Care co-ordinator	See 'Financial Assessment and Contribution'
Care plan agreement	Care co-ordinator / team manager / panel	The care plan will be agreed in accordance with usual procedures.
Start-up form	Care co-ordinator	Send completed start-up form to the Direct Payments Administrator.
Offer letter	Care co-ordinator	Complete standard Direct Payments offer letter confirming Direct Payments and send to recipient. Keep a copy on client file.
Referral to Direct Payments Team  (Please note that a referral to DPAS is not necessary for one-off payments.)	Care co-ordinator	A Direct Payments Advisor will ensure that the service user and the agent (if applicable) are fully aware of their commitments with regard to managing the Direct Payment. They will also explain the monitoring arrangements as well as provide any necessary training and support.  The care co-ordinator may chose to involve the Direct Payments Team earlier e.g. a joint visit to explain Direct Payments.
Written Agreement	Care co-ordinator	Ensure the service user understands the written agreement and all signatories sign the document. A copy should be kept on file and the original kept by the recipient.
Opening a bank account	Recipient / Direct Payments Advisor	The recipient will open a bank account to receive Direct Payments. The Direct Payments Advisor will assist if required.
Providing account details for BACS payments	Recipient / Direct Payments Advisor / Accounts Payable	The recipient will provide their bank account details to the Direct Payments Advisor.  The advisor will provide this information to Accounts Payable Team. Accounts Payable will make payments to the recipients account (see Processing Payments).

**Table 2: Financial Assessment and Contribution**

<b>Task: Financial Assessment and Contribution.</b> All service users who have been identified as potential recipients of Direct Payments (other than carer's Direct Payments) must be financially assessed in accordance with the council's Fairer Charging Policy.		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Issuing of financial assessment Form	Care co-ordinator	To mark form as Direct Payments application since Assessment and Income Team will prioritise Direct Payments.  Give the form to the recipient and advise and support them and or their family to complete if required.
Complete financial assessment form	Recipient of Direct Payment	To complete and return the form to the Assessment and Income Team promptly, as payments cannot start until the contribution is determined.
Financial Assessment	Assessment and Income Team	Direct Payments assessments are prioritised by the Assessment and Income Team as services cannot start until the service user's contribution has been established given. Direct Payments are paid net of contribution.  To complete the assessment in accordance with the council's Fairer Charging Policy.  Send a copy of the letter notifying recipients of their contribution to the Direct Payments Administrator.
Deducting contribution from Direct Payment	Direct Payments Administrator	The Direct Payments Administrator will deduct the contribution and calculate a net Direct Payment and input onto SWIFT (see Processing Payments).  (This should be automated once Independent Sector Payments are implemented.)
Subsequent Financial Assessments	(see Amending Contributions).	

**Table 3: Review and Monitoring Direct Payments**

<b>Task: Reviewing and Monitoring</b> All Direct Payments Care Packages will be reviewed in accordance with the council's reviewing procedures and are the responsibility of the care co-ordinator.		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Initial Review (after 7 weeks)	Care co-ordinator	Frequency: 7 weeks after the start of Direct Payments.  The purpose is to determine whether the Direct Payments care plan is working for the service user. Any changes would need to be agreed by the respective team manager. The care co-ordinator may decide to refer to the Direct Payments Team for assistance.
Monthly Financial Returns	Recipient / Monitoring Officer	Frequency: Every month.  The recipient will send a bank statement and any proof of expenditure to the monitoring officer.  The monitoring officer will reconcile the bank statement with expenditure and record the outcome on the reconciliation sheet. The monitoring officer will keep a copy of the bank statement and reconciliation sheet with the (DPA) service user's file.
Annual Scheduled Review	Reviewing Officer/ Care co-ordinator	Frequency: Every 12 months  The reviewing officer / care co-ordinator will liaise with the monitoring officer to determine whether the service user is managing financially and regularly submitting their records.  They will check the reconciliation sheets attached to the bank statements which should be kept within the 'green folder' to ensure that the recipient is abiding by their agreements.  Given that financial monitoring is undertaken on a monthly basis, the reviewing officer / care co-ordinator will focus on the quality of care provided by the Direct Payment.

