



**Direct Payments
Policy, Procedure and Practice**

DRAFT 18/03/10

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INFORMATION SHEET	
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Date effective from	1 st April 2009
Responsible officer(s)	Hazel Coen - Divisional Manager (Finance & Support) Andrea Holland – Senior Direct Payments/Individualised Budgets Officer (Client Finance)
Date of review(s)	April 2010
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POLICY

Purpose

- 1.1 The purpose of this Policy, Procedure and Guidance is to tell staff about their role and responsibility with regard to Direct Payments, which also encompasses the needs of people from diverse communities. A separate guide has been written for people who use our services. The documents complement each other and strive to develop the greatest degree of independence and choice for people who need services in Halton.

Introduction to Direct Payments

- 1.2 The Direct Payments Guidance Community Care Services for Carers and Children's Services Guidance England 2003 requires Social Services to make direct cash payments to enable a person to obtain for themselves the services that they have been assessed as needing, subject to eligibility.

1.3 The following groups of people may be eligible for Direct Payments:

- Older and disabled people aged 16 or over
- People with parental responsibility for disabled children
- Carers aged 16 or over in respect of carer services

1.4 The Direct Payment is made by Social Services instead of providing or arranging for the provision of services. The person then uses the money to purchase services to meet their assessed needs. In the case of disabled children, the parent or person with parental responsibility secures services to meet the needs of the child and their family.

1.5 Direct Payments must be made to all individuals who are eligible to receive them and want them. Each eligible individual should be offered the choice of having their needs for a service met through Direct Payments as part of the care planning process.

1.6 *In determining whether someone is a suitable person to receive direct payments on behalf of someone who lacks capacity to make a decision, where there is a willing representative - that is to say either a court-appointed deputy or a donee of lasting power of attorney - that person would act as the suitable person. However, other persons could also act as a suitable person. The suitable person could also be a family member or a close friend already involved in the provision of care for the person concerned. The council must still ensure that the best interests of the person lacking capacity are prioritised above all other considerations*

1.7 If a Care Manager feels it is appropriate for a third party to receive the Direct Payment on behalf of the person, the third party must open a separate dedicated bank account to receive the Direct Payment and must adhere to the conditions set out in the Direct Payment Contract. *This can only be done after a full assessment of*

Practice

Concept of Direct Payments

"Direct Payments help people who want to manage their own support to improve their quality of life. They promote independence, choice and inclusion by enabling people to purchase the assistance or services that the council would otherwise provide in order to live in their own homes, be fully involved in family and community life and to engage in work, education and leisure"
Department of Health Direct Payments Guidance 2003

The Direct Payment Guidance 2003

Replaces the Community Care (Direct Payments) Act 1996 Policy and Practice Guidance issued in 2000, the Carers and Disabled Children Act 2000 Direct Payments for young disabled people Policy and Practice Guidance issued in 2001 and the passages on Direct Payments contained in the Carers and Disabled Children Act 2000 Carers and people with parental responsibility for disabled children issued in 2001.

Relevant services

The duty to make Direct Payments applies to:
-a community care service within the meaning of section 46 of the National Health Service and Community Care Act 1990
-a service under section 2 of the Carers and Disabled Children Act 2000
-a service which local councils may provide under section 17 of the 1989 Act (provision of services for children in need, their families and others)

Government policy guidance

"The Government wants to see more extensive use made of Direct Payments in particular by those groups that have not made wide use of them up to now. For that reason local councils now have not just a power but a duty to make Direct Payments in certain circumstances." This has

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the person's capacity to decide about the use of Direct Payments has been made and documented. Also need to consider the situation of fluctuating capacity.

1.8 Halton's Direct Payment Scheme

The Direct Payments Scheme was originally launched as a one-year pilot from January 2001. Since then funding has been agreed to run the scheme on a permanent basis.

The project was developed in partnership with people who use services, statutory, independent, voluntary sector organisations and representative groups and is linked to other local activities for example, carer services and information provision.

The scheme is co-ordinated and managed by a Senior Direct Payment/Individualised Budget Officer, 4 Direct Payments/Individualised Budget Officers, Client Finance Officer and a Clerical Assistant (telephone number 01928 704436), who are managed by The Health & Community Directorate and have close links with other local user groups and service providers.

1.9 What Direct Payments can be used for

Direct Payments can be used to buy relevant services/equipment to meet needs identified as part of a person's care plan and may be used in the following ways:

- Employing a Personal Assistant – the person arranges services in a way that suits them. If a person employs personal assistants directly, whether as a sole or secondary employer, they must make adequate arrangements to fulfil their consequent responsibilities as an employer.
- Buying services from an agency.
- For short-term care (respite) in residential care which does not exceed a four week period in any 12 months (see below).
- Purchasing equipment that would otherwise have been provided by Social Services. (A policy and procedure for a pilot scheme for Direct Payments and Equipment is in place).
- To fund a carers break.

Any service purchased must be as cost effective or efficient as the Local Authority could arrange or buy.

1.10 What Direct Payments cannot be used for

- To relieve the Directorate of its statutory responsibilities towards a service user who is perceived as troublesome or difficult
- To purchase local authority services.
- For permanent residential care for adults. Direct Payments may be used to purchase short-term care (respite) in residential care. This is calculated as follows:

"Where two periods of residential care are less than 4 weeks apart, they should be added together to make a cumulative total which should not exceed four weeks. If the two periods are more

important implications for the way that local councils undertake assessment and care planning discussions with individuals and for local councils' own commissioning procedures and planning.

Department of Health Direct Payments Guidance 2003

When setting up a direct payments scheme, local councils are encouraged to actively consider how to include people with different kinds of impairment, people from different ethnic backgrounds and people of different ages. When considering whether a person's need for a service can be met by means of a direct payment, local councils should consider the provision of direct payments for both intensive packages and lower level services, long and short term provision and they are also encouraged to think about how direct payments can be assimilated into preventive and rehabilitative strategies.

"Department of Health Direct Payments Guidance 2003"

What Direct Payments cannot be used for

"Unless a council is satisfied that it is necessary to meet satisfactorily a person's needs, a council may not allow people to use direct payments to secure services from a spouse, from a partner or from a close relative (or their spouse or partner) who live in the same household as the direct payment recipient." The restrictions given are not intended to prevent people using their direct payments to employ a live-in personal assistant. The restriction applies where the relationship between the two

PROCEDURE CONTINUED

than 4 weeks apart they are not added together." **Department of Health Direct Payments Guidance 2003.**

- For residential accommodation for a disabled child or disabled young person for any single period in excess of four weeks and for more than 120 days in any period of 12 months.
- Personal assistance cannot be purchased from a partner or close relative living in the same household as the Direct Payments recipient other than in exceptional circumstances, which must be agreed by the Council in writing.

people is primarily personal rather than contractual."

Department of Health Direct Payments Guidance 2003."

The final decision

Whether a direct payment is appropriate or not, the Client Finance Manager must take into consideration whether the person will be able to cope with the responsibilities.

1.11 Who can qualify for a Direct Payment

To be eligible for a Direct Payment a person user must:-

- Be ordinarily resident in the Borough of Halton
- Be assessed as eligible to receive services (This includes carer services).
- Agree to receive Direct Payments instead of services (for children under 16 consent must be obtained from a person with parental responsibility, usually a parent).
- Be able to manage Direct Payments with or without support
- Satisfy the Council that financial controls will be adhered to.
- Councils now have the same duty to offer direct payments to eligible people who are subject to mental health or criminal justice legislation as they do to anyone else in all but the following cases:

Advice on making decisions about the ability to manage

"The council should ensure it takes into account all relevant factors before making a decision not to make a direct payment:

The person's understanding of direct payments, including the actions required on their part:
Whether the person understands the implications of taking or not taking on direct payments
What help is available to the person

The nature of the services the person is assessed as needing:
What arrangements the person would make to obtain services."
Department of Health Direct Payments Guidance 2003

1.12 People who do not qualify for a Direct Payment

Direct Payments may not be made in respect of certain people who have been placed under certain conditions or requirements by the courts in relation to drug and/or alcohol dependencies, as listed below:-

- Offenders on a community order, or serving a suspended prison 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 subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency; and

Direct Payment Rates

"In estimating the reasonable cost of securing the provision of the service concerned, local councils should include associated costs that are necessarily incurred in securing provision, without which the service could not be provided, or could not lawfully be provided. The particular costs involved will vary depending upon the way in which the service is secured, but such costs might include recruitment costs, National Insurance, statutory holiday pay, sick pay, maternity pay, employers liability insurance, public liability insurance and VAT".

Department of Health Direct Payments Guidance 2003

1.13 Direct Payment Rates

Where a service user chooses to employ:

- An agency, a standard rate of £10.70 per hour (reduced pro rata for part hours e.g. $\frac{3}{4}$ hour £8.03, $\frac{1}{2}$ hour £5.35, $\frac{1}{4}$ hour £2.68) will be paid based on the average agency hourly rate across Runcorn and Widnes.
- A personal assistant (PA), a standard a rate of £9.35 per hour will be paid.

PROCEDURE CONTINUED

The complex rate of £11.36 per hour would only be paid in exceptional circumstances, for both agency and personal assistants with the direct approval of the respective Operational Director, given the complexity of the service user's needs having met the eligibility criteria (see paragraph 1.14).

This would introduce consistency across the board in relation to all community care packages arranged by both Care Managers and those purchased via a Direct Payment.

Existing Service Users (to be implemented from 1st October 2009)

Respective Social Work teams will review existing Direct Payment packages using the criteria in para. 1.15. All service users will be informed that the new assessed rates for both agency and personal assistants as outlined above will be implemented on 1st October 2009.

Direct Payment rates will be kept under review, for further amendments in line with changes to tendering arrangements for domiciliary care agencies.

1.14 **Eligibility Criteria**

FACS criteria for eligibility must be applied to those individuals who wish to receive a Direct Payment:

Standard Support Criteria: £10.70 per hour Agency rate / £9.35 per hour PA rate

The individual has an assessed need for:

- Assistance to take medication.
- Support with incontinence.
- Physical assistance to use the toilet.
- Assistance with moving and handling.
- Assistance with washing/bathing.
- Support to eat/ drink.
- Specific support and assistance to stimulate development of communication and/or negotiation skills.
- Support to access social activities

NB: Supporting People funding and ILF will be used to support other social activities for the service user.

And/or

- Mental Health needs that meet critical/substantial FACS criteria or is demonstrably preventative and requires support.

High Level Need/ Complex Support Criteria: £11.36 per hour (Agency & PA)

In addition to some indicators for standard support:

“There may be cases where an individual thinks that the total value of the direct payment should be greater than the council proposes, and/or that his or her contribution or the amount they are asked to pay by way of reimbursement should be less than the council proposes. Where these cases cannot be resolved through discussion, local councils should advise the individual that he or she can pursue the matter through the council's complaints procedure”.

Department of Health Direct Payments Guidance 2003

PROCEDURE CONTINUED

- The individual has a high level of challenging behaviours (requiring a Level 2 risk assessment and a risk management plan to manage safety) and the individual's employed Carers require additional skills as certified by formal training. Certificates will need to be produced.

And /Or

- The individual has complex needs, which are eligible for a Social Services/PCT joint funded package.
- Mental Health needs that meet critical/substantial FACS criteria or is demonstrably preventative and requires support.

High Level Need/ Complex Support Criteria: £11.36 per hour (Agency & PA)

In addition to some indicators for standard support:

- The individual has a high level of challenging behaviours (requiring a Level 2 risk assessment and a risk management plan to manage safety) and the individual's employed Carers require additional skills as certified by formal training. Certificates will need to be produced.

And /Or

The individual has complex needs, which are eligible for a Social Services/PCT joint funded package.

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PROCEDURE CONTINUED

Practice

Assessment

Existing policy and practice guidance on assessment should be followed whether or not the person being assessed is likely to receive service provided by the local council or direct payments.

Department of Health Direct Payments Guidance 2003

Implementation

Councils should give the person information and support as early in the process as possible about what receiving direct payments will involve. In order to make an informed decision, people need to understand what is involved in managing direct payments.

Department of Health Direct Payments Guidance 2003

Monitoring

Monitoring arrangements should be consistent both with the requirement for the council to be satisfied that the person's needs for the service can and will be met and with the aim of promoting and increasing choice and independence.

Department of Health Direct Payments Guidance 2003

Reviewing

Councils should follow existing guidance on carrying out reviews. The fact that the council is making direct payments rather than arranging services itself does not affect its responsibility to review an individual's care package at regular intervals.

Department of Health Direct Payments Guidance 2003

2.0 **PROCEDURE THE 4 STAGES**

The Directorate will undertake a four-stage process in order to make Direct Payments.

2.1 **Stage One: Assessment**

Assessment is a crucial process and Direct Payments can only be offered to someone who has been assessed as eligible to receive services. The Directorate's Social Workers and, where equipment is required, Occupational Therapists will work with the person to assess what their needs are. There will need to be a Best Interests Assessment in all cases where the person is deemed to lack the capacity to consent to the requirements of a direct payment.

2.2 **Stage Two: Implementation**

At stage two the person has received an assessment and expressed an interest in receiving a Direct Payment. It is the responsibility of the Direct Payments/Individualised Budget Officers to tell them about the details of managing a Direct Payment and to set up the Direct Payment for them, [\(or the suitable person, who will be managing the Direct Payment on behalf of the person who lacks capacity\)](#).

2.3 **Stage Three: Monitoring**

At this stage the person is receiving a Direct Payment. It is the responsibility of the Direct Payments/Individualised Budget Officers to monitor how the Direct Payment is being used. The Direct Payments/Individualised Budget Officer will provide support to the person for up to six weeks or until they are able to manage the monitoring process independently.

2.4 **Stage Four: Reviewing**

Reviews take place to ensure that the Direct Payment is being managed satisfactorily. Adults in receipt of Direct Payments review their needs at least annually with the Social Worker and/or Occupational Therapist and/or Client Finance Manager/Direct Payment/Individualised Budget Officer. Children are reviewed at least every six months. See (Appendix 9).

PROCEDURE CONTINUED

3.0 STAGE ONE: ASSESSMENT

3.1 SOCIAL WORKER PROCEDURES

Direct Payments can only be offered to someone who has been assessed as eligible to receive services. There is no difference in the assessment process, which must include an assessment of whether Direct Payments are appropriate and of whether the person is able to manage them. The procedure to be followed is detailed below:

1. Undertake an assessment / review. All eligible individuals should be offered the option of Direct Payments. There is a leaflet (available from the Client Finance Team) that the Social Worker should give to the person.
2. If the person is interested in receiving Direct Payments the Social Worker will need to determine their **willingness** to receive a payment, **ability** to state preferences and make choices, **capacity** to manage the Direct Payment and **competence** to take legal responsibility for arranging their own care services. (Appendix 1) provides the definition of willing, able, capable and competent and of capacity under the Mental Health Act 2005.
3. The Social Worker will need to ask the person's permission to share a copy of their assessment, care plan and Independent Living Team report (if appropriate), with the Client Finance Team.
4. Following the assessment and funding approval, the Social Worker will complete the Request for Direct Payment Form see (Appendix 14) and send to the Client Finance Team with all necessary documentation for set up. The Client Finance Team will arrange to visit the person within 3 weeks. The Direct Payment/Individualised Budget Officer will log the request onto the Direct Payments database. The Social Worker may request a joint visit.
5. On the visit it is important that the following is carried out:
 - The Direct Payments/Individualised Budget Officer will use a Check List (Appendix 2) to ensure the person has received all relevant information to make an informed decision as to whether to continue or not.

Assessment

"There is no difference in the assessment of a person's need for services although under the Regulations a local council must also be satisfied that the person's need for services can be met by means of a direct payment. It is important that the needs-led focus of the assessment is retained. In order to ensure that the person's assessed need for the relevant service can be met by means of a direct payment, each local council should consider the person's needs and also discuss with anyone to who it proposes to offer direct payments how he or she intends to secure the services. Councils will want to be satisfied that the person's assessed needs can and will be met and that the money is being spent appropriately in securing services to meet those needs."

Department of Health Direct Payments Guidance 2003

Carer assessment

The Department of Health policy and practice guidance and the Carers (Recognition and Services) Act 1995 emphasise the importance of considering carers' needs when completing a community care assessment. A carer is someone who has a personal or family relationship with the disabled person, not someone who is being paid to provide care or support to the disabled person using the Direct Payment.

If as a result of a carers' assessment the carer has needs for personal assistance in his or her own right then these needs may be met either through the provision of a service or a Direct Payment.

Mixed packages of care

It may be appropriate to offer a mixed package of direct payments and council arranged services. This may be particularly useful for people used to receiving direct services, such as older people, And who may need to increase

PROCEDURE CONTINUED

- A copy of "Personal Assistants - A Guide to Getting Started" will be given to the person if they intend to employ their own Personal Assistants. This guide will be used to help the person understand what is involved in managing Direct Payments and becoming an Employer.
- At the end of the implementation stage when the person has signed a contract and statement letter, the Direct Payments/Individualised Budget Officer will set up the Direct Payment and the Social Worker will be informed. All documentation will be sent to the Social Worker's Team Support Officer to record information onto CareFirst.
- The Direct Payments/Individualised Budget Officer will send a copy of the Direct Payment contract and Care plan to the person to keep for their own records.

their confidence.
Department of Health Direct
Payments Guidance 2003

Independent Living

"Independent living is the concept of empowering disabled people to control their own lives as far as possible and to have the freedom to participate fully in the community. It is not the name of a particular service or provision but should be the objective of services and provision.

Support for independent living includes personal assistance, information, housing, education, access to public goods and services, employment and training and access to the environment and the political arena."

Social Services Inspectorate
"New Directions for Independent Living."

3.2 OCCUPATIONAL THERAPY PROCEDURES

As part of the assessment the need for Occupational Therapy input may be identified. In this instance the Social Worker usually refers the person to the Independent Living Team for an Occupational Therapy Assessment.

3.3 Equipment Assessments:

Equipment will be supplied with relevant information and/or literature. The person receiving Direct Payments should ensure all personal assistants (employed by them) are competent to use the equipment correctly. The person should also ensure that any new employees are competent to use the issued equipment.

Direct Payments

"Direct Payment schemes for people aged over 65, became available on 1st February 2000, reinforcing the belief that people who have made their own choices throughout their lives should have the right to decide how people arrange their own social care. Direct Payments for older people will enable those who take this option to live for longer in their own homes in the community, in touch with family and friends. Younger people with physical disabilities have often chosen to use their Direct Payment to employ a personal assistant or occasional support, depending on the level of need."