**Table 4: Initiating a Carers Direct Payment**

<b>Task: Initiating a Carers Direct Payment</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Complete a carer's assessment to identify need and appropriate-ness of carer's Direct Payments	Care co-ordinator and Team Manager	To identify appropriate provision taking into account eligibility criteria and Direct Payment guidance.
Care plan agreement	Care co-ordinator Team Manager / Panel	The care plan will be agreed in accordance with usual procedures.
Complete a Direct Payments Start-up Form	Care co-ordinator	Complete relevant sections and send the form to the Direct Payments Administrator.
Complete a Carer's Written Agreement	Care co-ordinator	Ensure the carer understands the written agreement and all signatories sign the document.  A copy should be kept on file and the original returned to the carer.
<i>A referral to the Direct Payments Team is not usually required, however, they will provide advice if required.</i>		

**Table 5: Criminal Records Check**

<b>Task: Criminal Records Bureau checks</b>		
<b>Task:</b>	<b>Responsibility</b>	<b>Instruction</b>
Inform the recipient of the importance of CRB checks.	Direct Payments Advisor / Care co-ordinator	<p>The care co-ordinator will give the prospective recipient of a Direct Payment the CRB leaflet and stress the importance of enhanced CRB checks.</p> <p>The Direct Payments advisor will also ensure that the recipient is aware of the importance of enhanced CRB checks when employing directly or if through an agency the importance of only using agencies who CRB check their staff.</p> <p>The advisor will ensure that the check list form (DPCL/1) is completed and signed by the recipient or agent acting on behalf of the recipient (if applicable).</p>
Providing Application for CRB check	Direct Payments Advisor	The recipient will contact the advisor in to obtain an application and guidance leaflet.
Completing the application	The recipient and their prospective personal assistant.	The recipient and their prospective employee will complete the application. The advisor can offer assistance if required.
Returning application	The recipient or their prospective personal assistant.	The application should be returned to the Direct Payments Team.
Processing the application	Direct Payments Advisor/ Human Resources/ Criminal Records Bureau	<p>The Direct Payments Advisor will forward the application to Human Resources.</p> <p>Human Resources will send the application to the Criminal Records Bureau for processing.</p> <p>The Criminal Records Bureau will send the results to the personal assistant / worker and to Human Resources.</p>
Informing the recipient of the outcome of the CRB check.	Human Resources	Human Resources will write to the recipient informing them of the outcome of the CRB check. A copy of the letter will be sent to the DPA Service to be kept on file.

**Table 6: Processing Payments**

<b>Task:</b> Processing Payments. The process of costing and processing a Direct Payment following an assessment should not normally take more than <b><u>four weeks.</u></b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Start-Up Form	Care co-ordinator	Send completed Start-Up form to the Direct Payments Administrator.
Inputting Direct Payments recipient as a 'provider' on SWIFT.	Direct Payments Administrator	On receipt of Start Up Form.
Acquiring vendor number	Direct Payments Administrator	On receipt of Start Up Form via email.
Supply of vendor number	Accounts Payable	Supply vendor number within three working days of request from the Direct Payments Administrator.
Recipient Contribution	Income and Assessment	Input contribution on SWIFT. Send a copy of the letter notifying recipients of their contribution to the Direct Payments Administrator (see Financial Assessments and Contribution).
Deducting Contribution from Direct Payment	Direct Payments Administrator	Direct Payments Administrator will deduct contribution and calculate net Direct Payment and input onto SWIFT.
Authorising and triggering payments	Direct Payments Administrator	Direct Payments Administrator to complete SWIFT tasks in order to trigger payment by Accounts Payable. To complete Payment Certification forms.
Payments to recipient	Accounts Payable	Make payments into recipient's bank account.
Control report to list all new service users added as providers each month.	Contracts Section	To create report and send to Team Managers for audit / confirmation purposes.
Audit / confirmation of accuracy of Control report	Team Managers	To email confirmation to Contracts or investigate if incorrect.