Social Services Inspectorate
"Modern Social Services"

3.4 ILT Hoist Assessments:

1. Following a referral from the Social Worker the Occupational Therapist will carry out a hoist assessment, and recommend the appropriate equipment where necessary (as per standard hoist procedures).
2. When the hoist assessment is completed the Social Worker and the Direct Payments/Individualised Budget Officer will be informed of the outcome so it can be included in the care plan.
3. Equipment will be supplied with relevant information and/or literature. The person receiving Direct Payments should ensure that any personal assistant (employed by them) has the relevant skills in order to use any moving & handling equipment. This includes ensuring that any new employees are competent to use the issued equipment.

Determination of payment levels

"The guiding principle in determining the level of a Direct Payment should be to set it at a level which reflects as closely and fairly as possible the actual cost at which individual service users can

PROCEDURE CONTINUED

The provision of the equipment will be subject to standard review procedure. The outcome of these reviews will be forwarded to the Social Worker and Direct Payments/Individualised Budget Officer.

4.0 STAGE TWO: IMPLEMENTATION

4.1 In order to make an informed decision people will need to understand what is involved in managing Direct Payments and be helped through the process. The Direct Payments/Individualised Budget Officer is responsible for this stage, but before this process begins, they need to know the following:-

4.2 Direct Payment Rates

Contact Direct Payments Section, Client Finance Team for current rates.

4.3 Start-up costs

This is a one-off payment to cover start-up costs up to a maximum of £259. For example, this payment could be used for setting up interviews, purchasing insurance, buying protective clothing for personal assistants and placing adverts. An amount is agreed between the Direct Payments/Individualised Budget Officer and person up to the maximum of £259. At this stage the Direct Payments/Individualised Budget Officer will inform the Team Practice Manager of the agreed amount. The set up costs are paid directly into the recipient's bank account.

4.4 The amount paid depends on individual circumstances, e.g. a person wishing to employ personal assistants for their full care needs may be entitled to the full amount of £259. A person who will receive Direct Payments to purchase support from an agency may only be entitled to a proportion of the full amount.

4.5 From 1st April 2009 start up costs will incorporate an allowance for payroll service costs incurred when a service user employs a Personal Assistant. By including payroll costs, in start up costs if incurred and if required annually thereafter, potential difficulties and debt in relation to tax and national insurance payments by the individual in receipt of the Direct Payment could be avoided.

4.6 Contingency

A contingency sum (for use in emergencies) is paid with the first regular Direct Payment and is equivalent to 2 weeks Direct Payment. When a sum of money is used from the contingency the person will need to complete a "Request for Re-imbusement" form see (Appendix 16) form giving reasons and proof of expenditure. People should give notice to their Social Worker, wherever possible, prior to using any amount from this fund. If the expenditure is

purchase the services which they are assessed to need. Equally there should be equity between those users who participate in such a scheme, and those who are unable or prefer not to participate. Payments to service users under this scheme should, therefore, be made on the basis that the user is given sufficient, but no more than sufficient, funds to purchase the same quantity and same quality of care which would be arranged for a service user of the same Local Authority with the same assessed needs who remains outside the Direct Payments scheme.' CIPFA 'Accounting and Financial Management Guidelines.'

Start up costs

These costs are refundable to the authority if the service user decides not to proceed with the Direct Payment scheme, although there may be exceptional circumstances when it is deemed unreasonable to request the full amount to be returned.

Contingency fund approval

Contingency fund needs to be approved by the relevant Practice Manager and Client Finance Manager.

PROCEDURE CONTINUED

approved, then the contingency is 'topped up'. If the expenditure is not approved then the person should pay back the contingency from private funds.

4.7 Separate bank account

The Local Authority requires evidence that the monies made available are being used to meet the identified and agreed needs as determined by the assessment. It is therefore necessary that recipients of Direct Payments to purchase care services have a separate and exclusive bank account to manage their Direct Payments and keep it separate from their personal finances. A bank details form (Appendix 4) will be given to the person to complete and return to the Direct Payments Team as soon as the account has been opened so that payment arrangements can be made.

4.8 Insurance

Extra insurance is incurred by the introduction of the Direct Payment scheme, i.e. employer's liability and public liability. The cost of this will be met by the authority within the start-up costs, upon proof of payment. The contingency fund can be used to pay insurance fees and a receipt must be sent to the Local Authority along with a "Request for Reimbursement of Contingency" form, to ensure repayment. Alternatively the insurance payment can be made with the first payment made to the person.

4.9 Direct Payments and Trusts

A Trust may administer the Direct Payment for the person, but that person must retain responsibility for receiving the payment and determining how it is to be used. The important principle, which must be addressed before making a Direct Payment, is that the Local Authority should satisfy itself that the relationship between the person and the Trust/agent/power of attorney, will honour the spirit of independent living, before a Direct Payment is agreed.

Fairer Charging Policy

- 4.10 Halton Borough Council's Fairer Charging Policy takes account of a person's ability to pay for services they receive. People receiving a service are asked to give details of income and benefits that they receive, details of any savings and investments that they have and details of any disability spending that they have. Any financial contribution the person needs to make towards the cost of their care will be taken out before the Direct Payment is paid into their bank account **unless a suitable person or managed account is the preferred authorised method of the person receiving a direct payment, then the person will be invoiced in the normal way for their contribution towards the support package.**

4.11 How the money can be spent

When signing the Direct Payment contract, the service user will be

Charging Policy

Local Councils can require you to make a financial contribution to the cost of your care, just as they can already charge you for other services. You should not be charged more than it is reasonably practicable for you to pay. If you are a disabled person and are working or intending to enter work, you will not be charged against your earned income. Ask your local council about its charging policy and how it applies to people who receive direct payments.

PROCEDURE CONTINUED

taking responsibility for arranging their services, and spending the cash payment in the way that is shown in the contract. It is essential that the contract is clear that people using Direct Payments have flexibility about how the money is spent.

4.12 Buying services from an agency

Any services purchased by the person must be as cost effective or efficient as the Local Authority could arrange or buy. In discussions with the person receiving the Direct Payment it is important that the Direct Payments/Individualised Budget Officer explains that the Local Authority is not liable to pay VAT, and it is not possible for the Local Authority to make extra provision to cover the cost of VAT.

4.13 Employing a personal assistant

Many people will choose to employ a personal assistant. In this case the person becomes an employer and must make adequate arrangements to fulfil their consequent responsibilities. Halton has seen a growth in the number of personal assistants employed by those in receipt of a Direct Payment since the scheme began.

Support groups

When discussing direct payments with people, local councils will wish, wherever possible, to offer the option for them to be put in touch with a support group or local centre for independent living, or a peer support group of people who already manage direct payments.

Department of Health Direct Payments Guidance 2003.

4.14 Arrangements in emergencies

It is essential that each person receiving a Direct Payment has made arrangements to cover potential emergencies, for example if a personal assistant is sick. If these arrangements break down and it is not possible for the person to have their needs met, then ultimately the Local Authority is responsible for arranging services for them. This should be done via contacting the person's Social Worker or the Emergency Duty Team.

Rates of pay for personal assistants

The service user will negotiate the rate of pay with their own personal assistant.

4.15 The Direct Payments/Individualised Budget Officer is responsible for implementing the Direct Payment. The procedure is detailed below (taking into account the conditions outlined above):

1. Once the person has confirmed they want to use Direct Payments, the Direct Payments/Individualised Budget Officer will arrange to visit them.
2. The Direct Payments/Individualised Budget Officer will contact Financial Services for details of how much the person has been assessed to pay.
3. The Direct Payments/Individualised Budget Officer will agree start up costs with the person if required.
4. The Direct Payments/Individualised Budget Officer will prepare to send the person 1 contract (Appendix 5), 2 copies of the Statement Letter (Appendix 3) an Offer Letter (Appendix 6) and a Bank Details Form (Appendix 4). The person accepts the offer

Emergency contact numbers

Emergency Duty Team – 01606 76611.

Statement of Direct Payment

PROCEDURE CONTINUED

by:-

- setting up a bank account
 - completing the 'Bank Details' form and returning it to the Direct Payments/Individualised Budget Officer.
 - Signing both statements, returning 1 to the Direct Payments/Individualised Budget Officer and keeping 1 for themselves.
 - Completing the Contract, returning it to the Direct Payments/Individualised Budgets Officer.
5. The person will then start to look for a suitable provider to meet their assessed needs. This provider can be a personal assistant, or an agency. If the person chooses to employ a personal assistant then the Direct Payments/Individualised Budget Officer, will if required, assist them with this process. If they choose to use an Agency, a Provider contact List will be given to the individual with telephone numbers to contact the provider directly.
 6. On receipt of the signed contract, statement letter and bank details form, the Direct Payments/Individualised Budget Officer will arrange for start up costs to be paid into the person's bank account.
 7. The Direct Payments/Individualised Budget Officer will arrange to forward the Bank Details to Halton Purchasing Department to request a Supplier Code to enable payments to commence.
 8. Halton Purchasing Department will inform the Direct Payments Team of the Supplier Code to commence payments.
 9. Once the person has found a suitable provider the Direct Payments/Individualised Budget Officer will prepare to make payments to the individual.
 10. A copy of the care plan and Independent Living Team report, if appropriate, also forms part of the contract and is copied only to the service user.
 8. The Client Finance Officer will set up a Service User file to record all documents for the Direct Payment Team.
 9. To begin payments the Direct Payments/Individualised Budget Officer will raise the first 4 weekly payment, together with the 2 weeks contingency payment. The Client Finance Officer will raise a payment every four weeks and will record the details on the financial database. The Direct Payments/Individualised Budget Officer will email Financial Services for them to make arrangements to stop invoicing the service user for their financial contribution.

In order for this statement to be produced the Social Worker will need to submit a financial assessment. If this has happened the statement can be produced within 5 days of receipt of a copy of care plan and panel application.

Contract with service user

'It is important that the service user fully agrees to managing Direct Payments before the first payment is made. This will allow the user not only to recruit staff or service providers, but also give them time to set up recording and payment systems themselves.' CIPFA 'Accounting and Financial Management Guidelines.'

If the service user is assessed as eligible for a Direct Payment then an agreement will be reached about the amount of money each recipient will receive on a weekly basis. The calculation of the weekly cost of a Direct Payment package will be the result of an agreement of the number of hours required at a specific time of the day, to meet the care needs identified in the care assessment. If the service users need change then a new contract will be drawn up.

Criminal Records Bureau checks of Personal Assistants

It is the responsibility of the Client Finance Manager to raise service user awareness about the importance of ensuring CRB checks are carried out on personal assistant.

The service user will be encouraged to ask personal assistants to get a CRB check carried out. If the PA is likely to have access to children then the PA must be checked by the CRB

PROCEDURE CONTINUED

10. The Direct Payments/Individualised Budget Officer will supply the person with all the necessary records and advice for keeping quarterly financial records and records of support received and tell them about their responsibilities to retain invoices/receipts and bank statements. A Stationery file will be provided to individuals if required to keep their paperwork in order which can be obtained from the Direct Payments Team.

12. At this stage the person will be expected to start making their contributions towards the cost of their support to coincide with the first Direct Payment.

13. During the initial 6-week period the Direct Payment/Individualised Budget Officer will arrange to meet the person on a frequency appropriate to their needs.

Responsibility for quarterly audit returns

It is the responsibility of the Direct Payments/Individualised Budget Officer to check audit returns and provide reconciliation. The group accountant in financial services will provide advice and guidance where necessary.

5.0 STAGE THREE: MONITORING

5.1 At this stage the person is receiving Direct Payments and these need to be monitored. All financial records and returns can be subject to auditing at any time. (see Appendix 8)

5.2 What if the money is not spent?

There may be a number of reasons why a surplus has accrued in the bank account, for example, there may be outstanding tax or national insurance not yet due or paid. Alternatively, the person may be 'saving care' to cover extra costs that may be incurred when they take personal assistant with them to a special event, although this need must be agreed with their Social Worker. Also the contingency money will be kept in the bank account as a reserve. Any credit balance should be explained to the satisfaction of the Client Finance Manager. If there is a credit balance in the account without a satisfactory reason, the Local Authority will reduce the person's next payment.

5.3 What if there is an overspend?

If there is a problem with a person overspending the Direct Payment, then advice and support will be offered and the overspend corrected. If the problem persists, then the Client Finance Manager may need to reassess the ability of the person to manage the scheme or a reassessment of need under the Community Care Act may need to be undertaken by a Social Worker. If a person spends more money than is allowed by the Direct Payment package, then they are liable for this from their private funds. If services paid for have not been received, it is the responsibility of the person to seek a refund from the service provider. Equally the service provider should pursue the recovery of debts from the person, if services have been received and not paid for.

5.4 Repayment

The Local Authority can seek repayment if the monies made

Checks when monitoring Direct Payment

- Have all necessary records been received?
- Are they fully completed and total correct?
- Does the balance on the financial record agree with the bank balance – bank reconciliation?
- Does the income agree with the office payment record?
- Are payments supported by invoices/wage records and in accordance with identified needs?
- Is the level of Direct Payments reasonable, i.e. no surplus accruing

The account should be in credit but surplus should be represented by amounts owing by service user (wages not yet paid) / contingency funds / payments outstanding to Inland Revenue.

PROCEDURE CONTINUED

available have not been used to purchase services identified in the care plan and contract, or were used to purchase services identified as being excluded. It is essential that honest mistakes are seen as such, and repayments should only be sought where monies have been spent inappropriately or not spent at all.

5.5 Recovery of Direct Payment

It may be necessary to recover unspent Direct Payments if a service user dies. Contractual responsibilities must be met before determining the amount of Direct Payment to be recovered. See (Appendix 5) Direct Payment Contract "Responsibilities of Direct Payment Recipient" (Item 14).

5.6 Self Certification

Small Packages of Care – New Service Users

If the Direct Payment package is on average 15 hours per month or less, regular full financial inspections may not be necessary. These packages could be dealt with under an annual "self certification" scheme. See (Appendix 13).

Established Direct Payment Service Users – those service users who are able to demonstrate they have maintained records as required by the scheme and have had regular monitoring checks, may also be given the option of "self certifying" on an annual basis. This option will be a joint decision between the Direct Payments monitoring service and the service user, and an assessment of risk will take place.

5.7 Equipment

The person receiving Direct Payments is responsible for considering manual handling risks. The Direct Payments/Individualised Budget Officer will feed back any concerns about use of equipment to the Independent Living Team.

5.8 Each person receiving Direct Payments must provide the Local Authority with audit returns on at least an annual basis, indicating how their Direct Payment has been spent. The aim of this return is to ensure that the person is receiving enough money to pay for services whilst at the same time ensuring the monies are being spent as agreed. Once it has been established that the person is managing their Direct Payment satisfactorily, either alone or with help, the frequency of financial monitoring may need to be adjusted after discussion with the person.

5.9 During the first 6 weeks the Direct Payments/Individualised Budget Officer will monitor that the needs identified on the care plan are being met and the Direct Payment is being managed effectively. Detailed below is a list of the records that need to be kept:

5.10 Records to be kept by Client Finance Team

- Direct Payment record of audit checklist (Appendix 7)
- Initial offer letter

Summary of records for employing personal assistant

- Quarterly return
- PAYE/NI records

PROCEDURE CONTINUED

- Statement letter of Direct Payment/assessed charge
- Copy of care plan and Independent Living Team report (if appropriate)
- Contract
- Start up list for Direct payment (Appendix 10)
- Diary notes (Appendix 11)
- Direct Payment database
- Self certification form (if appropriate)
- Any other relevant information to the account

- Evidence if assistant is self employed
- All receipts for expenditure from Direct Payment fund
- Record of assistants holiday/sickness

Summary of records for buying from an agency

- Budget statement
- Invoices
- All receipts

5.11 Records to be kept by service user

If person employs a personal assistant:

- Copies of all records, i.e.
- Quarterly returns
- Time sheets
- Income and expenditure record (see Appendix 15)
- Quarterly return to Inland Revenue
- BACS advice slips
- Cheque stubs
- Bank statement
- Service user contribution
- Sickness records
- Holiday records
- Contingency
- Saving care
- Amendment to bank details
- Self certification form (if appropriate)

If person purchases services from an agency:

- Quarterly return to show hours of service purchased during the period, the cheque number and payee and the amount paid out

All invoices and receipts for the quarter

Summary of records for all Direct Payment recipients

- BACS advice slips
- Bank statements
- Cheque books
- Paying in books
- Contingency records
- Time sheets

Tax records

All tax records must be kept for 6 years for Inland Revenue purposes.

The authority is not obliged to fund the actual cost associated with the users preferred method of securing services if the service can be secured more cheaply in another way.

Tax Record

It must be noted that all tax records must be kept for six years for Inland Revenue purposes.

5.12 From the onset of Direct Payments, the Direct Payments Team will use the "Diary Notes"/Record of Audit Checklist sheet to log results of visits, any discrepancies and any enquiries or issues relating to their Direct Payment.

5.13 A database is kept to record statistical records relating to Direct Payments. This is completed by the Direct Payment/Individualised Budget Officer at referral; start of the Direct Payment, six-week review and at each audit.

5.14 The Clerical Assistant will check the payments made each week to all Direct Payment recipients are correct by checking against the Direct Payment reconciliation report from Management Accounts to ensure that any errors/discrepancies are identified and corrected.

PROCEDURE CONTINUED

6.0 STAGE FOUR: REVIEWING

- 6.1 Once a person has been set up to receive Direct Payments, the Direct Payments/Individualised Budget Officer will offer support for up to six weeks or until the person is able to manage the monitoring process independently. At six weeks the Client Finance Manager/Direct Payments/Individualised Budget Officer will co-ordinate a joint review with the Social Worker, Occupational Therapist (if appropriate). The review will cover the following areas:
- Checking and reviewing all financial records to ensure the person is maintaining all the records necessary for the monitoring of expenditure and services
 - Ensuring the Direct Payment is being used to meet the person's needs as outlined in the care plan and the Independent Living Team report (if appropriate)
 - Ensure the services have been received and the Direct Payment has been used cost effectively
 - Identifying and resolving any difficulties the person has in managing Direct Payments
 - Confirming there have been no changes in circumstances and the person is still eligible to receive Direct Payments
 - Checking that any equipment supplied by the Independent Living Team is being used correctly (where relevant).