**Table 7: Financial Assessment and Contribution**

<b>Task: Financial Assessment and Contribution</b>		
All service users who have been identified as potential recipients of Direct Payments (other than Carer's Direct Payments) must be financially assessed in accordance with the council's Fairer Charging Policy.		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Issuing of Financial Assessment Form	Care co-ordinator	To mark form as Direct Payments application as Income and Assessment will prioritise Direct Payments.  To issue form to recipient and advise and support him / her and or their family to complete if required.
Complete Financial Assessment Form	Recipient of Direct Payment	To complete and return the form to the Financial Assessment and Income Team promptly as payments cannot start until contribution is determined.
Processing the Financial Assessment	Financial Assessment and Income Team	To prioritise Direct Payments assessments.  To complete the assessment in accordance with the council's Fairer Charging Policy.  Send a copy of the letter notifying recipients of their contribution to the appropriate Direct Payments Administrator and care co-ordinator.
Deducting client contribution from Direct Payment	Direct Payments Administrator	Direct Payments Administrator to deduct contribution and calculate net Direct Payment and input onto SWIFT (see Processing Payments).
Subsequent Financial Reviews	(see Amending Contributions)	

**Table 8: Reviewing and Amending Contributions**

<b>Task: Reviewing and Amending Contributions</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Financial Review / Reassessment	Financial Assessment and Income Team	To reassess the service users contribution on an annual basis.
Inform Direct Payments Administrator of change.	Financial Assessment and Income Team	Input contribution on SWIFT. Send Direct Payments Administrator a copy of the service user's notification and copy of SWIFT input Tab showing new contribution.
Amending contributions	Direct Payments Administrator	Amend contribution and net payment on receipt of a copy of the service user's notification and copy of SWIFT input tab showing new contribution from the Assessment and Income Team.  (This should be automated with the implementation of Independent Sector Payments)
Report to identify errors i.e. no change in payments following change in contribution.	Business & Performance Team	Produce a monthly error report identifying where there has been no change in payment following a change in contribution.
Monitoring changes in contribution	Direct Payments Administrator line manager	To check error report to identify when change in Direct Payments has not been implemented by the Direct Payments Administrator following a change in client contribution.
Investigate and ensure amendment to payment is implemented.	Direct Payments Administrator line manager / Direct Payments Administrator	Ensure that the Direct Payments Administrator corrects any errors so that payments take account of any changes of contribution.

**Table 9: Recovery Procedures - Retrieval of Surpluses**

<b>Task: Recovery Procedures - Retrieval of Surpluses</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Identifying Surpluses (at schedule review)	Care co-ordinator / Reviewing Officer	To inform the monitoring officer who will identify any outstanding commitments and calculate the net amount to be returned to the council with the assistance of an advisor if required.
Home visit to identify outstanding commitments and net surplus	Direct Payments Advisor	A Direct Payments Advisor will work with the monitoring officer to identify any outstanding commitments and the net surplus amount to be retrieved.
Identifying Surpluses (monthly monitoring)	Monitoring Officer	<p>To identify any outstanding commitments and calculate balance to be returned to the council with the assistance of an advisor if required.</p> <p>The monitoring officer will raise an invoice and write to recipient notifying them of amount to be returned to them on behalf of the Council.</p> <p>An invoice should accompany the letter.</p> <p>Recipients should be informed that cheques are payable to the London Borough of Barnet.</p>
Initiate Debt Retrieval	Monitoring Officer	<p>Will inform the Income Section that the recipient has not responded to requests for surpluses to be returned and debt retrieval procedures are to be applied.</p> <p>The Monitoring Officer will forward a copy of the Invoice to the Income Section.</p>
Debt Retrieval	Income Section	Will retrieve debt following retrieval procedures.