- 6.2 If the outcome of the review is satisfactory, support visits by the Direct Payment/Individualised Budget Officer will be offered. If there are any concerns about how well the person is managing the scheme they will receive regular visits and support. For Adults, the Social Worker will continue to review the person's care needs at least annually. For children in need in the community, reviews of the child in need plan should take place at least every 6 months.

- 6.3 **What happens if a service user's circumstances change?**
It is vitally important that if the circumstances of a person change, the Direct Payment/Individualised Budget Officer be notified immediately. It is in everyone's interest to ensure that events such as hospital admissions or long absences from home are properly recorded.

- 6.4 **What if difficulties arise?**
Direct Payments will not be withdrawn at the first sign of difficulty. The Department of Health guidance suggests that the following questions should be asked:
- Has the person's needs changed?

Reviewing

'Councils should follow existing guidance on carrying out reviews. As with all services, the projected timing of the first review should be set at the outset. The purpose of the review remains to establish whether the objectives set in the original care plan are being met. It should therefore cover whether the person's needs have changed, whether the use of direct payments is meeting assessed needs and how he or she is managing direct payments.'
Department of Health Direct Payments Guidance 2003

Frequency of Monitoring

The frequency of monitoring will be dictated by the length of time the person has managed a direct payment either alone or with help and their particular circumstances. Once a council is satisfied a person is managing the direct payments satisfactorily, reviews should be at the same intervals as for other people receiving services.

Children identified as needing services under section 17 of the 1989 Act

Reviews may be necessary more often so that the council remains satisfied that the direct payment promotes and safeguards the welfare of the child. The Framework for the Assessment of Children in Need and their Families reminds councils that it is good practice to review plans for children in need in the community at least every 6 months.
Department of Health Direct Payments Guidance 2003.

"Whilst the Local Authority is relieved of its responsibilities to

PROCEDURE CONTINUED

- Is the amount of money provided sufficient to enable the person to secure the relevant services?
- Is the person able to manage Direct Payments or can they do so with assistance?
- Does the person wish to continue receiving Direct Payments?
- Has all the money been spent towards achieving the outcomes identified in the care plan?
- Have services for which the person has paid been received?
- Has the money been spent wisely?

arrange services for recipients of direct payments, it still has an obligation to satisfy itself that the services purchased meet the needs of the service user, and that the care needs of the service user are reviewed at regular intervals. These duties should be performed by care staff from the Local Authority."

CIPFA Accounting and Financial Management Guidelines

When to discontinue Direct Payments

6.5 The person to whom Direct Payments are made may decide at any time that they no longer wish to continue to receive them. The Local Authority may also discontinue Direct Payments temporarily or permanently as outlined in the Direct Payment Contract (Appendix 5). However before a decision is made, full and frank discussions must take place with everyone involved. The Client Finance Manager may consider that it is more appropriate to recoup any overpayment as a result of such circumstances at the audit rather than disrupt the regular payment system. In all circumstances where Direct Payments are discontinued whether temporarily or permanently, careful consideration should be made about any contractual responsibilities, i.e. terminating employment, redundancy etc. These issues will need to be discussed by the person and the Client Finance Manager/Direct Payments/Individualised Budget Officer before the agreement is finalised.

Discontinuing Direct Payments

The council should discuss with individuals as soon as possible if it is considering discontinuing direct payments to them. They should be given an opportunity to demonstrate that they can continue to manage direct payments, albeit with greater support if appropriate..... the council should not automatically assume when problems arise that the only solution is to discontinue or end direct payments.

Department of Health Direct Payments Guidance 2003

6.6 When signing the Direct Payment contract, the person takes responsibility for arranging their own personal assistance and spending the payment to meet their needs as outlined in the care plan. It is essential that the Direct Payments/Individualised Budget Officer makes it clear to them what the money may or may not be spent on and how much flexibility the person has over the way the money is spent.

Complaints

6.7 The person receiving the Direct Payment may invoke the Directorate's complaints procedure if they think that the procedures are unfair or have been unfairly applied to them. Contractual issues between the person, their personal assistant or agency providing the service cannot be dealt with under the complaints procedure.

Carers Act

Under the Carers (Recognition and Service) Act 1995 and the Carers and Disabled Children's Act 2000, all carers providing regular and substantial care have the right to request an assessment of their own needs.

Carers

6.8 When a Carer is awarded a Carers Break Direct Payment, the Direct Payment will be paid directly into his/hers existing bank account as the payment made to the Carer is in most cases a (One-off payment) to be spent over a 12 month period. The procedures outlined in this document apply to Carers in the same way as a Service User but the Carer will receive a Direct Payment for Carers Contract to agree to and sign see (Appendix 12)

The Carer will be required to keep all receipts in relation to the

PROCEDURE CONTINUED

spend of the Direct Payment awarded to them and produce the receipts to the council if requested to do so.

It is the responsibility of the Clerical Officer/Client Finance Officer to process Carers Direct Payments following all above procedures.

draft

Definitions for use in determining whether a person is able to manage a Direct Payment

Willing

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

Able

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

Capable to manage

The Direct Payments/Individualised Budget Officer and the Social Worker will need to agree that the service user understands the nature of the agreement they are entering into. The Direct Payment contract is legally binding upon the Local Authority and the service user. It is essential, therefore, that the service user is either personally able to keep the necessary records, e.g. national insurance and tax, or with the assistance of the Direct Payments/Individualised Budget Officer or makes appropriate arrangements for their responsibilities in such areas to be completed on their behalf. Such support in managing a Direct Payment will need to be identified before a Direct Payment contract can be made.

Capacity

A capacity assessment will be of a person's capacity to make a specific decision

Mental Capacity Act 2005

A significant factor influencing the assessment will be about specific decisions

The Mental Capacity Act 2005 states that a person is unable to make a decision if he/she is unable:

- (a) To understand the information relevant to the decision;
- (b) To retain that information;
- (c) To use or weigh that information as part of the process of making the decision; or
- (d) To communicate his decision (whether by talking, using sign language or any other means).

It also states that:

- A person is not to be regarded as unable to understand the information relevant to a decision if he is able to understand an explanation of it given to him in a way that is appropriate to his circumstances (using simple language, visual aids or any other means).
- The fact that a person is able to retain the information relevant to a decision for a short period only does not prevent him from being regarded as able to make the decision.
- The information relevant to a decision includes information about the reasonably foreseeable consequences of
 - Deciding one way or another; or
 - Failing to make the decision.

CHECKLIST FOR SERVICE USER VISITS

- **What is Direct Payments** – what it is – service user/trust/agent/power of attorney to manage-honour spirit of independent living. Direct Payments is the same as having a care package arranged for you from Social Services, but rather than the Social Worker arranging the agency for you – you decide who you want, and arrange the services yourself.
- **Opening A Bank Account:** To receive a Direct Payment you must open a separate bank account (a normal current account with a chequebook) solely for the use of the Direct Payment. This is so we can monitor what you are spending the Direct Payments on, without looking at your own personal bank account. You will earn interest on your Direct Payment Account. If you are asked to put an amount of money into the account to activate it, let us know and we will re-imburse you that amount with the first payment we make to you.
- **Charging policy:** HBC charge for care services that we provide. You will need to complete a Financial Assessment to determine if you need to contribute to the package of care. The Fairer Charging policy can also be considered as extra spending which could reduce the amount you are assessed to contribute. If you would like a Fairer Charging Assessment, Welfare Benefits Team will be able to help you with this. If you are assessed to contribute to your package of care, this will be deducted from the amount you will receive on direct Payments and you will need to set up a Direct Debit to pay your client contribution into your Direct Payment Account. If you currently receive a service and want to transfer onto Direct Payments and you receive a Bill from HBC for your contribution, you will stop receiving these bills and pay your contribution into your Direct Payment Account instead of receiving a bill.
- **Receiving Your Direct Payment:** Your Direct Payment is paid 4 weekly in advance. Once you have your Bank Account open and you notify us of the date you intend to start using an Agency/ Pa you can then contact us and we will arrange for the First Payment to be put into the Direct Payment Account. We will pay you 4 weeks in advance, so that you have the money in your account ready for when you need to pay the Agency or PA. The First Direct Payment includes 2 weeks emergency contingency money that you need to keep in the Direct Payment Account for emergencies. You can tap into the contingency money in an emergency, but you must contact us to let us know what you have used it for so that we can confirm it is ok. We will then put that amount back into the Direct Payment Account for you so that the contingency amount is always in.
- **Start up costs:** We can give you up to £259 start up costs as a one off payment. This is usually for people who are going to be employing Personal Assistants. This will cover the cost for the following:
 - Public & Employers Liability Insurance** - £66.00/£134.40. This covers up to 5 Carers working in/outside the home while providing care for you. The Direct Payments Team will provide you with an application form to complete, and then the Direct Payment user should send the completed form with a cheque for £76.65/£134.40 to the address on the application form. This covers is for a 12-month period. You will be notified by FISH Insurance when it is due for renewal.

Criminal Record Bureau Disclosure Application – If you are employing Personal Assistants, it is a requirement that all Personal Assistants have a CRB check. The cost of this is £36.00 and HBC will cover the cost of this. Application Forms will be sent to you for your Personal Assistants to complete and take to Halton Direct Link for checking. You will need to make out a cheque made payable to Halton Borough Council. HBC will then send the completed form to the CRB and on completion, the Enhanced Disclosure Form will be returned to the Direct Payment User and a copy will also be sent to the Personal Assistant

Recruitment Costs – Advertising costs can be paid from the £259 start up costs if necessary Protective Clothing – Aprons, Gloves can be purchased from the £259 start up costs.

- **Using Your Direct Payment:** By receiving Direct Payments, you have all the control and choice over who you decide to employ to help you. You can use the DP to pay for services from an agency to provide the support you need or employ a support worker/personal assistant directly by becoming an employer in your own right. If you use an agency – you will need to contact the agency you intend to use to see if they can accommodate your needs and to see how many hours you can get out of the Direct Payment. The agency will invoice you for payment and you must make your payments by cheque so that we can monitor the account via your bank statements and invoices.
- **Personal Assistants** – If you intend to employ somebody directly (PA) you (the service user) becomes an employer and must adhere to Inland Revenue requirements. See PA guide if required. Anyone employing a PA must contact the Inland Revenue to register as an Employer and keep records for the Inland Revenue as well as the Direct Payment Team. All Wages, Tax & Insurance must be paid from the Direct Payment.
- **Direct Payment Hourly Rates:** Your Social Worker determines which hourly rate your Direct Payment will be based on. The basic rate is £9.35, £10.70 (Agency) or Complex rate is £11.08. (may vary depending on package)
- **Paperwork Requirements:** Once the Direct Payment has been set up there will be some paperwork for you to sign and return. These include :
 - 1 Offer Letter confirming that you have decided to use Direct Payments
 - 2 Statement Letters outlining how the Direct Payment has been calculated.
 - 1 Contract. They all need signing by the Service User or Power of Attorney and then witnessed by somebody else and another name and address must be given in the event of anything happening to the Service User to administer the closure of the Direct Payment Account. You must return 1 Statement Letter signed and the Whole contract in order for the Direct Payment to start.
- **Contracts:** Either party can terminate the Direct Payment by giving 4 weeks notice in writing.
- **Auditing the Direct Payment Account:** After 6 weeks of being on the Direct Payment Scheme, the Client Finance Manager and Direct Payment Assistant will visit you to do a 6 week review usually with your Social Worker to make sure you are happy with everything, thereafter annually. After that the Direct Payments Assistant will arrange visits to undertake the Audit of the Direct Payment Account at a frequency decided by both parties. You must keep records of all Payments we make to you and all payments you make to the agency/pa. A sample of an income & expenditure sheet can be provided for you to use. An easy way to record the information is to wait until you receive your Monthly Bank Statement and copy the information from the statement onto the Income & Expenditure Sheet. If there is a build up of funds accumulating in the account, and there is no reason, ie. Outstanding invoices, tax returns, planned trips. The Direct Payment Assistant may advise you that the next payment will be stopped. This is to ensure the account does not exceed 6-8 weeks Direct Payment. The payment will be recorded on a database as stopped but you can request this money to be transferred back into the Direct Payment account if you find the account is running low on funds.
- **Benefits:** Direct Payment does not affect Social Security benefits or taxable income and the Direct Payment is not taxable.
- **Change of Circumstances:** Any changes in circumstances must be reported as soon as possible to DP team or Social Worker.
- **Re-assessment:** If you feel you need extra hours then you must be referred back to the Social Work Team for a re-assessment. Call Customer services 01928 704406 to be referred.
- **Complaints Procedure:** HBC have a complaints procedure. If you want to make a compliment, Suggestion or Complaint, contact our Customer Service Advisors on 01928 704406 or write to: Complaints, Freepost (CS/3), Social Care Housing & Health Directorate, HBC, Grosvenor House, Runcorn, Cheshire, WA7 2ED.

Dear

Please find below details of how we have worked out the money that we will pay to you under the Direct Payment Scheme. The amount we pay you may change if your circumstances change. You should pay the money you get into your Direct Payment Bank Account.

The Total Cost for your Service is £

This was worked out from

..... Hours at an hourly rate of £		£
..... Hours at an hourly rate of £		£
..... Sessions of night sitting at £	per/night	£
..... Respite @		£

Carers Break £

Total Direct Payment each week £

Less your contribution from your income/benefits £

= A total Direct Payment to you of £

If you need any more information about how we worked out your Direct Payment please contact me on 01928 704436.

If you agree with amounts shown please sign this form and return it to me in the prepaid envelope supplied.

Yours sincerely

Senior Direct Payment/Individualised.
Budget Officer

Service User Signature
(sign & return / keep for records)

CONFIRMATION OR CHANGE OF BANK DETAILS

Name(s) on Bank Account:

(Please show the name as it is printed on the Bank Account)

Address:

(your address)

Post Code:

Name of Bank/Building Society
(Bank Name)

Sort Code

Eight Digit Account Number

Roll Number

Service User Signature:

Date:

- 3 The Council intends that a Direct Payment is the means by which the individual Recipient independently secures the services that the Council agreed the Recipient needs following assessment.
- 4 The Recipient will use the Direct Payment monies to meet the needs identified in the care plan.
- 5 The Council may increase or decrease the amount of the Direct Payment to the Recipient at any time on account of a change in assessed needs. Before decreasing the amount of the Direct Payment the Council will give the Recipient a minimum of one weeks notice in writing and the reason for such decrease.
- 6 A review of the support package and Recipient's record keeping will take place 6 weeks after receipt of the first payment(s) to identify and respond to any problems which may have arisen and to prepare for the necessary monitoring (see paragraph 10).
- 6.1 The Council will formally review the assessment of the Recipient and the operation of this agreement every 12 months (ie within every 12 month period there should be at least one review). That review will determine whether the Recipient's needs have changed and how the Recipient is coping with the arrangements for ensuring the provision of the services that meet these needs.
7. The Recipient will not use the Direct Payment to employ/pay any partner (married or unmarried) or a close relative living in the same household (close relative means parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, step-son or daughter, brother, sister or the spouse or partner of any of the preceding) to provide the services, **unless in exceptional circumstances**. This also applies to Direct Payments made to a person who has parental responsibility for a disabled child (Direct Payments paid in accordance with S172(a) Children Act 1989) and to payments made to a child aged 16 or 17 (Direct Payments paid in accordance with S17A (2) (b) Children Act 1989).
8. The Recipient will not use the Direct Payment;
 - (a) to employ/pay for services provided by a local authority, NHS authority or NHS trust .
 - (b) for permanent residential care for adults or for provision of residential accommodation for a disabled child or disabled young person for any single period in excess of 4 weeks and for more than 120 days in any period of twelve months.

9-25 RESPONSIBILITIES OF THE DIRECT PAYMENT RECIPIENT

- 9 The Recipient agrees that it is his/her responsibility to make all appropriate arrangements to meet the identified needs and agrees to comply with all legal requirements that may arise in making such appropriate arrangements including all Inland Revenue requirements and applicable employment legislation, to include Stakeholder Pensions and Redundancy requirements as appropriate.
- 10 In order to enable the Council to monitor the use by the Recipient of the Direct Payment, the Recipient will:-

- (a) use the _____ bank account number and ensure it will be used only for all transactions in respect of the Recipient's care plan.
- (b) notify the Council as soon as possible of any changes in circumstances and details of the use of any element of the contingency funds (in a form specified by the Council). Failure to comply with this requirement will result in the Direct Payments being suspended.
- (c) to maintain up to date records, supply these records to the Council when requested to do so, and retain all financial records for the current financial year and the preceding 6 years.
- (d) Pay for their care by either cheque or a direct debit. Cash transactions are not acceptable.
- (e) To pay into the above bank account each time a Direct Payment is deposited, monies identified as the service user contribution, where applicable.
- (f) **Small Packages of Care – New Service Users**
 If your Direct Payment package is on average 15 hours per month or less, you may not be subject to regular full financial inspections. Instead, the monitoring of your Direct Payment may be dealt with under an annual "self certification" scheme. This will mean that:
- The Direct Payments team will undertake an initial 6 week check (see 6.1 in this Contract).
 - After the first check with you to make sure you are happy using the Direct Payment system and that your financial records have been satisfactorily maintained, you will be asked to submit an annual "self certification" form. This will include a declaration that you have used your Direct Payment monies in accordance with the Direct Payments scheme, acknowledging that the Health & Community Directorate retains the right to audit your records if they want to.
 - You should continue to maintain and retain all records as listed in Section 10c of this Contract.
- (g) **Established Direct Payment Service Users –** Those established Direct Payment service users who are able to demonstrate they have maintained records as required by the scheme and have had regular monitoring checks, may also be given the option of "self certifying" on an annual basis. This option will be a joint decision between the Direct Payments monitoring service and the service user, and an assessment of risk will take place. The Health & Community Directorate retains the right to audit service users' records at any time. You should continue to maintain and retain all records as listed in Section 10c of the Contract.

11 There may be a number of reasons why a surplus has accrued in the bank account. For example, there may be outstanding tax or national insurance not yet due or paid. The contingency money will also be kept in the bank account as a reserve. Alternatively, the Recipient may be 'saving care' to cover extra costs that would be incurred when they take personal assistant(s) with them to a special event. However, this need must be agreed with their Social Worker and identified with relevant details on their care plan. The credit balance should be explained to the satisfaction of the Direct Payment Manager. However,

if there is a credit balance in the account without a satisfactory reason, the Local Authority will reduce the Recipient's next payment.