**Table 10: Hospital Admission or Holiday**

<b>Task: Hospital Admission or Holiday</b>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Informing the council of extended hospital admission or holiday i.e. more than 1 month.	Direct Payments Recipient / agent or family member	To inform the respective care co-ordinator team
Decision to continue, suspend or cease Direct Payments	Care Co-ordinator	The appropriate care co-ordinator team manager should be informed if the recipient is admitted to hospital or taking an extended holiday i.e. more than 1 month.  The care co-ordinator team manager will determine whether a Direct Payment should continue, be suspended or cease.
Suspension or cancellation of a Direct Payment	Care Co-ordinator Team Manager	The care co-ordinator team manager will inform the appropriate Direct Payments Administrator and the Direct Payments Team (via an allocated care co-ordinator if applicable) that the recipients Direct Payment will be suspended or cancelled.
Recovery Procedures	Care co-ordinator team manager	Will initiate the Recovery Procedure and request the Monitoring Officer to identify surpluses (see Recovery Procedures).

**Table 11: Failure to comply with Direct Payments**

<b>Task: Suspension or Cancellation of the Direct Payment</b>		
<p>Failure to maintain accurate records, or failure to comply with other requirements set out in the Direct Payments guidelines and the written agreement may result in the suspension or removal of the Direct Payment and recovery procedures being initiated.</p>		
<b>Task</b>	<b>Responsibility</b>	<b>Instruction</b>
Identifying failure to comply with procedures	Care Co-ordinator / Reviewing Officer / Direct Payments Advisor / Monitoring Officer	<p>The appropriate care co-ordinator team manager should be informed if the recipient fails to comply with Direct Payments requirements.</p> <p>The care co-ordinator team manager will then initiate an investigation.</p>
Investigation	Care Co-ordinator Team Manager	<p>The care co-ordinator team manager will determine whether a Direct Payment should continue, be suspended or cease.</p> <p>It will be their responsibility to ensure that appropriate provision to the service user is maintained whilst the investigation takes place and or if the Direct Payment is suspended or cancelled.</p>
Need for further training	Care Co-ordinator Team Manager / Direct Payments Team	<p>If the Team Manager decides that failure to comply is related to a misunderstanding then they may decide to continue payments subject to training by the Direct Payments Team.</p> <p>The Team manager should then ensure the service user's use of Direct Payments is reviewed.</p>
Suspension or Cancellation of a Direct Payment	Care Co-ordinator Team Manager	<p>The care co-ordinator team manager will inform the appropriate Direct Payments Administrator and the Direct Payments Team (via an allocated care co-ordinator if applicable) that the recipients Direct Payment will be suspended or cancelled.</p>
Recovery Procedures	Care co-ordinator team manager	<p>Will initiate the Recovery Procedure and request the Monitoring Officer to identify surpluses.</p>

## 12 Proformas for use in the Direct Payments procedure

### **Forms used by Care Co-ordinators:**

- Start Up Form
- Offer Letter
- Referral Form (to Direct Payments Advisors)
- Written Agreement (on going payments to service users)
- Carers Written Agreement
- 'One-off' Written Agreement

### **Forms used by Direct Payments Advisors:**

- Direct Payments Checklist

## Adults and Communities Direct Payments Start-up Form

	Service User's Details	Carer's (for Carer's Direct Payments only)
Full name:		
Date of birth:		
Ethnicity:		
Gender:		
Swift ID:		
Full address and postcode:		
Tel numbers:		
Client category:	Physical Disabilities <input type="checkbox"/> Sensory Impairment <input type="checkbox"/> Learning Disabilities <input type="checkbox"/> Children with disabilities <input type="checkbox"/>	HIV/AIDS <input type="checkbox"/> Older Adult (65+) <input type="checkbox"/> Mental Health <input type="checkbox"/>

**Cost Service user direct payments only** (using Direct Payments rates)

Number of Units	Personal Assistance	£
	Weekly cost (hours per week multiplied by cost per hour):	
Other payments e.g. alternative day care services		
Please state purpose:		
Weekly assessed charge:		£
Weekly payment to service user (cost minus charge if known):		£
Monthly payment (weekly payment x52 then divide by 12):		£
Start-up payment:		YES / NO
(This payment is only paid to service users who will employ staff directly. It is <b>not</b> available to people who will use agency staff.)		£

Care co-ordinator's name:		Contact number:	
Start date for payments:		Date entered on Swift:	

**For Carer's Direct Payments only:**

Direct Payment amount:		Payment by cheque:	YES / NO
		Electronic bank transfer payment:	YES / NO
Single payment:	YES / NO		

## Adults and Communities Direct Payments Offer

Dear

I am pleased to inform you that the London Borough of Barnet is making you a Direct Payments offer of £        per week. The Council will pay you on a monthly basis and your financial contribution will be deducted at source. The table below shows how your payment has been calculated based on your assessed needs.

<b>Weekly Cost</b>		
Cost of care plan		£
Financial contribution		£
Weekly payment less financial contribution		£
<b>Monthly Payment</b>		
Weekly amount x 52 weeks divided by 12 months = £        per month		

The Direct Payment is intended to cover your assessed needs taking into account other contributions or assistance you may already receive. You now need to read and sign the written agreement, which explains your responsibilities. You will be responsible for maintaining all financial records on an ongoing basis whilst receiving money from the council.

Due to unforeseen delays in setting up payments directly into your designated bank account, your initial Direct Payment may be sent to you by cheque. This will be at the end of each month and will be made in advance by your social worker. A date for your first review will be arranged shortly after that.

You will also receive support from the Direct Payments Advisors based in Adults and Communities, 2<sup>nd</sup> floor, Building 4, North London Business Park, Oakleigh Road South, London N11 1NP (☎ 020 8359 3760 fax 0870 889 5485).

If you have any queries, please contact the social work team on ☎

I wish you well with your Direct Payments.

Yours sincerely

## Adults and Communities Direct Payments Referral

**Service User's Details:**

Full name:		Swift ID:	
Date of birth:	/ /	Gender:	Male / Female
Ethnicity:		Faith:	
Disability:			
Full address and postcode:			
Tel numbers:			
Next of kin:			
Care co-ordinator:			
Contact No / Team:			

**Details of Proposed Care:**

Domestic Care:	<input type="checkbox"/>	No of hours:		Rate per hour:	£
Personal Care:	<input type="checkbox"/>	No of hours:		Rate per hour:	£
Respite Care:	<input type="checkbox"/>	No of days:		Rate per day:	£
Other:	<input type="checkbox"/>				

**Type of Direct Payments:**

Service user:	<input type="checkbox"/>	Carers:	<input type="checkbox"/>	Respite:	<input type="checkbox"/>
Has a financial assessment been completed?					YES / NO

Please give reasons for this referral and current support

Referrer:		Date:	/ /
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**Direct Payments Team**

Adult Social Services, Building Four, North London Business Park, Oakleigh Road South, London, N11 1NP  
Tel: 020 8359 3760 Fax: 0870 889 5485

## Adults and Communities Direct Payments Written Agreement

This agreement is made between:

(Recipient's name).....

(Recipient's address).....

.....

and the London Borough of Barnet.

### 1. **Barnet's Agreements:**

- 1.1 Barnet agrees to pay Direct Payments (net of any contribution) to meet the recipients assessed needs as outlined in their care plan.
- 1.2 The payments will be made electronically by BACS, direct to the bank account which the recipient has opened specifically for this purpose. The payments will be made until further notice.
- 1.3 This agreement will be reviewed jointly by the recipient and an officer of Barnet after the first 7 weeks. Further reviews will occur on an annual basis.
- 1.4 Barnet agrees to provide the recipient with the assistance and support s/he reasonably requires to purchase the service(s) to meet their needs as defined by the care plan.

### 2. **Recipient's Agreements:**

- 2.1 The recipient promises to use the money provided by London Borough of Barnet for the purpose of purchasing the service(s) to meet their needs as defined by the care plan and for no other purpose.
- 2.2 The recipient will open a bank account for the sole purpose of administering the purchase of care and associated costs using their Direct Payment.
- 2.3 Barnet accepts that it may be practical for some service users to combine the money they receive from the Independent Living Fund into the same bank account as their Direct Payment as long as all monies are accounted for.
- 2.4 The recipient agrees to pay their financial contribution (if applicable) into the designated Direct Payments bank account.
- 2.5 The recipient agrees to keep the following records available for inspection by an officer of London Borough of Barnet at all reasonable times upon request:
  - Bank statements
  - Reconciliation sheet (completed by the monitoring officer and attached to the bank statement)
  - Invoices and receipts
  - Cheque book / paying-in book
  - Payroll details (if applicable)
- 2.6 The recipient agrees to provide the following information every month:
  - Bank statements, invoices and receipts
- 2.7 The recipient agrees to comply with all legal obligations upon them as an employer / contractor for services.
- 2.8 The recipient is expected to be a good employer and in this respect must comply

with all Health and Safety requirements as required by the Health and Safety at Work Act (1974). The recipient should be conversant with good employment practices guidelines.

2.9 The recipient agrees to repay to London Borough of Barnet any Direct Payment surpluses or overpayments.

### **3. Termination or suspension of payments**

3.1 This agreement may be terminated by the mutual consent of the recipient and London Borough of Barnet at any time, provided alternative arrangements have been made for the provision of such services as appear to Barnet necessary to meet the recipient's needs.

3.2 Barnet reserves the right to vary the sum to be paid to the recipient at any time following a prior consultation with the recipient.

3.3 Barnet may terminate this agreement at such time as they reasonably believe that the recipient is no longer in need of the service(s) described in their care plan, having given no less than 14 days' notice in writing that they propose to do so. Barnet agrees that they will give proper consideration to any views expressed by the recipient during the notice period.

3.4 Barnet has absolute discretion to vary or terminate this agreement or suspend the payment of a Direct Payment without notice if:

- The recipient is in breach of any of its terms
- Barnet considers that Direct Payments are no longer an appropriate way of arranging the provision of the service as described by the care plan
- The recipient is declared bankrupt
- The recipient is involved in any type of corruption.

3.5 Barnet agrees not to vary or terminate this agreement unreasonably, and will consult the recipient before making a decision unless they reasonably believe that this is inappropriate.

3.6 The recipient must notify the council (relevant social work team) of any changes in circumstances which would affect their assessed needs or entitlements to Direct Payments.

3.7 Barnet may temporarily suspend payment of the Direct Payment if the recipient does not temporarily need the service e.g. hospital admission. In such circumstances the recipient should contact the relevant social work team. The appropriate period for the continuation of the Direct Payment will be determined by the social worker / care co-ordinator in consultation with their team manager and will be dependent on individual circumstances (see 3.9).

3.8 Barnet acknowledges that it may be appropriate for a Direct Payment to continue if a service user is on holiday or in hospital given that Direct Payments are intended to facilitate independent living opportunities and this may require the support of a personal assistant.

3.9 The appropriate period for the continuation of / or amendments to the Direct Payment will be determined by the care co-ordinator in consultation with their team manager and will be dependent on individual circumstances.

3.10 The care co-ordinator and team manager will need to consider:

- Whether the service user requires the support of the personal assistant to facilitate independent living opportunities.

- Whether the service user has employer responsibilities i.e. do they employ directly and would it be detrimental to the service user if they were to lose the service of an employee.

3.11 Barnet recognises that a retainer payment to the personal assistant may have to be considered depending on the service user's length of stay in hospital. It is however not appropriate to use the Direct Payment to pay for any expenses relating to a holiday e.g. travel or accommodation costs for the personal assistant or the service user, unless this has been previously agreed as an alternative to residential respite by the care co-ordinator and their manager.

#### **4. Appeals and Complaints**

4.1 If the recipient has any complaints or wishes to appeal against any decisions made about their situation then they should in the first instance have an initial discussion with the social worker / care co-ordinator and/or their line manager, to try and negotiate a satisfactory resolution. Failing this the recipient may decide to make a formal complaint via Barnet Adult Social Services Complaints Procedure.

#### **5. Criminal Records Bureau (CRB) checks**

5.1 As a Council we are cautious not to interfere with the control, choice and independence that Direct Payments facilitates for Direct Payments recipients. Nevertheless, it is Council policy to actively encourage service users to CRB check their prospective staff if they wish to employ directly or ensure that the agency they wish to use CRB checks their staff.

5.2 However, if a Direct Payments recipient wants to start employing prior to a CRB check being completed, then we strongly advise them to make it clear that the offer is subject to a satisfactory CRB check and that they reserve the right to terminate the contract if an adverse CRB check is received.

5.3 As part of the council's policy commitment towards safe guarding service users and the importance of obtaining CRB checks, the council will process the CRB and pay the fee.

#### **Why is a CRB important?**

*A CRB check will identify people who may be unsuitable to undertake care work because they have a criminal record. This reduces the risk of abuse by ensuring that those who are unsuitable are not able to work within the caring professions.*

A CRB check is not compulsory, but Barnet council strongly recommends that you have all potential workers checked.

#### **How to get a CRB check?**

Individuals cannot apply to have a CRB check completed themselves. Only organisations like the council or a voluntary agency can do this.

If you require a potential worker or are already employing someone and you would like a CRB check completed, then please contact the Barnet Direct Payments Team, ☎ 020 8359 3760 Fax 0870 889 5485, and a member of the team will send you a CRB leaflet and a CRB application form which needs to be completed by the worker.

**What information is revealed in the CRB check?**

There are two types of disclosure, standard or enhanced. We recommend an enhanced check as this will reveal the following:

- Any current and spent convictions
- Cautions, reprimands and warnings recorded on the police national computer
- Information on the Protection of Children Act list
- Information on the Protection of Vulnerable Adults list
- Information on the Section 142 Education Act 2002 list
- Local police information.

**Important information**

If you decide not to CRB check staff or use an agency who do not CRB their staff then please be aware that It is an offence under the Criminal Justice and Courts Services Act 2000 if an individual knowingly offers work with children to, or procures work with children for, an individual who is disqualified from working with children or allows such an individual to continue in such work.

**Where to go for more information**

If you have any questions about the CRB checks or would like any further information, please contact Direct Payments Team on ☎ 020 8359 3760 fax 0870 889 5485. Or write to: Direct Payments Team, Adult Social Services, 2<sup>nd</sup> Floor, Building 4, North London Business Park, London NW11 1NP

**6. Recipients Declarations**

- 6.1 I ..... (recipient’s name), confirm that I have read the agreement including the section on CRB checks and understand it.
- 6.2 I understand that I am personally responsible for managing all Direct Payments and accounting for them to Barnet, even if someone else helps me.
- 6.3 I agree to abide by the terms of this agreement.
- 6.4 I understand that I can only use the money I receive for Direct Payments for the care that I need as stated in my Care Plan.

**Recipient**

*Signed*..... (Recipient)

*Date*.....

**Care co-ordinator / social worker**

I confirm that I have discussed the Direct Payment agreement fully with the recipient and I agree to support him / her to use their Direct Payment.

*Signed*..... (Care co-ordinator / social worker)

*Date*.....

**Team Manager**

*Signed*..... (Team Manager)

*Date*.....

**DPCWA/1**

**Adults and Communities**

**Direct Payment to Carers Written Agreement**

This agreement is made between:

(Recipient's name).....

(Recipient's address).....

.....

and the London Borough of Barnet.

- 1.1 This document records the Agreement, made on ..... (date) between London Borough of Barnet Adult Social Services and the above named person.
- 1.2 The agreement will start on ..... (date).
- 1.3 The **one-off** total value of the agreement will be £
- 1.4 The Direct Payments recipient agrees to use the money to purchase services or equipment as agreed in their assessment and is responsible for the services or equipment that they purchase.
- 1.5 Receipts for all services or equipment must be returned to ..... within three months of spending the grant. Any grant money not spent must be returned to the council.

**2. Declarations**

2.1 I ..... (recipient's name), confirm that I have read the agreement and understand it. I agree to abide by the terms of this agreement.

**Recipient**

*Signed*..... (Recipient)

*Date*.....

2.2 I ..... (care co-ordinator's name), confirm that I have discussed the Direct Payment agreement fully with the recipient and I agree to support him / her to use their Direct Payment.

**Care co-ordinator**

*Signed*..... (Care co-ordinator)

*Date*.....

**Team Manager**

*Signed*..... (Team Manager)

*Date*.....

## Adults and Communities One-Off Direct Payment Written Agreement

This agreement is made between:

(Recipient's name).....

(Recipient's address).....

.....

and the London Borough of Barnet.

- 1.1 This document record the Agreement, made on ..... (date) between London Borough of Barnet Adults and Communities and the above named person.
- 1.2 The agreement will start on ..... (date).
- 1.3 The **one-off** total value of the agreement will be £
- 1.4 The Direct Payments recipient agrees to use the money to purchase services or equipment as agreed in their assessment and is responsible for the services or equipment that they purchase.
- 1.5 Receipts for all services or equipment must be returned to ..... within three months of spending the grant. Any grant money not spent must be returned to the council.

### 2. Declarations

2.1 I ..... (recipient's name), confirm that I have read the agreement and understand it. I agree to abide by the terms of this agreement.

**Recipient**

*Signed*..... (Recipient)

*Date*.....

2.2 I ..... (care co-ordinator's name), confirm that I have discussed the Direct Payment agreement fully with the recipient and I agree to support him / her to use their Direct Payment.

**Care co-ordinator**

*Signed*..... (Care co-ordinator)

*Date*.....

**Team Manager**

*Signed*..... (Team Manager)

*Date*.....

**DPCL/1**

## Adults and Communities Direct Payments Check List

**Service User's Details:**

Full name:		Swift ID:	
Agent (if app):			
Full address and postcode:			
DP Advisor:			

**Employment**

Are you aware of all your responsibilities as an employer?	YES / NO
Have you set up public liability insurance?	YES / NO
Has a payroll company been set up?	YES / NO
Have you given your personal assistant a contract of employment?	YES / NO

**Bank Account**

Has a separate bank account for Direct Payments been set up?	YES / NO
Have the bank account details been given to your DP Advisor?	YES / NO

**Training and Health and Safety**

Do you require any training on becoming an employer?	YES / NO
Do you have any other training needs?	YES / NO
Are you aware of your health and safety responsibilities?	YES / NO
Have you identified any manual handling to your personal assistant?	YES / NO
Do you have arrangements in case of an emergency?	YES / NO

**CRB Checks**

Has the advisor explained the importance of CRB checks?	YES / NO
I have received a CRB check leaflet.	YES / NO
Has the advisor explained how they can help you get a CRB check?	YES / NO
Do you want to have a CRB check undertaken on any employees?	YES / NO

It as been explained to me that it is an offence under the Criminal Justice and Courts Services Act 2000 if an individual knowingly offers work with children to, or procures work with children for, an individual who is disqualified from working with children or allows such an individual to continue in such work.

Service User/Agent signature: ..... Date: .....

Direct Payments Adviser signature: ..... Date: .....

The original should be kept on file by the Direct Payments Team and a copy sent to the recipient and the care co-ordinator