- 12 Without prejudice to its rights (to terminate this agreement, under paragraphs 15 and 24) the Council may require the Recipient to repay to the Council the Direct Payment or any part of it if the Council is satisfied that:-
- (a) the Direct Payment or any part of it has not been used to secure the provision of the Services or some part of the Services, or
 - (b) the Recipient has not met the conditions set out in paragraphs 7 or 8 or any other conditions of this agreement, or
 - (c) the Recipient has received payment from a third party (for example, the Independent Living Fund) for the Services or some part of the Services.
- 13 If the Recipient is admitted to hospital or other full time care, the Council will pay the Direct Payment in full for the first 14 days of any such admittance (subject to a maximum payment of 14 days in any 12 month period) and shall pay half of the Direct Payment for the following 14 days of any such admittance (subject to a maximum of 14 days in any 12 month period). Thereafter, the Direct Payment shall be suspended until the Recipient is discharged from hospital or other care and recommences to receive the Services. In any other circumstances, the Council may make a temporary suspension of the Direct Payment if the Recipient is temporarily unable to receive the Services for any other reason.
- 14 It is the responsibility of the recipient of Direct Payments to name a person to administer closure of the Direct Payment in the event of their death. It is this person's responsibility to ensure that non-committed funds are returned to the Directorate.
- 15 It is the responsibility of the Direct Payment recipient to ensure that legal requirements, common sense and good practice are adhered to and ensure that the people they employ are not put at risk of being injured or infected as a result of the work they do. When a personal assistant comes into a Direct Payment recipient's home both parties take on extra responsibilities.
- It is the Direct Payment recipient's responsibility to provide a healthy and safe workplace for people they employ and not to do anything, or ask them to do anything which may cause them injury. It is also the duty of the person being employed not to do anything which might endanger either themselves or the Direct Payment recipient at any time.
- (See "Guide to Employing Personal Assistants").
- 16 The service user is responsible for manual handling risk assessments, and the Direct Payments Manager will feed back any concerns regarding the use of equipment to the Independent Living Team.
- 17 The Recipient has the right to complain under the Council's Social Care, Housing and Health Directorate's complaints procedures about the operation of this agreement, but not regarding the service purchased direct from an agency or regarding matters relating to the employment of personal assistants.

- 18 Either party may terminate this agreement by giving the other party 4 weeks notice in writing.
- 19 The Recipient will notify the Council of any changes in circumstances as soon as possible.
- 20 The Recipient will allow a representative of the Council reasonable access to:-
- (a) their home to enable a review of the care needs, and
 - (b) papers on transactions relating to spending of their Direct Payment monies.
- 21 The Recipient will be liable for payments under the Council's Charging Policy for the Community Care Services and payment will be made in accordance with the standing policy and procedures (see paragraph 10e), if appropriate. The Recipient agrees that such charges may be deducted at source from the Direct Payment.
- 22 Calculation of the Direct Payment will be made in accordance with the Rate of Pay Schedule contained in the statement letter and the Care Plan details. These will both be reviewed annually.
- 23 The Recipient must seek the Social Worker's approval for all expenditure of Contingency Fund monies. Any Contingency Fund may be used:-
- (a) for covering illness of the Recipient that requires 1-3 days increased support, or
 - (b) in exceptional circumstances as agreed with the Social Worker in advance if possible
 - (c) to pay Statutory Sick Pay to Personal Assistants when they are unable to provide services to the Recipient due to illness in accordance with Statutory Sick Pay Regulations made by the Department of Social Security.
- 24 If there is a problem with the Recipient overspending the Direct Payment, then advice and support should be offered and the overspend rectified. If the problem persists, then the Direct Payment Manager may need to reassess the ability of the Recipient to manage the scheme, or a reassessment of need may need to be undertaken by a Social Worker. If the Recipient spends more money than is allowed in the Direct Payment package, then they are liable for this extra support from their private funds. If Services paid for have not been received, it is the responsibility of the Recipient to seek a refund from the Service provider. Equally, the Service provider should pursue the recovery of debts from the Recipient, if services have been received and not paid for.
- If the Recipient disputes the amount determined by the Council, he/she may appeal against the decision. The Act gives the Local Authority the power to seek a repayment if the monies made available have not been used to purchase services identified in the Care Plan and contract, or were used to purchase a service from any of the people identified as being excluded. It is essential that honest mistakes are seen as such, and repayments should only be sought where monies have been spent inappropriately or not spent at all.
- 25 The Recipient may not assign or otherwise subcontract responsibility of any part of the Agreement without the prior written consent of the Council.
- 26 Neither the Recipient of Direct Payments nor his/her employee(s) shall, in any circumstances, hold themselves out as being:-
- (a) the servant or agent of the Council, nor

- (b) authorised to enter into any contract on behalf of the Council in any way to bind to the performance, variation, release or discharge of any obligation.

27-29 RESPONSIBILITIES OF THE COUNCIL

- (a) Any of the terms and conditions of this agreement are not being met by the Recipient after advice and support have been given to assist the Recipient to meet these terms and conditions.
 - (b) The Recipient is not spending the Direct Payments, or any part of them on Services to meet the needs identified in the Care Plan after advice and support have been given by the Council.
 - (c) In terminating this agreement, the Council will provide up to 4 weeks monies in order to finalise this arrangement.
- 28 In the event that the arrangement by the Recipient for the provision of the Service to him/herself breaks down (including back up arrangements), whether in an emergency or not, the Council undertakes to ensure that the Recipient receives the Services that the person has been assessed to receive to meet their agreed needs. It is the responsibility of the Recipient to notify their Social Worker immediately of any such situation.
- 29 The Council will:-
- (a) provide support and advice to Recipients of Direct Payments to enable them to receive and manage their payments, and to advise of any changes in relevant legislation;
 - (b) make payments as detailed in this agreement, for the purchase of services as agreed;
 - (c) have no responsibility for the service(s) purchased, beyond the provision of the Direct Payment;
 - (d) formally review the assessment every 12 months or more frequently if required by the Recipient or their Social Worker (and subsequently payment may be varied accordingly);
 - (e) monitor and audit the spending of Direct Payments.
- 30 The Recipient of the Direct Payment is recommended to, and is responsible for obtaining employer's liability insurance and public liability insurance.
- 31 The authority is not liable to pay VAT, and it is not possible for the authority to make extra provision to cover the cost of VAT.
- 32 The Recipient of the Direct Payment is required to, and is responsible for obtaining **Enhanced** Criminal Records Bureau Checks of his/her potential employee(s).
- 33 Variations to this Agreement may only be made by the written consent of both parties, other than variations in the assessment.
- 34 The Council and the Recipient agree to comply with all current and future legislation relevant to the provision of this Service.
- 35 Recipients of Direct Payments who choose to adopt this means of meeting their needs are advised to consult the Direct Payments Manager for advice and support.

36 *"I agree to information given about myself being used and processed by the Council for the purposes of the administration of the Direct Payments account and other legal purposes of the Council. I also agree that the information may be shared with other agencies on my behalf and that my details will be held on a database".*

IN WITNESS WHEREOF the parties hereto have signed this agreement the day and year first before written

Signed by
For and on behalf of
Halton Borough Council Signature

In the presence of:
Signature of Witness

Name of Witness

Address of Witness
.....
.....

Signed by the said
In the presence of: (recipient sign here)
(service user signature or power of attorney)

Name of Witness: (witness)

Address of Witness:
.....

Signature of Witness: (witness sign here)

Name and
Address of Person
Identified to administer
Closure of account in
The event of death

PLEASE RETURN THE WHOLE CONTRACT IN THE PRE-PAID ENVELOPE, A COPY WILL BE SENT BACK TO YOU.

Dear

DIRECT PAYMENTS SCHEME

I am pleased to offer you the Direct Payment Scheme and below are details of the enclosed documents and what to do next:

- 2 Statement letters – please sign both, keep one for your records and return one in the pre-paid envelope enclosed.
- 1 contract – please read through and ensure you sign the contract where indicated on the back page and return the whole contract in the pre-paid envelope enclosed.
- 2 Care Plans – please sign both, keep one for your records and return one in the pre-paid envelope enclosed.
-

If you agree to receive the Direct Payment, return the signed documents above. Upon receipt of these documents I will arrange for the initial start up payment of £ (inc 2 weeks contingency) as agreed, to be paid into your bank account.

When you are ready to start the Direct Payments Scheme, and have found a suitable provider. The first of the 4 weekly payments will commence on a date to be agreed. This first payment will also include the contingency payment of £ (equivalent to 2 weeks payments) to be used in emergencies only.

Direct Payments are made on a 4 weekly payment run. Therefore the first payment will be calculated to bring you in line with the payment date.

The local authority needs to be sure that you are administering your Direct Payment appropriately. Therefore, I need to reiterate to you that you are obliged to undertake the following:

- Open a separate bank account for your Direct Payments
- Keep a record of how you spend the money. The relevant forms will be sent to you in due course. These will be monitored after 6 weeks after your first regular payment and every quarter.
- Understand that Direct Payments can be used to pay close relatives who do not live in your household and, under very special circumstances, pay relatives who live in your household. This does not prevent people using the Direct Payment to pay someone who has been specially recruited to be a live-in personal assistant. For this purpose, the Government defines a close relative as a parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, stepson, stepdaughter, brother, sister or the spouse or partner of any of the above.

I look forward to receiving the signed statement and confirmation of bank details, but if you require any further information please do not hesitate to contact me on the telephone number overleaf.

Yours sincerely

RECORD OF AUDIT CHECKLIST

Service User Address Carefirst Number Date of Audit: Period Covered by Audit: From: _____ to: _____

Checks to be made	Initials of Auditor	Comments from Auditor
Timesheets		
Income & Expenditure Record		
Quarterly Tax Returns		
P.A.Y.E		
Employers NI		
Employee NI		
Tax		
Net Pay		
BACS Advice Slips - HBC		
Cheque Stubbs		
Bank Statements		
Client Contributions		
Transport Contributions		
Sickness Records		
Holidays		
Contingency		
Saving Care		
Invoices From Agency		
CRB Check & H&S Reminder		
Insurance Reminder		

Last Statement Number /Date	
Balance last audit	
Hours Allocated (Package Details)	
Contingency Amount (2 wks DP)	
Maximum Amount (8 wks DP)	
Client Contribution Amount per week	
NOTES	

BANK RECONCILIATION FORM

SERVICE USER: _____

ADDRESS: _____

CAREFIRST NO _____

Balance on Bank Statement Sheet No: _____ £ _____

Less Payment not yet processed: £Amount

Cheque No: _____

Total Payments not yet processed **(b)** _____ **(b)**

Add income not shown on Statement £Amount

Item 1 _____

Item 2 _____

Item 3 _____

Total Income not on Statement (c) _____ **(c)**

Adjusted bank balance (a – b + c) = (d) _____ **(d)**

Balance as per Income & Expenditure record (e) _____ **(e)**

Variance (d – e) _____

Reason for variance

Service user signature: _____ **Date:** _____

Reconciled by: _____ **Date:** _____

Countersigned: _____ **Date:** _____



DIRECT PAYMENTS REVIEW

Date of Review:.....

Service User Name:	
Carefirst Number:	
Start of Service:	
Use of Direct Payment:	
Hours Allocated:	
Net Direct Payment:	
Service User Contribution:	

Present:

Summary of Meeting:

Issues to be referred to SW Team:

ISSUE	REFERRED BY	DATE

Date of next review:

START UP CHECKLIST FOR DIRECT PAYMENT RECIPIENTS

SERVICE USER: Contact Details if Diff

ADDRESS: POSTCODE :.....

CAREFIRST NO: DATE OF BIRTH: TEL NO:.....

NO. OF HOURS: RATE:ETHNICITY:.....

GROSS AMOUNT OF DP:

DIRECT PAYMENT TO BE USED FOR:

COMMUNITY CARE BUDGET /CARERS BREAK BUDGET / SUPPORTING PEOPLE BUDGET
(PLEASE CIRCLE ACCORDINGLY)

Referral Date Referred By/Team:.....

Visit Date Arranged:

Need for Recruitment :PAYROLL / ADVOCACY / RECRUITMENT :

Need for INSURANCE FORM / CRB FORMS

Financial Assessment Completed – Charge..... Date sent to WelfareRights.....

Net Direct Payment per week:

Bank Details Received

Date sent over to Halton Purchasing..... Agesso Code Number:.....

Offer Letter Sent

Statement Letters Sent Returned.....

Contract Sent Returned.....

Copy of Contract Sent to Client/Team

Start Date: Date Loaded on Schedule.....

6 Week Review Date:

Date loaded onto Database:.....Date Loaded onto Carefirst:.....Date Emailed to Finance:.....

Date Index Card Completed:.....Date Loaded as Employer:.....CRB Check sent:.....

NOTES:.....

.....



The purpose of this agreement is to set out the responsibilities and obligations of Halton Borough Council and the recipient of the Carers Break Direct Payment.

This Carers Break DIRECT PAYMENTS AGREEMENT is made between Halton Borough Council ("the council" and

(Name)

(Address)

The above mentioned Carers Break Direct Payment recipient agrees as follows:

1. I agree that I will only use my Carers Break Direct Payment to buy the services as detailed in my Care Plan, and any related expenses that have been agreed with Halton Borough Council.
2. I understand that the Council will formally review the assessment and Carers Break Direct Payments every 12 months. If I am assessed for different services I will be reassessed for Carers Break Direct Payments.
3. I agree to allow Halton Borough Council to deposit my Carers Break Direct Payment into an existing bank account. If I do not have a bank account I agree to open a new Bank Account.

PLEASE COMPLETE YOUR BANK DETAILS BELOW

Name(s) on Bank Account : _____

Address (your address) : _____

Name of Bank : _____

Sort Code : _____

Account Number : _____

Roll Number : _____
(if building society)

4. I agree to keep all receipts relating to how my Direct Payments have been spent and supply these receipts to the Council if requested to do so. Failure to produce receipts on request may result in future payment requests being refused.
5. I agree that I will meet all legal requirements and obligations relating to the services I pay for using my “Carers Break” Direct Payment. (The Direct Payments Team can tell you more about these requirements and any other queries about your “Carers Break” Direct Payment.
6. I agree to take out Employer’s and Public Liability Insurance if I am employing my own staff and I understand that my “Carers Break” Direct Payment will cover this cost or I will pay for the Insurance out of my own personal funds.
7. I agree that I will not use my Carers Break Direct Payment to employ my partner (married or not) or any of my close relatives who live with me. This means a parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, step son or daughter, brother, sister, or spouse or partner of any of these. (In exceptional circumstances, relatives may be employed, but only by prior agreement with the Council).
8. I understand that the Council **strongly recommends** that I should ask for appropriate checks to be made through the Criminal Records Bureau on all my prospective employees.
9. I understand that I will not use my Direct Payment to pay any charges due to the Council.
10. I understand that I can stop my Direct Payments by giving four weeks’ notice and agree to repay any unspent money.
11. I agree to information given about myself being used and processed by the Council for the purpose of the administration of the “Carers Break” Direct Payments account and other legal purposes of the Council. I also agree that the information may be shared with other agencies on my behalf and that my details will be held on a database.

I understand that if I do not keep to the above terms and conditions Halton Borough Council may stop the payments without notice and I may be required to return all or part of the money I have received.

Signed: _____
(Recipient)

Dated: _____

Signed: _____
(On behalf of the Council)

Dated: _____

DIRECT PAYMENTS SELF CERTIFICATION FORM

New service users whose Direct Payment packages average 15 hours per month or less, may 'self certify' in certain circumstances. Established Direct Payment service users who are able to demonstrate they have maintained records as required by the scheme may also be invited to 'self certify'. If service users choose this option, then the following declaration must be completed:

I (name of service user) hereby declare that I have received Direct Payments for my support needs.

I confirm that the funds received from Halton Borough Council have been used to provide services to meet the needs detailed in my Care Plan.

I further confirm that I have complied with all Inland Revenue requirements and employment legislation, (where applicable). I also confirm that I have maintained adequate employer's liability insurance (where applicable), maintained all records and agree to keep all records as per Section 10c in the Contract.

If your balance on your Direct Payment account is more than 8 weeks the value of your weekly payment, Halton Borough Council has the right to reduce or suspend a number of payments.

Most Recent Bank Statement Number	
Period From and To:	
Balance on Most Recent Bank Statement	
Please tell us about any payments that have not yet cleared that will affect your current balance.	
Payments to Providers	
Payments to PA's	
Payments to Inland Revenue	
Payments to Insurance Company	
Details of any other payments	

I acknowledge that Halton Borough Council retains the right to audit my accounts.

Print Name: _____ Signed: _____

Date: _____

DIRECT PAYMENT REQUEST FORM

SERVICE USER NAME:	CAREFIRST No:
PACKAGE DETAILS – HOURS PER WEEK:	HOURLY RATE:

TEAM (circle)	OPW	OPR	ALD	PSD	MHT	RARS	AHT
FUNDED BY (circle)	COMMUNITY CARE BUDGET	CARERS BREAK BUDGET	SUPPORTING PEOPLE BUDGET	PCT	OTHER		
REQUEST TO: (circle)	START SERVICE	INCREASE SERVICE	DECREASE SERVICE	SUSPEND SERVICE	STOP SERVICE		

START DATE	END DATE (if not ongoing)	GROSS WEEKLY COST	LUMP SUM PAYMENT

SUMMARY OF SERVICE TO BE PURCHASED WITH DIRECT PAYMENT

SOCIAL WORKER/CARE MANAGER:	PRACTICE MANAGER:	DIRECT PAYMENTS/INDIVIDUALISED BUDGETS OFFICER:
Date:	Date:	Date:

PASSED AT PANEL: YES / NO PLEASE ENSURE THAT CARE PLAN AND PANEL REPORT ARE ATTACHED TO THIS BEFORE SENDING TO THE DIRECT PAYMENTS TEAM.

Send To: Direct Payments Team, Runcorn Town Hall, Heath Road, Runcorn, WA7 5BR, Tel 01928 704436, Fax 01928 704378

REQUEST FOR REIMBURSEMENT OF MONEY SPENT ON CONTINGENCIES

Service User:

Address:

.....

.....

Ref Number.....

Creditor Reference Number (for officer use only)...

I request reimbursement of expenditure from the contingency as follows:

Details of expenditure to include:

Reason (receipts must be attached):

Date(s):

Hours used:

Total paid:

Service user signature: Date:

Client Finance Manager signature: Date: