



OXFORDSHIRE COUNTY COUNCIL

**SOCIAL & COMMUNITY SERVICES
& CHILDREN, YOUNG PEOPLE AND
FAMILIES DIRECTORATE (SOCIAL
CARE SERVICES)**



CASH FOR CARE

DIRECT PAYMENTS IN OXFORDSHIRE

POLICY AND GUIDANCE

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Direct Payments for Social & Community Care Services, Services for Carers and Children's Social Care Services

1. Oxfordshire County Council is committed to:-

- Improving the choice and control that people have in their lives, especially over the services they are entitled to.
- Increasing the number of people who are able to use Direct Payments and
- Working in partnership with a range of organisations and service users and carers to make this happen.

The Aim of this Guidance

2. The aim of this guidance is to assist OCC's Social Care Services in making Direct Payments and implement the major changes introduced by the new Direct Payments Regulations in April 2003 (The Regulations) which are:

- Local Councils have a **duty to provide Direct Payments** rather than the power to offer Direct Payments.
- Direct Payments **must be made to all individuals who are eligible to receive them and who want them**. All people who are eligible to / or receive services from S&CS and who are eligible and request a Direct Payment cannot be refused. In Children's Services Direct Payments can be refused if granting them could put a child at risk. In practice, such refusals are rare.
- A Direct Payment can be paid to relatives who do not live in the same household and in exceptional circumstances to relatives who live in the same household.
- The person in receipt of the Direct Payment does not have to manage the Direct Payment themselves either the financial aspects or the organisation of the service – this can be undertaken by a third party – an individual, a formal network or a trust.

What are Direct Payments?

3. Direct Payments are monetary payments made by local councils direct to people who have been assessed as needing social care, including those who find themselves caring for others. In Children's Services, they are only available for parents/carers of disabled children or for older disabled teenagers in their own right or for 16/17 year olds who provide a lot of care for a disabled person. 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 Adults and Children's Social Services would otherwise arrange in order to live in their own homes, be fully involved in family and community life, and to engage in work, education and leisure.

Day-to-day control of the money and care services passes to the person who has the strongest incentive to ensure that it is spent properly on the necessary services, and who is best placed to judge how to match available resources to needs.

The person then uses the payment to secure for him or herself the relevant services. In the case of disabled children, a person with parental responsibility for a disabled child secures services to meet the needs of their child or the child's family.

As a general principle we should aim to leave choice in the hands of the person by allowing people to address their own needs as they consider best, whilst satisfying themselves that the agreed outcomes are being achieved. Where a child is assessed as needing services under section 17 of the Children Act 1989, CYPF have to be satisfied that the Direct Payment will 'safeguard and promote' the welfare of the child for whom the service is needed.

Where a local council makes a Direct Payment, it retains its functions with respect to overall provision of the service under the applicable social services legislation. However, so long as OCC is satisfied that the person's needs for a particular service will be met through the arrangements he or she makes using the Direct Payment, the council is not obliged to provide or arrange those services for that person.

4. From 8 April 2003 each eligible person will be offered the choice of having their needs for a relevant service met through Direct Payments rather than through services provided or arranged by Adult and Children's Social Care as part of the care planning process.
5. In implementing the changes made by the Direct Payments legislation, the Government wants to increase the number of people who receive Direct Payments and to ensure that people from all client groups have access to the choice that Direct Payments bring. This is equally important whether the person assessed as needing services is an older person, a disabled adult of working age, a carer, or a disabled child. The Government expects to see a substantial increase in the number of Direct Payment recipients – particularly among generally excluded groups – and will be monitoring local councils' progress in achieving this goal.
6. 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 needs 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 preventative and rehabilitative strategies.

7. Councils must not make blanket assumptions that whole groups of people will or will not be capable of managing Direct Payments. A council is not under a duty to make a Direct Payment if in its judgement the person is unable to manage a Direct Payment even with assistance. However, very many people will be able to do so, in particular, if they have access to help and support. Where a council makes a judgement that someone is unable to manage, this should be made on an individual basis, taking into account the views of the person and the help that may be available to him or her. Where a person does not agree with the council's judgement, they should have access to advocacy and, if available, arbitration, to ensure that their arguments are properly considered, or access to the council's complaints procedure.
8. The Regulations provide that 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; or
 - a service under section 2 of the Carers and Disabled Children Act 2000; or
 - a service which local councils may provide under section 17 of the Children Act 1989 (provision of services for children in need, their families and others).Wherever a person is assessed as needing social care services, a council should check whether there is a duty to make a Direct Payment in respect of that service.
9. Health or Housing Authorities are not authorised to make Direct Payments. Direct Payments are also not allowed to be used to purchase health services or housing. However, there may be circumstances where Health Authorities may contribute funds to a community care package managed by S&CS, under Section 28a of NHS Act 1977 or under pooled budget arrangements under section 31 of Health Act Flexibilities.

Who can receive Direct Payments?

10. The following groups of people are eligible to receive Direct Payments:
 - **Older people and disabled people aged 16 and over**
 - **A person with parental responsibility for a child**

This may include a parent or others, such as a grandparent, with parental responsibility for a disabled child. It may also include a disabled person with parental responsibility for a child. In particular circumstances it can also include foster carers who are looking after a disabled child and for others who are providing full time care for a disabled child but who are not employed in this role.
 - **Carers aged 16 and over**

People whom the council decides need services because they provide or intend to provide a substantial amount of care on a regular basis for someone aged 16 or over. Carers (but not employees, persons working under contract or for a voluntary organisation) may obtain Direct Payments in respect of their own needs for services but not for services in respect of the needs of the person they care for. (See above: the situation is different because the legislation/guidance is different in Children's Services)

• People who are entitled to receive after care services under Section 117 of the Mental Health Act 1983.

11. Councils may make Direct Payments only with the consent of the person concerned, or, for disabled children aged under 18, with the consent of a person with parental responsibility.

Whilst a Direct Payment can be made to a nominee and someone else can help the person to manage the Direct Payment, the person eligible to receive Direct Payments must be able to consent to the making of the payment, or consent to the change in provision creating a more personalised/beneficial service.

Some people may need help with managing the money. The payment may be made to a third party (nominee) for the recipient and day-to-day management of finances may be delegated in this way. However, the person to whom the Direct Payment is made must have choice and control over how services are delivered. Direct Payments may also be provided through someone with power of attorney for the person or a user-controlled trust.

12. If a person wishes, local councils can arrange mixed packages for people where some services are provided directly by either Adults or Children's Social Care and Direct Payments are available for other needs. This can, for example, give somebody the opportunity to familiarise him/herself with the business of using a Direct Payment before taking on responsibility for arranging services to meet all their needs.

Who cannot receive Direct Payments?

13. The following groups of people are not eligible to receive Direct Payments

- a person living in permanent residential care (except to purchase day services or services to assist their moving out of registered care).
- People whose liberty to arrange their care is restricted by certain mental health or criminal justice legislation as follows:
 - I. Patients detained under mental health legislation who are on leave of absence from hospital
 - II. Conditionally discharged detained patients subject to Home Office restrictions
 - III. Patients subject to guardianship under mental health legislation and those covered by the new power of supervised discharge introduced by the Mental Health (Patients in the Community) Act 1995
 - IV. People who receive any form of after-care or community care which constitutes part of a care programme initiated under a compulsory court order

- V. Offenders serving a probation or combination order subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency
- VI. Offenders released on licence subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency
- VII. People subject to equivalent restrictions in Scottish mental health or criminal justice legislation.

Direct Payments in Oxfordshire

14. Oxfordshire Direct Payments Scheme is established to be **Inclusive** irrespective of disability, age, gender or ethnic background. The offer of Direct Payments will depend on eligibility for services. Direct Payments should not be offered where the person would be left vulnerable to decisions made on their behalf, or where the person is not central to the process. The Council and the Direct Payment Information, Advice and Support Service (The Direct Payments Support Service) will work together to enable all eligible persons to consider Direct Payments as one way to meet their assessed needs.
15. In order to ensure that the person's assessed needs for the relevant service can be met by means of a Direct Payment, S&CS/CYPF should consider the person's needs and also discuss with anyone to whom it proposes to offer Direct Payments how he or she intends to secure the services. S&CS/CYPF 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.
16. S&CS/CYPF may set reasonable conditions on the Direct Payment, but need to bear in mind when doing so that the aim of Direct Payments is to give people more choice and control over the services they are assessed as needing. For example, individual choice and control would not be delivered were a condition set that someone who receives Direct Payments may only use certain providers. Conditions should be proportionate and no more extensive, in terms or number, than is reasonably necessary.

Direct Payments for Disabled Children

17. Parents should be encouraged and supported to use Direct Payments with a view to enabling their disabled children to access the same kinds of opportunities and activities as their non-disabled peers. Direct Payments to people with parental responsibility for a disabled child are provided within the framework of Part III of the 1989 Act, which requires local councils to provide a range of services to safeguard and promote the welfare of children in need.

Parents may use Direct Payments to purchase services of an intimate nature to meet the assessed needs of their disabled children. However, as children mature parents should be encouraged to give greater weight to the child's views about how their intimate care needs are to be met. Particular care should be taken to ascertain the child's wishes when they have a cognitive and/or communication impairment.

18. Whatever decisions are made when the disabled child reaches age 16 or 17, people with parental responsibility for a disabled child may not continue to receive Direct Payments to purchase services that meet the needs of that child once the child reaches 18. The disabled child may then receive a Direct Payment in their own right. However, if they are going to continue in their caring role, such carers may be entitled to receive Direct Payments as an alternative to local council directly provided carers' services.

Disabled 16- and 17-year-olds are entitled to take advantage of the flexibility of Direct Payments where this will safeguard and promote their welfare. Direct Payments enable them to make more decisions for themselves and to provide opportunities for them to have more control over their lives.

Young disabled people may receive assistance with managing the Direct Payment, just as any other Direct Payment recipient may do. Where that assistance takes the form of a user-controlled trust or similar arrangement, it should be set up in the knowledge of the views of those people with parental responsibility. Their ability to exercise their views should not be undermined by the arrangement.

Direct Payments for Carers

19. Direct Payments allow carers to purchase the services they are assessed as needing as *carers* to support them in their caring role and to maintain their own health and wellbeing. Carers (other than those with parental responsibility caring for children) may not receive a Direct Payment to purchase services to meet the assessed needs of the person they care for.

This facility is available to allow for flexibility in the *small* number of circumstances where a 16- or 17-year-old is choosing to undertake a substantial caring role for a disabled adult for a period and where the local council supports that decision. It could in some circumstances be more helpful to the young carer to receive a Direct Payment, for example, to allow them to arrange for carer services to be delivered in such a way as to minimise any disruption to their education that would result from their decision to care.

What Direct Payments can be used for: -

20. Where a person is eligible to receive services from Oxfordshire S&CS/CYPF they may be eligible to receive a Direct Payment in order that they may organise their own care support. The key here is about the agreement of eligible needs. Direct Payments can be used to purchase most services for persons who are **Ordinarily Resident** of Oxfordshire. For example the types of services that may be purchased can include mixed packages of care, personal care, essential household chores, meal preparation, day-care, short term breaks and associated transport, the purchasing of equipment and Community Care Services for disabled parents to assist with parenting tasks. Direct Payments should be used to promote independence and aid social inclusion by offering opportunities for rehabilitation, education, leisure and employment. Expenses associated with a Direct Payment purchased service are an allowable expense when agreed as part of the care plan.

In considering whether the person's needs for the relevant service will be met by the person's own arrangements, the Council should not be constrained by existing patterns of service provision.

By exploring innovative and creative options, people should be encouraged to identify alternatives that meet their needs more effectively. Where the person's needs fluctuate over time, it will be important to discuss in advance how the Direct Payments will be used to secure a package of assistance which varies according to need.

21. A Direct Payment can be used to pay an independent care agency registered with the Commission for Social Care Inspection (CSCI) or to employ anyone with the exception of a close relative living in the same household except where S&CS/CYPF have agreed in exceptional circumstance that this is the only way a service can be secured to meet a person's needs.

The Government has implemented a scheme of regulation in domiciliary care via CSCI. Councils will be required, when making arrangements for domiciliary care under their community care responsibilities, to place contracts only with registered domiciliary care providers. Direct payments users need not restrict themselves to domiciliary care providers accredited with the Local Council, but should be aware of the scheme.

It is the role of The Direct Payments Support Service to inform the person of the differences between using domiciliary care providers that are and are not accredited as domiciliary care providers with the County Council. In Children's Services, parents can only use domiciliary agencies that are accredited by CSCI to provide personal care to children.

22. Direct payments may also be used to enable people who are living in care homes to have temporary access to direct payments to try out independent living arrangements before making a commitment to moving out of their care home. Direct Payments can also be used by people living in care homes to buy a day service place or engage in an alternative daytime activity, and this can be particularly enabling for young people at transition stage as long as it is an agreed and eligible need as identified in the care plan
23. Councils may make Direct Payments to enable people to purchase for themselves equipment that would otherwise have been provided by S&CS/CYPF. Direct Payments may also be made to enable people to pay for adaptations, which would otherwise have been provided or arranged by the Council. Councils may make Direct Payments for equipment to enable carers to purchase, as a carers service, specific items of equipment that are not provided by S&CS or the NHS.
See the Councils Direct Payments for Equipment Policy and literature.

Direct Payments cannot be used to: -

24.

- Purchase services from Oxfordshire County Council, the Health Authority or the District Councils.
- Purchase long term care in a care home.
- Direct Payments cannot be made in relation to the provision of **residential accommodation for an adult, 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 twelve months**. The time limit is imposed to avoid inappropriate use of residential accommodation.
- Direct Payments cannot be used to **purchase services or equipment for which the council is not responsible**, for example, services that the NHS provides. Direct payments are not a substitute for disabled facilities grants.
- Purchase a service for someone who is no longer an **Ordinary Resident** of Oxfordshire other than by prior agreement and confirmed in writing with senior managers within CYPF/SCS and the persons funding Authority.
- 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 (husband or wife), from a partner (the other member of an unmarried couple with whom they live), or from a close relative (or their spouse or partner) who live in the same household as the Direct Payment recipient**.
This restriction is not intended to prevent people using their Direct Payments to employ a live-in personal assistant, provided that that person is not someone who would be usually excluded by the Regulations. The restriction applies where the relationship between the two people is primarily personal rather than contractual, for example, if the people concerned would be living together in any event.

Enabling People to Access Direct Payments

25. Where someone needs assistance to manage Direct Payments, ways can be explored of delivering this so that adequate help is available over a sustained period, not just for the set-up period. Recipients may choose to ask family or friends, or advocacy or support groups to help them in this way. They might also choose to buy in assistance, for example, with keeping records, management of day-to-day relationships with staff or using a payroll service.

In certain circumstances a trust may take on the employment of staff and the financial management of the payment. In such cases, local councils should seek to establish that there is an understanding by those appointed to manage the administration of the payment of what is involved before making Direct Payments.

Oxfordshire County Council operates a **3rd party support service** who will act as a trustee for anyone who requires this additional support. The 3rd party will receive the Direct Payment on a person's behalf, help recruit Personal Assistants (PA's), pay the PA, take on all the legal responsibilities of being an employer and also provide the Council with all the financial monitoring information requested.

26. Developing support mechanisms is a prerequisite for a successful Direct Payment. Therefore the support available is a partnership between the person, the Department, The Direct Payments Support services, local voluntary organisations and individuals. The same quality standards and principles must be applied in assessment, identifying needs and care plan options in the same way for all people whether or not Direct Payments are to be considered. People already in receipt of a service must be given the opportunity to consider Direct Payments as a way to meet some or all of their needs.
27. Most recipients of Direct Payments will be able to take full and complete responsibility for the management of the services they require and others may need help to get started. Some people may need support on an ongoing basis. Support and advice can come from a variety of sources: -
- The Care Manager/social worker may be the initial source of information and advice during the assessment and care planning process. When the care plan is completed, including costings, the person must be referred to;
 - The Direct Payments Information and Advice Service (The Direct Payments Support Service)
 - The person may need support from a person or persons who know them well or have close links with their situation, to support, advise or help manage the Direct Payment with them. These could be a partner, relative, friend or carer.
 - There may be a need for specialist assistance with employment or finance where the support required is professional.
28. Whilst a Direct Payment provides a person with increased choice, control and independence it will be necessary for them to understand, with as much support as is necessary, what a Direct Payment can mean. There are three main elements dictating whether a person can receive Direct Payments: -
- a) The person is eligible to receive Direct Payments.
 - b) The person is able to or helped to understand what a Direct Payment is.
 - c) The person can express preferences and is choosing to receive a Direct Payment.

This does not mean a person must understand all the financial and legal obligations that receiving a Direct Payment incurs. But merely by receiving a Direct Payment they will receive services that they would prefer or would be more beneficial to their needs.

Managing a Direct Payment

29. The person and/or their support network must be able/enabled to understand the nature of the agreement they are entering into, able to keep the necessary records with support and able to control the money with support to ensure they receive the services that they need. It is a key principle of Direct Payments that the person is central to how the Direct Payment is used.
30. Oxfordshire SCS/CYPF have developed an inclusive approach to enable people to access Direct Payments. The social worker/care manager must consider five issues when supporting a person to take up Direct Payments: -
- Who has decided on the (lifestyle) plan being proposed through which a Direct Payment is to be delivered?
 - Has the person chosen to or expressed a wish to get a Direct Payment or to manage and have more choice and control over their care services?
 - What are the potential benefits for the person by using Direct Payments?
 - Is the practical support and decision making sufficient to manage the Direct Payment in the way the legislation intended.
 - For children and for vulnerable adults, does allocating services by direct payments adequately safeguard and promote their welfare?
31. After discussion with the person and their supporters, the Care Manager/social worker needs to consider whether the assessment indicates adequate and robust support systems are in place for the potential recipient to manage the Direct Payment. If those systems are not adequate, the Care Manager/social worker needs to enable the person to adjust the support mechanisms. The Care Manager/social worker is required to make a judgement and decide on each individual case. It is recognised that this is a difficult process and should be clearly documented as to how the decision was made. However it is one that can be used to manage the risk of providing a Direct Payment, rather than as a reason to exclude. The Direct Payments Support Service or the Direct Payment Development Officer is available to offer support to set up these systems.
32. With regard to the person's ability to manage the Direct Payment, ensuring that the person is central to the decision-making around the payments is more effective than focusing on the person's ability to manage financial systems. Advice and support for managing the financial paperwork can be provided via The Direct Payments Support Service.
33. Many people with an episodic condition can manage direct payments very adequately. Nevertheless, some people may be better able to cope with Direct Payments if a friend, relative or some other third party is willing to provide greater assistance when their condition worsens. Advance statements should be used as part of the process of managing a fluctuating condition.

34. Where it is known that a person is likely to lose the ability to manage a Direct Payment in the future, provided it appears to the council that a person is currently capable of managing a Direct Payment, or managing the payment with help, the Council can support a person to continue to receive a Direct Payment when this occurs. Alternative care arrangements should be made if the appropriate support cannot be arranged to enable people to continue to manage a Direct Payment. People whose condition is likely to fluctuate or deteriorate permanently should be given an opportunity to explore any worries they may have about their ongoing ability to manage Direct Payments.

It is important that the needs of people with dementia and their carers are properly considered, and Direct Payments should not be discontinued if the person needing services is able to manage with appropriate support.

35. If there are doubts about the person's ability to manage the Direct Payment; it may be appropriate to consider offering training and /or a formal trial period. This would allow the person the opportunity to try Direct Payments and the social worker/Care Manager the time to monitor and review the situation. Usually the Care Manager would not become actively involved in assisting the person manage the Direct Payment.

In situations where there are serious concerns about the success of offering a Direct Payment a joint approach with the social worker/Care Manager and person working together may help to manage risk more effectively.

The Direct payments Support Service will be able to offer training; support and advice to the person and working in partnership with the care manager enable the Direct Payment to go ahead.

36. It is necessary as with any new package of care to monitor and review Direct Payments closely in the first few months. If there are concerns about the stability of the care package or the ability of the person to manage their care it will be necessary to undertake a risk assessment. This will weigh the relative gains for the person and risks involved. If the reviewing and monitoring are well managed the risks should be well controlled and then it should be possible to offer Direct Payments to most people who are entitled to a service. If managing the Direct Payment is assessed as too high a risk, the Council have the right not to offer or to withdraw the Direct Payment and manage the services on behalf of the person.

37. There will be occasions where Direct Payments are not a suitable method of engaging services for a person. In these situations it is very important to clearly document the process that was taken to arrive at the decision. The final decision as to whether a person receives a Direct Payment rests with the Council.

Approaching the Final Decision

38. It should also be made clear that a person does not have to agree to a Direct Payment and services can be arranged in the normal way if someone decides not to accept Direct Payments. It is also important to discuss with people who are to receive Direct Payments what they should do if they no longer wish to receive Direct Payments.
39. The final decision whether a Direct Payment should be offered relies on the judgement of the Care Manager/social worker and their recommendations to their Unit Manager and Service Manager. Where there are concerns The Direct Payments Support Service can help to address some of the issues. This can be a highly charged and emotional period for all involved. Here are a range of questions that may be helpful: -
- Does the person understand or with help understand the nature of Direct Payments?
 - How does the person express preferences, communicate their views and can this be translated into the management of the Direct Payment?
 - Does the person make important decisions about their life at the moment?
 - Will this continue if they have Direct Payments?
 - Will the Direct Payment improve the quality of life for the person?
 - Will Direct Payments make the person more independent or transfer their dependency to their support network?
 - Does the person need support to become an employer and understand the legal implications?
 - Does the person understand the need to be able to provide contingency cover arrangements? e.g.: Holidays
 - How will emergencies be managed?
 - How can the person be enabled to keep the necessary records?
 - How can the person be supported to monitor the services they are purchasing?
 - Are there factors that may influence the person's ability to manage a Direct Payment over time and how could these factors be overcome?
 - How often and when will the Direct Payment be monitored and reviewed by the social worker/Care Manager?
40. In the case of an emergency the Council has a duty of care and therefore will respond to the persons needs. However the Department cannot guarantee that this may be in a way that the person would choose for themselves.
41. Where it is felt that Direct Payments are not to be the chosen method of service delivery the care manager/social worker should explore service options that will meet assessed needs whilst offering independence and choice to the person.

Role of the Social Worker/Care Manager

42. The social worker/Care Manager is the professional who will assess the person in order that they may access Services funded by the Local Authority. It is the social worker/Care Manager's assessment that will inform the Department of the eligibility and priority of the persons needs. The social worker/Care Manager is required to discuss Direct Payments with the person during the assessment and review process.

Direct Payments should be an integral part of the care plan options when looking at ways of meeting the persons assessed and eligible needs. If the person is interested in Direct Payments then:

- They will receive advice and guidance on how to manage a Direct Payment from The Direct Payments Support Service.
- The social worker/Care Manager will then confirm that the arrangements put in place by the person or their support network is appropriate to meet their needs as identified in their Care Plan
- Only then will the Contract between the Direct Payment recipient and the Council be agreed and signed

The social worker/Care Manager needs to be clear that the five main elements (chapter 30) for receiving a Direct Payment will be met and that the person or their support network understands and agrees with the care plan before this is signed. The risks to the person if Direct Payments go ahead, the Local Authority duty of care and the risk of financial difficulties need to be balanced against the long-term gains for the person.

Role of Direct Payment Information, Advice and Support Service

43. The Direct Payments Support Service is a user led organisation, with funding from OCC. The Direct Payments Support Service offers independent and impartial free advice to S&CS/CYPF clients who are interested in learning more about all aspects of Direct Payments as well as providing on going support and advice to Direct Payment users. They are able to work with the person and their advocates and liaise with the social worker/Care Manager to find solutions where difficulties arise. The advice they offer is of an enabling nature, which can be practical problem solving or addressing concerns and helping the person to develop networks with other Direct Payment users. Social workers/ Care Managers will refer all persons who wish to consider Direct Payments to The Direct Payments Support Service after they have agreed their care plan. The care plan forms the basis for the work of The Direct Payments Support Service Advisor. The Direct Payments Support Service will offer advice on the needs that are to be met by the Direct Payment. The Direct Payments Support Service will signpost to other organisations as appropriate.

The Direct Payments Support Service will provide an information pack that includes **The Practical Guide to Managing a Direct Payment**.

All persons wishing to receive Direct Payments will meet with The Direct Payments Support Service advisor at least once to gain an understanding of the legal requirements of all aspects of Direct Payments especially in relation to being an employer. The Direct Payments Support Service will also provide links to other support options available. For one off payments a referral to The Direct Payments Support Service is only required where the person is intending to employ another person with the Direct Payments funding.

The Direct Payments Support Service are also able to provide advice and support to people who are assessed as full cost clients or are purchasing their own care support for example via ILF.

Role of the Person receiving a Direct Payment

44. The person receiving the Direct Payment, or their support network, is entering in to a contractual agreement with the Council. They are contracting to take over the management of their care purchased with the Direct Payment and it is important that they understand the process and the associated responsibilities. To enable them to manage the Direct Payment the Department recognises that they may need assistance. It is the role of The Direct Payments Support Service to assist the person with identifying any support they may require and the social worker/Care Manager to formally agree the support systems if needed. Once Direct Payments have started the individual or their supporters will have to organise the care to meet the agreed needs in the care plan. This will include recruiting staff, maintaining records, managing the Direct Payment and providing evidence to the Department that the money is being used to meet their agreed needs and that the person is central to the management of the Direct Payment. The Department expects the person in receipt of the Direct Payment or their support network to have in place contingency plans to cover difficulties or emergencies in relation to the care services purchased with the Direct Payment and to meet The Direct Payments Support Service Advisor at least once.

Where there is a change in need and the care plan does not meet the current circumstances the person **must** ask for a reassessment and a new care plan. For example where a person's needs change from support at home to the need for respite breaks; this must be agreed by the care manager. Purchasing services for a need that is not specified on the care plan may be considered as a breach of the Direct Payment Contract and could result in the Direct Payment being withdrawn.

As well as giving users greater control and independence, a Direct Payment carries with it responsibilities. The individual is accountable to the local council for the way in which the money is spent. Users also take on responsibility for obtaining the services they need through their own arrangements, which may involve legal and employment responsibilities.

The only contracts which are binding on minors are contracts for 'necessaries', that is, contracts for necessary goods and services. Even then such a beneficial contract will not be enforceable against a minor if it is found to contain unreasonable and onerous terms. This will need to be borne in mind in deciding whether to make a Direct Payment to a disabled 16- or 17-year-old, and it is suggested that managers should be consulted and legal advice obtained as is thought to be appropriate.

Role of Family, Friends and Carers

45. Many people who receive services from Adult and Children's Social Care services within the Council will have help in their everyday living from family, friends, carers, neighbours and professionals. When looking at Direct Payments these support systems can be informally or formally included as part of a support network in managing the Direct Payment. The principle of Direct Payments is that the payment is given to the person for them to use to purchase services to meet their agreed needs. Where the person needs ongoing support managing their Direct Payment this could be by a formal or informal support network depending on the needs of the individual person. An informal support network is where family members, friends or neighbours could support the person to manage the direct payment. A formal support network is one that is set up where the person would have difficulty or be unable to manage a direct a payment and the formal network would take over this function.

Role of Formal Support Networks and Trusts in managing a direct payment

46. If a person is expected to experience difficulty in managing the day-to-day decisions they can delegate that responsibility to another party or group, this is identified as the Support Network. This group needs to be clearly defined and agreed by S&CS before Direct Payments can go ahead, unless the person intends to use the Council funded **3rd Party Support Scheme**. The Care Manager will require evidence of: -

- What are the principles of the Support Network?
 - A Statement of aims and objectives
 - Define membership and roles
 - Identify the frequency of meetings
- What is the method of working of the Support Network?
 - How is information collected?
 - Who does what, keeping minutes, collating information, calling meetings?
 - Delegation of responsibility.
 - How and which decisions are made and by whom?
- The decision making process.
 - How will the person be enabled to make decisions?
 - How will the person's views be identified?
 - How will communication of needs be managed?
 - How will needs be met?
 - Who can make decisions and at what level?
 - How will differences in opinion be resolved?

A trust may assist in the support to the individual in order that they may be able to manage a Direct Payment but only where the individual is engaged in the decision making process. The Support Network or Trust will need to provide evidence that the individual is central to managing the Direct Payment and how decisions are made.

Placing the person at the centre of the decision making process and being clear on how this process will work will enable many people to access Direct Payments who other wise would not be considered. Clarity and clear documentation at this stage will help avoid difficulties once the Direct Payments have started.

Role of Professional Support

47. To enable a person to manage their Direct Payment S&CS will endeavour to make the scheme as easy as possible to manage and will look at each case separately.

Enduring Power of Attorney

48. A person with legal capacity can make an Enduring/Lasting Power of Attorney (EPA/LPA). He or she makes the EPA/LPA in the expectation that if they lose capacity the person appointed as attorney will lawfully be able to continue to deal with his or her property and affairs once the power is registered. If a person receives Direct Payments, then the attorney under the EPA/LPA could continue to receive payments on his or her behalf.

However, this relies on the person having previously consented to receiving Direct Payments at a time when they had the capacity to do so. An attorney acting under an enduring power cannot give consent on the person's behalf. If a person, to the knowledge of S&CS, becomes permanently incapable of managing a Direct Payment, whether alone or with help, S&CS is required to review the situation and agree that the Direct Payment can continue or that the Direct Payment may have to cease and provide or arrange for the provision of services instead. Currently, such an attorney cannot make decisions about a person's health care or personal welfare. If it becomes appropriate for the person to receive different services, such an attorney cannot consent to Direct Payments for such services. This guidance will be reviewed in light of any changes to the law made as a result of the Mental Incapacity Bill.

Exceptional circumstances – Close Relatives Living in the Same Household

49. Direct Payments are not designed to pay close relatives or persons living in the same house where the relationship is personal. However, in some circumstances this may be the only way that services can be adequately provided.

Where a direct payment is agreed under exceptional circumstances this has to be confirmed in writing by the relevant manager to the person receiving the Direct Payment with copies of this letter sent to the Finance Officer and held on the persons file.

Training of Staff

50. It is essential that staff employed by a person in receipt of a Direct Payment have the necessary skills to undertake the tasks identified for them to do. This is part of the contract between the individual Direct Payment recipient and the person(s) or agency employed.

For Adults care tasks that are designated at Level 3 or 4 in the Joint Working Protocol for the Delivery of Shared Care Services for Adults Living in Their Own Homes in the Community (Shared Care Protocols) Direct Payment recipients are strongly advised to have their care staff trained to undertake the tasks that are identified. This training is free and is organised by the Health Care Professional (e.g District Nurse).

For Children care tasks that are designated at Level 3 or 4 in the Shared Care Protocols for Children Living in a Family or Community Setting (Shared Care Protocols) Direct Payment recipients need to have their care staff trained to undertake the L3/4 tasks that are identified. This training is free and is organised by the Health Care Professional (e.g School Nurse, Clinical Nurse specialist).

For Care tasks that are identified as Level 5 in the Shared Care Protocols only **trained Health Care Professionals must carry out these tasks.**

Health and Safety

51. As a general principle laying down health and safety policies for individual Direct Payment recipients should be avoided. Persons must accept that they have a responsibility for their own health and safety and for the person supporting them, including the assessment and management of risk. They will develop strategies on moving and handling and other tasks both in the home and outside it where lifting equipment, for example, may not be available.

As part of this process the results of any risk assessments, which were carried out as part of the care assessment, will be shared with recipients and potential recipients of Direct Payments. Such risk assessments are necessary so that health and safety issues can be taken into account. This allows the individual to share the assessment with the care agency or the employee who provides the service. They can therefore take reasonable steps to minimise the risks to the health and safety of any staff they employ. The recipient or potential recipient of a Direct Payment has a common law duty of care towards the person they employ or who are providing services for them.

In Children's Services, risk assessments relating to the complexity of the child's support needs and the difficulty carers may have in meeting them safely will be reviewed at Unit manager/Service manager level to assess whether direct payments can be given (safeguarding requirement)

Dealing with Emergencies/Contingency Arrangements

52. The Department expects each person receiving a Direct Payment to make arrangements or contingency plans to cope with emergencies. It is a condition of accepting to receive a Direct Payment that the recipient takes responsibility for and has a plan in place to deal with emergency situations. The Direct Payments Support Service will offer support and advice on how to prepare appropriate arrangements. The standard hourly rate for Direct Payments includes a proportion to cover the cost of emergencies.

The duty of care rests with the Department and therefore in the event of an emergency if the individual cannot organise care as detailed in their contingency plan they should request assistance from the Care Manager/social worker.

Appeals where Direct Payments are refused

53. In some situations it may not be possible for the Council to offer Direct Payments to an individual. The reasons for the decision must be clearly documented, discussed and clearly communicated in writing to the person and where appropriate with any family or friends and they must be advised of their rights to appeal against this decision or how to use the Complaints Procedure. The appeal may take the form of a meeting of the parties involved to try to find a solution to the issues raised in the formal rejection. This could include the person and their representatives, The Direct Payments Support Service and representatives of the Department.

OCC's Complaints Procedure

54. This is available to all users of Social Care services and can be used to make a complaint about services or procedures undertaken by the Department. A person who is considering Direct Payments may use this procedure to formally complain about the process, the decision making or the amount offered as a Direct Payment but not about the services they have purchased.

Criminal Records Bureau Checks

55. The Protection of Children Act 1999 enables a person who is considering employing an individual to care for their child, or a disabled 16- or 17-year-old who is considering employing a care worker themselves to ask the Council to carry out checks under the Protection of Children Act 1999 via the Criminal Records Bureau (CRB). When the person with parental responsibility or the disabled young person requests such a check the Council has a duty to comply. It is essential that this is an enhanced CRB check.
56. Enhanced CRB checks which highlight possible concerns about the safeguarding of a child who would be cared for by the employee concerned must be brought to the attention of senior managers in CYPF who will decide whether the child/parent/carer should be allowed to employ the carer or not. Risk assessments must be completed and signed off by senior managers if permission is given.

When the parent or young disabled person has asked for a CRB check to be carried out, they should be advised to continue to receive services from the Council, current provider, or contract with an agency registered with CSCI for the services they need until the prospective candidate for employment is approved.

The Council and the Direct Payments Support Service should make people with parental responsibility aware that if a CRB check reveals no criminal convictions it does not necessarily mean that someone is a suitable person to work with children. They should still offer the advice about employing someone using Direct Payments.

An application for a CRB check must be countersigned by Children's Services and sent to CYPF HR Department. A fee is required for each CRB check. This fee will be paid by the Council's Children's services.

It should be explained to families that direct payment funding will not be released until they have contacted the SW to say that the CRB check has come back clear. If parents feel this causes unreasonable delay, they could be asked to make a case about how they intend to use the funding safely until the CRB check comes through. This case could then be scrutinised by a manager who could authorize it, giving reasons why the funding can safely be released. This is extended to Adult Direct Payments cases where care is being funded for parenting issues e.g. for Physical Disability or Mental Health cases where parents cannot take on basic childcare tasks without support because of the nature of their disability.

57. For adults there is currently no requirement to carry out criminal records checks. At present, where employing people via Direct Payments a CRB check is at the discretion of the person, with the exceptions of:
- a. where they are required by law for staff working with vulnerable adults
 - b. or where there is a child aged 16 or less living in the household
 - c. or where the care manager has assessed that a person may be vulnerable or other vulnerable people living in the household may be putting themselves at risk if a CRB check is not carried out.

For adults the CRB checks can be organised by S&CS HR and the cost of the check will be paid by the person in receipt of the Direct Payment except under a. b. c. above where S&CS will fund this.

All CRB Checks will be arranged by the S&HC HR Disclosures Team

The Care Manager/Social Worker will send all CRB Disclosure Application Forms to the client/parent. Along with a short guidance for completion of the form and the tracking form attached. This is so HR can match the person applying to work with the client and the client when the disclosure form is returned.

It is essential that the tracking form is completed for each CRB HR Disclosure Application Form that is sent out.

Copies of both forms will be provided by HR Disclosure Team

The client/parent requests that the job applicant completes the form and both the completed CRB Disclosure Application Form and the already completed S&CS tracking form are returned to HR Disclosure Team by the client/parent. HR Disclosure Team will then send the completed form to the Criminal Records Bureau.

The CRB send a copy of the certificate to the applicant and a copy to the HR Disclosure Team. When the certificate is returned to the HR Disclosure Team and there are no disclosures or issues a copy is sent to the client/parent.

If the certificate is returned with convictions declared or other information provided by the CRB, Police or under POVA (Protection of Vulnerable Adults List) or POCA (Protection of Children List) then the HR Disclosure Team will contact the relevant Operations Manager.

For Older People and Adult Physical Disability - Sandra Stapley
For Adult Mental Health – Graham Whitwell
For Adult Learning Disability – Alan Sinclair
For Children Services – Sarah Ainsworth

The Operations Manager will then decide what advice to give the HR Disclosure Team in relation to the conviction or evidence received.

NB - There may be some sensitive issues to be aware of particularly when people are looking to employ their families, friends and neighbours.

The Care Manager/Social Worker/DP support service should make people with parental responsibility aware that if a CRB check reveals no criminal convictions it does not necessarily mean that someone is a suitable person to work with children.

If after the advice has been given not to employ a person a client/parent continues to employ this may be seen as a fundamental breach of the Direct Payments Contract and the Direct Payment will be withdrawn.

It is essential that when a Review is undertaken that the care manager/social worker checks the status of CRB check to ensure that these are occurring. It is not essential to see a copy of the returned certificate but these may be requested if there are serious doubts that the CRB checks are not being requested or people are being employed before a certificate is being received. In this situation the HR Disclosure Team will be able to advise if a CRB check has been requested and certificates returned (as long as the tracking form has been completed by the care manager/social worker).

It is essential that where a CRB check has been requested that:

- Where the CRB check is discretionary it is essential that the client send a cheque made out to OCC for £36 (March 2007) with the returned application. This is a legitimate expense that can be claimed against the persons Direct Payment amount.
- Where the CRB check is mandatory then the care manager/social worker needs to state the name of the team that they are working for on the tracking form so that HR can charge the cost of the check to that teams relevant cost centre/budget code

Where people/children are receiving their service purchased through a Direct Payment in the house of their employee/care worker – e.g. family based short-term breaks, Adult Placement Service - it is essential that all people who are residents of the property have a CRB check and not just the care worker.

It is important that Direct Payment recipients understand the process of the CRB checks and inform all their prospective employees that this will be required and how the process works.

The additional guidance provided by S&CS HR Disclosure Team will assist people to complete the form and provide information to both employer and potential employee. DPIASS will be able to provide additional support if people require help.

S&HC HR Disclosures Team – Tel 01865 815744

Mixed Packages of Care (Part Direct Payment, part S&CS organised services)

58. It may be appropriate for an individual to receive a mixed package of services. For example: - If a person wished to continue with their present respite organised by S&CS but no longer wished to receive personal care organised or provided by S&CS they could purchase the care at home via Direct Payments but retain the respite organised by S&CS. Or a person could receive part of their home support organised or provided by S&CS and part purchased by themselves by a Direct Payment.

Temporary or Short Term Arrangements

59. Direct Payments are an effective way of enabling people to maintain their independence and avoid dependency on statutory services. Where someone is discharged from hospital and requires support through the period of recuperation, or where a regular carer is not able to offer their support for a short period and it is assessed that the person needs help at home, this could be offered via a Direct Payment. In these situations it is important to ensure that the assessment process is completed quickly to enable the Direct Payment to be offered in time for the care services to be engaged. The administrative processes that have to be completed should not be the deciding factor to whether or not a Direct Payment is offered but careful planning is needed with the person, The Direct Payments Support Services, the care manager and finance to ensure that Direct Payments are a practical option

Supported Living

60. It is not possible to purchase permanent residential care with a Direct Payment, however Direct Payments can be used by people living in supported living services to purchase part or all of their care. This can pose a range of issues where the person has a tenancy in a group living arrangement and the whole group is supported by one care agency.
- Each tenant should have an individual arrangement and care plan and therefore the option to have some or all of their needs met via a Direct Payment. When setting up supported living in a group situation it is imperative to commission each service individually.
 - If one person chooses to purchase their support in a different manner what effect will this have on the other tenants?
 - What mechanisms are required to ensure that each tenant can have individual rights and freedom; will the care provider be able to support the tenants individually?

- Where there are shared care arrangements or joint Direct Payments careful consideration needs to be given to ensure the person can express their own preferences and where possible each person should have their own Care Manager.
- What are the contractual arrangements should one person decide to leave?
- Who is responsible for the housing costs should someone choose to leave?

Equipment For Independence

61. Direct Payments can be made for equipment assessed as aiding independence by S&CS staff. When making a Direct Payment for the purchase of items of equipment, S&CS staff will need to satisfy themselves that the person's needs will be met by their own arrangements and they are adequately supported by specialist expertise. This is particularly true in the case of major items, when advice may be needed to ensure that equipment purchased is safe and appropriate.

Where a Direct Payment is made for equipment, S&CS need to clarify with the individual at the outset (just as it should where it arranges for the provision of equipment itself) where ownership lies as well as who has responsibility for ongoing care and maintenance. As Direct Payments mean that the person will secure for themselves the equipment they are assessed as needing, S&CS will need to consider what conditions, if any, should be attached to the payment, for example, concerning what will happen to the equipment if the person no longer requires it. Equipment can be purchased as part of making a package cost effective, for example, supplying pagers or mobile phones to personal assistants.

Additional Sources of Funding

62. To enable people to maximise their life chances there are a range of sources of funding other than from the Council. It is important to ensure that all individuals maximise their income through the benefit system. The Department will cost packages of care on the assumption that a person will claim all the benefits and additional sources of funding to which they are entitled.

- Primary Health Care will fund a wide range of health products, aids and adaptations and enter into joint funding arrangements where there are significant health implications.
- Maximising Housing Benefit, Supporting People Funding and Grants and Loans that are available through the Benefits Agency can enable many people to remain independent.
- The Independent Living Funds (ILF) is a trust set up and financed by a Central Government Fund to enable people to become or remain independent. This is a separate funding stream designed for highly dependant people whose high cost of care would normally exclude them from many life chances. The ILF works in partnership with Local Authorities to devise 'joint packages of care', when awarded it is paid directly to the person to purchase their own care and can be used as a first step towards the person managing their own services. The Department has to contribute a minimum of £215 and up to £250; ILF can award up to £420 per week. It is available to people over 16 and less than 66 years who receive high rate DLA Care component and have capital less than £18,500. (At May 2004)

Costing the Direct Payment

63. It is up to the Council to decide on the amount of a Direct Payment. However, the Direct Payments legislation says that the amount must be equivalent to the estimate of the reasonable cost of securing the provision of the service concerned, subject to any sum paid by the recipient. This means that the Direct Payment should be sufficient to enable the recipient lawfully to secure a service of a standard that the Council considers is reasonable to fulfil the needs for the service to which the payment relates. There is no limit on the maximum (subject to S&CS care plan capping policy) or minimum amount of a Direct Payment either in the amount of care it is intended to purchase or on the value of the Direct Payment.
64. In estimating the reasonable cost of securing the provision of the service concerned associated costs that are necessarily incurred in securing provision should be included, 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, and public liability insurance.
65. The Council is not obliged to fund the additional costs associated with the persons preferred method of securing the service if, taking into account the persons assessed contribution, the costs exceed the council's estimate of the reasonable cost of securing the service and the service can be secured more cost effectively (but still to the required standard) in another way. The Council is also not obliged to fund additional costs that are incurred by the person on a discretionary basis, for example, non-statutory liabilities such as an ex-gratia bonus payment.
66. The Council might decide that they are able to increase the amount nevertheless to enable the person to secure his or her preferred service if it is satisfied that the benefits of doing so outweigh the costs and that it still represents best value. These decisions must be made in-line the Directorate's Scheme of Delegation and Capping Policy.
67. Direct Payments recipients can use their own resources to purchase additional services if they wish to do so.
68. OCC has calculated standard Direct Payments rates that are based on the costs of employing personal assistants that include an element to cover insurance, NI, sick and holiday pay, costs associated with recruitment, contingency and emergency arrangements and the costs of purchasing support in managing a Direct Payment etc. To assist Care Managers guidance will be issued for calculating rates that can be used when a person chooses to purchase a service from a care agency. These rates will be based on the average costs of the OCC accredited home support providers.

69. OCC will operate discretion and flexibility to take account of the actual cost of a service to meet a persons needs. This could be greater or lower than the standard rates but has to be as cost effective as if the Department was to provide or purchase the service. This is more likely to be applied when a person chooses to use an agency to meet their needs.

70. A preventive strategy may necessitate a higher investment to achieve long-term benefits and savings. Provision of Direct Payments that allow a person to remain in their own home may represent long-term savings if that person does not then require hospital or residential care. Similarly the provision of Direct Payments to a person in need of rehabilitative care may result in a more sensitive and individualised service, which may in turn ease a person's recovery.

71. Where the person requires less than 4 weeks hospitalisation or residential care the Direct Payment will not be affected. However if there is a greater than 4-week stay away from home then Direct Payments may be suspended for that period. The person or the representative should notify care management//social work teams of the change in circumstances, who in turn will notify the finance department.

72. Where the person intends to employ their own personal assistants it is possible to have help with set up costs at present to a maximum of £200. This is help towards the costs of advertising, advice, or assistance. Any advance payment will be deducted from the agreed annual Direct Payment amount. Where the start-up costs are high, the Direct Payment is short term or where one off payments for liability insurance for small Direct Payments are required it may not be possible to work within the £200 limit and additional funding may be agreed with the Unit Manager and specified in the care plan. Start up costs will be reviewed periodically.

73. It is also possible to receive a one-off Direct Payment rather than a regular amount. This can be negotiated with the Care Manager and the Finance Officer if agreed in the care plan.

Client Contributions

74. The amount of the Direct Payment will usually be net of the assessed client's contribution as covered by the Fairer Charging Policy. However in the case of mixed packages of care the person has the choice to pay their assessed charge to the department or into their direct payment account. If the charge is paid direct to the department the Direct Payment rate will be paid as gross. **This needs to be indicated on the care plan.**

It is advised that the amount is paid into the Direct Payment account 4 weekly. A person will only be charged for the period when they are using the Direct Payment. If the person has stopped their services or are in hospital for example the Department may recover the Direct Payment and the person will not need to pay their Client Contributions for this period.

75. Charges cannot be made for:

- Services provided under section 117 of the Mental Health Act 1983 (after-care). Accordingly where Direct Payments are made instead of providing services under section 117 of the Act, S&HC may not seek payment, whether by way of reimbursement or a contribution.
- People who receive their Direct Payment in lieu of Intermediate Care Services there will be no charge for the first 6 weeks of this service.
- Carers services
- Services under section 17 of the Children's Act 1989 and payments made to the person with parental responsibility for a child aged 16 or 17.

76. Client Contributions may change if the level of benefits alters, if there are changes in the Governments or Oxfordshire's fairer charging policy or if the person purchases respite in a registered unit. Client Finances must be notified of any change in a Direct Payment recipient's financial circumstances. They will re-assess the client contribution and the amount of the Direct Payment will be adjusted accordingly.

77. For people who have over £21,000 assets and are assessed as full cost payers it may be advisable for the person not to receive a Direct Payment and purchase the care themselves unless they receive any health funding. The Direct Payments Support Service will provide the same advice and support to those people who chose to do this.

Payments and Inflationary Increases

78. A separate bank or building society account must be used for a Direct Payment. This has to be in the name of the person receiving the Direct Payment or may be made to a Third Party if agreed by the person in receipt of the Direct Payment and S&CS. **This does not apply if someone uses the Councils 3rd Party Support Scheme.**

Cash payments cannot be made unless in exceptional circumstances and agreed with managers.

People in receipt of ILF may use the Direct Payment account for their ILF monies but the same rules apply as above (except where cash payments are allowed for ILF funding).

79. Direct Payments will be made on an automatic credit transfer system, (BACS), into the recipients Direct Payment Account; the first payment will only be made on receipt by Finance of the **Careplan and Direct Payments Contract**. Payments may be backdated if appropriate to the start date on the signed Contract. Finance will complete the details of payments shown on Annex 8. Finance will inform The Direct Payments Support Service when the Direct Payment has started.

80. S&CS will at its discretion award an inflationary increase to the Direct Payment Rate annually at the rate set by the County Council. Where individuals or agencies increase their charges over and above the Departments inflation increase it will be the responsibility of the person to negotiate this with the service provider. The Direct Payments Support Service may be able to offer advice and support.

The Council may also make changes to the rates of Direct Payments at any time, giving Service Users at least 4 weeks notice in writing.

Short Term Breaks/Respite Care

81. In Adult Services SCS is required by law to charge for short-term breaks/respice care in a registered home. A stay in a registered residential facility will have a significant impact on the Direct Payment amount by increasing the Client contributions.

A person using Direct Payments may wish to change the support they purchase, if this is a change to include short term breaks/respice, this is a change in the way an assessed need is being met and the Care Manager must be informed and a new care plan agreed. This new care plan will need to be re-costed and a new financial assessment undertaken to establish the new Direct Payment amount.

82. Short-term breaks/respice care purchased via Direct Payments is subject to the same rules as if it were organised by S&CS; this includes the 28-day rule. Where the respice care is longer than 4 weeks or periods that accumulate to over 28 days with out a 28-day break in between will be classed as residential care and this will remove the right to Direct Payments and Disability Living Allowance/Attendance Allowance.

Joint Funding with Health

83. Where persons have complex needs, some of the services they require may be funded by Health as well as by the Council. It is the social worker/Care Manager's responsibility to get agreement from the relevant health representative that the health contribution can be used as a Direct Payment via joint funding, as well as gaining agreement for the social care funding from their S&CS Manager.

Any need that is agreed as Level 3 or 4 within the Shared Care Protocols for adults and children requires the agreement of the relevant Manager before proceeding under a Direct Payment. Where children may require L4 care tasks performed as part of their direct payment package, the risk assessment must be signed off by the Service manager

Record Keeping

84. The Department is accountable for the public money it manages. This includes Direct Payments funding. Direct Payments are part of the accounting process and as such accurate records are required to identify how this money is used to provide services to individuals.

85. The Finance Department will require financial records of expenditure, (Annex 9) and financial summary (Annex 10) as well as Direct Payment Bank Account statements. Initially financial records will be required every 12 weeks. In the second year it is usual for this to be extended to every 6 months. Direct Payment recipients can refer back to The Direct Payments Support Service if they require additional support.

86. The finance section will check the Annex 9 and 10 and contact the Care Manager if the amount in the Direct Payment Account appears to be either excessive or insufficient. Finance Department can contact The Direct Payments Support Service where concerns arise and they will assist in the negotiations with the person. Finance Department will liaise with the Care Manager in the monitoring process. Periodically S&CS or the County Auditor may ask for additional information such as invoices, PAYE returns, receipts etc.

Review and Monitoring

87. Council Social Care staff should follow existing Departmental Guidance on carrying out reviews. The fact that the Department is making Direct Payments rather than arranging services itself does not affect its responsibility to review a persons care package at regular intervals. 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.

88. 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 it is confirmed that a person is managing the Direct Payment satisfactorily, reviews should be at the same intervals as for other people receiving services. For example, people with fluctuating conditions might need monitoring every few months, rather than once or twice a year.

89. For children identified as needing services under section 17 of the Children Act 1989, reviews may be necessary more often so that the Department remains satisfied that the Direct Payment promotes and safeguards the welfare of the child.

90. If the Department becomes aware that someone is or will be unable to secure the services to meet his or her needs through their own arrangements, either temporarily or in the longer term, then steps will need to be taken to ensure it meet its responsibility to provide or arrange for the provision of services for that person.

If the monitoring or review process reveals that the person's needs are not being met, or they contact the Department to seek emergency assistance, the Department will need to consider what action it should take. Good communication between the different parts of the Department involved will be very important at this stage. This may mean helping people to make other arrangements, or it may mean arranging services directly until they are able to make their own arrangements once more.

91. At a review it is important to consider: -

- Does the person wish to continue with Direct Payments?
- Is the care plan working and are Direct Payments still the best option?
- Has the individual's needs changed.
- Where there is a change in need a new assessment and care plan is required, are they still eligible to receive the service?
- Is the amount of money reasonable to enable the person to secure the services required?
- Has all the money been spent towards achieving the outcomes identified in the care plan?
- Have services purchased by the person been effectively delivered?
- Has the money been spent in a way that relates to 'Best Value'?
- Are the services meeting The Oxfordshire Direct Payment guidelines?
- Has the person been able to provide the necessary financial records?
- Have CRB checks been undertaken where appropriate?

When reviewing a Direct Payment where the person is assisted to manage the Direct Payment by a *Support Network formally recognised by the Department* you may wish to include additional questions: -

- Is the person in control of the money?
- Are the needs of the person, according to the care plan, being met?
- Is the person central to the decision making process?
- Are decisions made by the person **or** in the best interest of the person?
- Is the support network functioning as agreed as part of the condition for the person to receive the Direct Payment?

Recovering Payments

92. It may be necessary for the Department to recover funds from the person if: -
- Over a 6-month period a surplus of more than 8 weeks funding has accumulated in the Direct Payment Account due to for example the person being able to purchase the service they require at a lower cost.
 - Termination of the agreement to receive Direct Payments.
 - The death of the Person.
 - The assessed Client Contributions are in arrears.
 - Misuse of the Direct Payment.
93. The method of recovery and the amount will be decided on a case-by-case basis. If a surplus has built up the person will be asked to return the money. It is expected that a reasonable amount, up to 8 weeks payments, will be allowed to accrue to cover for example unforeseen circumstances. There may be legitimate reasons for unspent funds that need to be taken into account when dealing with surpluses – there may outstanding legal liabilities necessitating a Direct Payment recipient to build up an apparent surplus (e.g. to pay their employees' PAYE, or to pay outstanding bills from a care agency).

When recovering payments the Department will only recover monies that relate to the Direct Payment. If one account is used for the Direct Payment and ILF recovery of funds will be undertaken on a case-by-case basis and some or the entire surplus may be due to the ILF. This needs to be discussed with appropriate departmental managers.

94. Where a Third Party is in receipt of the funding it is essential that any outstanding funding is returned as soon as possible.

Discontinuing a Direct Payment – Temporarily

95. Where the person is unable to use the Direct Payment for a significant period, (e.g. a hospital admission or other unforeseen circumstances) the Direct Payment may be continued, but the excess recouped, or temporarily suspended for the period. The social worker/Care Manager will need to liaise with the person, their line manager and direct payment finance staff to consider the most appropriate action.

Where the Direct Payment is suspended careful consideration needs to be given to any contractual obligations that have been agreed by the person via the Direct Payment.

Discontinuing a Direct Payment – Permanently

96. The Direct Payment Agreement can be terminated by either party with 4 weeks notice given in writing at any time, or immediately by a fundamental breach of contract. The Direct Payments Contract requires the person to meet a range of conditions. Failure to meet these conditions may lead the Department to consider terminating the Direct Payment.
97. Breach of the Direct Payments contract, may relate to a misunderstanding or a relatively small factor, which can be resolved by this being drawn to the attention of the person by the social worker/Care Manager. In these cases it would be appropriate to meet with the person to resolve the situation. The Direct Payments Finance Officer and the relevant Service Manager will need to be aware of the situation but not necessarily involved in the meetings. The Direct Payments Support Service may be requested to assist in this process.
98. Where there is a severe breach of the contract, the Department may consider terminating the Direct Payment. This may be where the money has been used to purchase services outside of the care plan or money paid to a third party for their personal use. In such cases the Department can terminate the Direct Payment immediately or they can give up to 4 weeks notice. This process must be well managed, supported by Service Managers and clearly communicated to all parties. It will be necessary for the social worker/Care Manager to organise services to meet the person's needs when the Direct Payment ceases.
99. Where there is clear evidence of a fundamental breach of contract by the person the Department is entitled to end the agreement immediately. In all cases there will be an element of subjectivity whether a breach is fundamental or not and the action taken will depend on the solution available. The Care Manager/social worker and their Unit Manager will have to consider all the factors; e.g. can support or monitoring systems be put in place to prevent a recurrence or are the risks of further breaches too high to consider the continuation of Direct Payments.
- Payments shall also be stopped if the Department is not satisfied that the person's needs for the service can be met by using a Direct Payment or if the Direct Payment is not safeguarding or promoting the child's welfare where the payment relates to services under section 17 of the 1989 Act.

Other than in exceptional cases, the decision to discontinue should follow discussion with the person and support network. The Department may also need to keep in touch with the ILF and share information where appropriate (and preferably with the person's permission). If the Department does decide to withdraw Direct Payments then it will need to arrange the relevant services instead, unless the withdrawal was following a reassessment after which the Department concluded that the services were no longer needed.

OCC Direct Payments forms

Direct Payments Referral Form

Team:		Telephone Number:	
Base Address:		Fax Number:	
		SWIFT Number:	
Service User's Details:			
Last Name:		First Name:	
Address:		Home Telephone Number:	
		Mobile Number:	
Postcode:		<u>(please note if there is a best time to call)</u> _____	
		Lives alone:	
		Yes <input type="checkbox"/> No <input type="checkbox"/>	
		(circle relevant box)	
Date of Birth:		Ethnic Origin:	
First Language:		Is an interpreter required: Yes <input type="checkbox"/>	
		(circle relevant box) No <input type="checkbox"/>	
Next of Kin:			
Relationship:		Telephone Number:	
Brief Details: <details of condition/kinds of activities DP likely to be used for/ if there is power of attorney/ support persons/family supporters, other relevant info> _____			
Has any other information been provided: (if yes state what)			
Has assessment been completed: Yes / No		Date:	
(Circle relevant box)			
PLEASE COMPLETE DETAILS BELOW			
Allocated Hours per Week:		<u>Or</u>	One off payment of £ (If applicable)
Monthly Payment of £ (If applicable)			
I confirm I have seen the above Service User and that he/she is eligible for Direct Payments			DATE:
Care Manager/Social Workers Name:			
Signature.....			
Direct Payments Support Service Information following Direct Payments Visit			
Direct Payments, including the process in Oxfordshire, has been explained to the above service user, he/she is interested/not interested in joining the scheme.			
Name of Support worker:Date:.....			
WRITE IN CAPITALS PLEASE			
Please Send completed form electronically to antony.thorn@oxfordshire.gov.uk			

The Direct Payments agreement

AGREEMENT FOR THE PROVISION OF DIRECT PAYMENTS

THIS AGREEMENT is made the day of Two Thousand and

BETWEEN:

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** of County Hall, New Road, Oxford OX1 1ND (“the Council”); and
- (2) **[NAME OF SERVICE USER]** of [address]; (“the Service User”); and (*where applicable*)
- [(3) **[NAME OF TRUSTEE]** of [address]; and
- [(4) **[NAME OF TRUSTEE]** of [address];

(together “the Trustees”)]

WHEREAS:

- (A) Under the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003, the Council has a duty to provide Direct Payments, as defined in that Act, to all persons who have been assessed as eligible for, or who are in receipt of social care services from the Council’s Social & Community Services Directorate.
- (B) The Service User is entitled to receive Direct Payments to meet the Service User’s assessed needs, (“the Assessed Needs”), as set out in the Service User’s care plan (“Care Plan”).
- (C) Where the Service User has nominated one or more trustees to be a party to this Agreement, (“the Trustees”), the Trustees will be responsible, with the Service User, for managing the Service User’s Direct Payments.
- (D) The Council agrees to provide the Service User with Direct Payments subject to the conditions set out in this Agreement and the Service User and the Trustees named above agree to comply with these conditions.

Conditions

1. Amount of Direct Payments.

- 1.1 On the _____ the Service User will receive a start up payment equivalent to £100 + 4 weeks worth of Direct Payments. With effect from _____ the Service User will receive Direct Payments of _____ every 4 weeks in arrears which equates to _____ per week from the Council for the purchase of care.
- 1.2 Following an assessment of the Service User's ability to pay for services, in line with the Local Authority Charging Policy, the Service User's contribution to the Direct Payments Scheme will be _____ per week. This sum will be deducted from the Service User's weekly Direct Payments and the Service User must credit the Direct Payments Account by the amount that the Service User has been assessed to contribute. If the Service User does not do so, the Council will be entitled to withdraw the Service User's Direct Payments.

2. Direct Payments Bank Account and Record Keeping

- 2.1 Direct Payments will be made by BACS for deposit into the dedicated bank account held at _____ under an identified account number ("the Direct Payments Account"). The Direct Payments Account must not be used for any transaction which does not relate to the purchase of services in accordance with this Agreement and the Care Plan. The Service User will ensure that this account has a cheque writing facility and will produce copies of the statements of account to the Council on request.
- 2.2 Any bank interest appearing on the Direct Payments Account shall be treated as an addition to the account and used in the normal way for the purchase of the Service User's care services ("the Care Services").
- 2.3 Any bank charges appearing on the Direct Payments Account shall be brought to the attention of the Direct Payments support and the Service User's care manager. The Direct Payments Support Workers and Care manager shall be entitled to request reasons for the charge having been incurred.
- 2.4 The Council agrees at its sole discretion to pay the sum of a bank charge on the Direct Payments Account where this can be shown to have arisen as a result of an act or omission of the Council.
- 2.5 The Service User will be responsible for meeting bank charges on the Direct Payments Account which arise out of an act or omission on the part of the Service User.

3. Monitoring and Review of Payments

- 3.1 The balance of the Direct Payments Account will be reviewed quarterly by the Finance Department and if any irregularities occur, the Care manager will be notified. The Service User must send in the completed monitoring form on the day of the month that the returns are due according to the periods on the annex 8.
- 3.2 The Service User's expenditure under this scheme will be audited at quarterly intervals by Finance, and the Service User must make financial returns to the Finance Department accounting for the payments made to the Service User in the relevant quarter.
- 3.3 If during the Service User's review/monitoring it becomes apparent that the balance on the Direct Payments Account is in excess of 8 weeks' worth of Direct Payments - after having met statutory obligations as an employer where applicable or after having purchased the Service User's Care Services, the Council will be entitled to request repayment of the excess balance or cease payments until the balance is reduced.

4. Purchasing Care Services

- 4.1 Once the Direct Payments have been paid by the Council, the Service User shall be responsible for arranging their own Care Services.
- 4.2 The Service User shall not use the Direct Payments to pay any person who is a close relative living in the same household as the Service User or the Service User's partner (whether the Service User are married to them or not), unless:
 - 4.2.1 the Council is satisfied that it is necessary to meet the Service User's Assessed Needs as set out in the Care Plan
- 4.3 For the purposes of this Agreement, the term "close relative" means parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, stepson or daughter, brother, sister or partner of the Service User.
- 4.4 Subject to Clause 4.2 above, the Service User shall be entitled to determine how the Assessed Needs in the Care Plan are met.

Where the Service User arranges Care Services through a Domiciliary Care Agency

- 4.5 The Service User must only use an agency which is registered with the Commission for Social Care Inspection or any registration body which succeeds it.

- 4.6 The Service User must keep copies of the timesheets of all care workers provided through an agency in order to be able to demonstrate that the Direct Payments made under this Agreement are being used effectively.

Where the Service User employs staff to provide the Care Services

- 4.7 The Service User will be responsible for meeting all Inland Revenue requirements and complying with all applicable employment law and for ensuring that adequate Employer's Liability and Public Liability Insurance is in place.
- 4.8 Where Direct Payments are made under this Agreement, for the benefit of a Vulnerable Adult, as defined in section 2 of the Police Act 1997, (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) Regulations 2002, staff employed to provide the Care Services must have an Enhanced Disclosure Criminal Records Bureau Check including a PoVA (Protection of Vulnerable Adults) check.
- 4.9 Where Direct Payments are made under this Agreement, for the benefit of a child under the age of 16, staff employed to provide the Care Services must have an Enhanced Disclosure Criminal Records Bureau Check including a PoCA (Protection of Children Act) check.
- 4.11 Where otherwise required by the Council, staff employed to provide the Care Services must have an Enhanced Disclosure Criminal Records Bureau Check.
- 4.12 In addition to the bank statements referred to in Clause 2.1 above, the Service User shall keep written details of all income and expenditure in relation to the Direct Payments, and shall obtain and retain any invoices which relate to expenditure under the scheme and that are issued to the Service User. The Service User must also complete weekly/monthly time-sheets setting out the names of any personal care assistants (carers) employed by the Service User during that month and the number of hours which they have worked.

5. Contingency Arrangements where Care Services break down

- 5.1 The Service User must ensure that there are contingency arrangements to cover difficulties or emergencies in relation to the Care Services purchased using the Direct Payments.
- 5.2 The Council will also make a contingency plan, as a back-up, to be used in the last resort, following discussion with the Service User's care manager.

6 Review of Service User's Expenditure

The Service User's care manager and the finance department will monitor the Service User's expenditure of the Direct Payments and will report to the Council if it appears that the payments are being spent other than in accordance with this Agreement.

7. Review of Service User's Assessed Needs

- 7.1 The Service User's care manager will provide support and assistance in relation to the Service User's Assessed Needs and will arrange for a formal review of the Care Plan at least every year, unless the Service User's circumstances have changed and/or the Service User requests such a review sooner.
- 7.2 Where, as a result of a review under Clause 7.1, it appears to the Council that the amount of Direct Payments payable should be increased or reduced, the Service User will be informed of this fact in writing and the Service user will be required to sign an amended Direct Payments Agreement within three months of the date of the letter informing them of the change.
- 7.3 Where the Service User fails to sign the amended Agreement referred to in Clause 7.2 above, the Council shall be entitled to suspend the Direct Payments until such time as the amended Direct Payments Agreement is signed.

8. Repayment of Direct Payments

- 8.1 The Service User will pay back any Direct Payments which have not been used, apart from a sum held for an 8 week contingency or which is held for the tax, National Insurance and holiday pay of the Service User's employees, as calculated by the Council on the due date;
- 8.2 The Service User will pay back money which has been used for something other than meeting the Assessed Needs as identified on the Care Plan.

9. Variation or Changes to Direct Payments

The Council may from time to time have to introduce new restrictions or administrative arrangements regarding the Service User's Direct Payments. The Council will notify the Service User of any such changes within four (4) weeks of the decision being made.

10. Suspension/Withdrawal/Repayment of Direct Payments

- 10.1 The Council reserves the right to suspend or cease provision of Direct Payments if:
- 10.1.1 the needs identified on the Care Plan, that should be paid for by Direct Payments, have not been met; or
- 10.1.2 where Direct Payments are spent inappropriately or other than for the purposes for which they were provided; or
- 10.1.3 if the Service User and/or the Trustees do not manage the Direct Payments adequately; or
- 10.1.4 if the quarterly monitoring returns required under Clause 3.1 above are not provided 6 weeks after the requested date.

- 10.2 In the event of the Service User's death, all Direct Payment monies received for the period following the death must be repaid to the Council. Accounts up to the date of death must be submitted by the executor & the Council will determine if any surplus should also be repaid.
- 10.3 If the Service User or the Trustees do not comply with the conditions of this Agreement, the Council will be entitled to terminate the Agreement in writing.
- 10.4 This Agreement may be otherwise be terminated at any time by the Service User or the Council on four weeks' written notice.
- 10.5 Where the Council wishes to terminate Direct Payments under Clauses 10.1.2 or 10.1.4, the Service User shall be entitled to make representations about the proposal to terminate.
- 10.6 If at any time the Service User no longer wishes to receive Direct Payments, the Service User must discuss this with the Direct Payments support workers and the Service User's care manager. If following such discussions the Service User still wishes to leave the scheme, arrangements will be made by the Council to resume responsibility for the Service User's care as soon as is reasonably practicable and thereafter the Service User will cease to receive the payments.
- 10.7. If this Agreement is terminated for any reason, any monies remaining in the Direct Payments Account which have not already been committed to unavoidable expenditure in respect of Care Services shall be returned to the Council within 28 days of the date of termination.
- 10.8. The Service User shall be entitled to raise any concerns about the operation of the Direct Payments arrangements with the Council and should raise concerns with the care manager in the first instance.

11. Trustees' Obligations under this Agreement

Where the Service User has nominated one or more Trustees to be party to this Agreement, those Trustees shall comply with the conditions of this Agreement and the obligations on the Service User. The Trustees shall be responsible for managing the Direct Payments on behalf of the Service User as if they were the Service User and shall be jointly and severally liable in respect of all obligations herein.

Service User Declaration

I have received advice from the Independent Information, Advice and Support Service/Direct Payments support worker on the implications and responsibilities of receiving Direct Payments in accordance with the Care Plan.

I have read and understand the above conditions and agree to abide by them.

Signed
Service User

Signed
Trustee

Signed
Trustee

For and on behalf of the Council:

SIGNED by

.....
Duly authorised Council signatory

.....
(PRINT NAME)

SERVICE USER DIRECT PAYMENTS ACCOUNT - BANK DETAILS:

Bank/Building Society:

Address:

Sort Code:

Account Number:

Account Name (as shown on cheque book and statements):

Signed by Service User:

To be returned to Finance with this Agreement and the Care Plan.

The Direct Payment Agreement

One page Amendment to Agreement

Dated *(Insert original contract date)*

Between *(The County Council)*

And Title: *(The Service User- You)*

Name:

Address:.

Is varied by agreement between the parties of the above, in the following way:

With effect from the -----the Direct Payment hours will increase from -- hours to --hours a week; the payment each week will be £-----and monthly payments of £-----this takes into account your assessed financial contribution. Bank details will remain the same.

All other terms and conditions of the agreement remain unchanged.

Signature of Person receiving Direct Payment

Name of Person receiving Direct Payment.....

Date:

Signed on behalf of Oxfordshire County Council:

Name of Officer:.....

Date:

Introductory Letter to Bank/Building Society

Date:

To Bank/Building Society

Dear Sir/Madam,

Re: Name:

Address:

Oxfordshire County Council is implementing the provisions of the Community Care Direct Payments Act 1996.

For financial and audit purposes, it is necessary for users of the Direct Payments Scheme to set up a dedicated current account.

The account will be regularly credited with funds for the above client to purchase the care that they have been assessed as needing. The account will also be regularly monitored by finance staff from the council.

We would be obliged if you would facilitate this requirement.

Yours faithfully,

Social and Community Services.

Direct Payments forms for Service Users

The forms which follow are intended as examples and if used, the service user should always check that they are up to date and relevant to their own personal circumstances.

PERSONAL ASSISTANT JOB DESCRIPTION

General Information:

It is the job of the Personal Assistant is to assist the disabled person to meet their personal, social and domestic needs, and any other day to day requirements or activities.

Through personal assistance the disabled person is enabled to lead an individual, independent and active life in their own home within the community.

The Personal Assistant should always ask what the disabled person's needs are and listen and act upon their requests and directions.

Personal Assistants should be able to handle the physical tasks of lifting, handling, pushing and bending, unless otherwise stated. The personal assistant does not need to be physically strong to do certain tasks well, but it does help together with good general health.

Personal Assistant Tasks:

Tasks may include assisting the disabled person with some or all of the following:

- getting in and out of bed
- dressing and undressing
- washing and bathing/showering
- attention to hair, skin, nails, feet, eyes etc.
- transferring in and out of bed/wheelchair
- using the toilet and dealing with continence management
- physiotherapy exercises
- food preparation and cooking meals
- shopping and household/domestic routines
- dealing with paperwork, bills and letters
- taking part in social/leisure activities and occasions
- parenting activities

Personal Assistant Qualities

Personal Assistants should be:

- reliable and trustworthy and punctual
- able to accept responsibility
- able to work on their own and work with initiative as required
- willing to learn the job well
- diligent
- conscientious

Personal Assistant Responsibilities:

- Arrive at the agreed time ready to work
- Give notice if you are going to be more than ten minutes late
- Communicate and discuss any problems that arise as soon as possible
- Respect the privacy of the person you are working for and maintain a professional approach at all times, being careful to treat your working relationship as confidential, including the assistance provided
- Understand and be mindful of the disabled person's right to dignity, respect and independence
- Respect the disabled person's possessions and equipment and only use the telephone, television, radio etc. with the disabled person's prior consent.

Learning the tasks involved:

The disabled person is the person best qualified to know what their needs are and how they are best met. For the most part therefore, areas of assistance can be learned and familiarised through the assistant and disabled person working together. Where required practical training and guidance will be provided.

See also:

Employment Contract for Terms and Conditions and Rates of Pay
Job Application Form

PERSONAL ASSISTANT JOB APPLICATION FORM

Full Name:

Address:

Telephone Number:

Male

Female

Do you hold a current driving licence:

Yes

No

Do you have any convictions or
endorsements:

Yes

No

Do you have any past or present
convictions:

Yes

No

(This post is subject to the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and therefore prospective employees are required to give information about any convictions, including those which for other purposes are spent. In the event of employment, any failure to disclose such convictions could result in dismissal. Information given is confidential and will only be considered for the purposes of this application.)

Are you able to work regular weekends

Yes

No

Are you able to sleep over occasionally

Yes

No

Are you able to respond to 'crisis' call
outs

Yes

No

Are you able to do extra hours if
necessary

Yes

No

Relevant Experience:

Please give details of any experience relevant to this post:

Please give details of previous employment, starting with the most recent:

Name and address of employer	Start/Finish	Job Title

Please state why you are interested in this post:

Please provide the name and address of two referees (one personal and one professional):

1.

2.

What is the earliest date you are able to start work? _____

Please use this space to provide any other information relevant to your application

The particulars detailed on this form are, to the best of my knowledge, true:

Signed: _____

Date: _____

Please return to: (enter your own name and address)

LETTER REQUESTING REFERENCE

Your Address:

Date:

Dear ,

Reference For: *(insert name of person) of (insert address of person)*

Your name has been given to me as someone willing to give a reference for the above named person.

They have been selected, subject to successful references, for the post of Personal Assistant with myself.

I would appreciate if you could provide a reference as to their trustworthiness and reliability and how well, in your view or experience, they would meet the tasks outlined in the attached job description.

I would be obliged if you could give this your urgent attention as I cannot make the appointment until all references have been received.

I assure you that your response will be treated in the strictest confidence.

Thank you for your assistance

Yours sincerely,

(sign your name here)

Print your name here.

CONTRACT OF EMPLOYMENT

Employer: (insert your own name): _____

Employee: (insert the name of the personal assistant): _____

Job title: Personal Assistant

Start date:

Introduction:

This contract sets out particulars of your employment with me as at (insert date) which are required to be given to you under the Employment Rights Act 1996. Your employment commenced on (insert date PA began work).

Place of work:

You usual place of work is (insert your address) but you may be required to work at other locations when you accompany me.

Pay:

The current rate of pay is:
(insert rate of pay)

Payment will be made by cheque on (state day of month when wages will be paid i.e. 15th of the month).

Tax and National Insurance, where applicable, will be deducted from this sum before payment is made.

Probationary Period:

You will be employed for a probationary period of 8 weeks. During this period employment can be ended by either side by one week's notice. I may make payment instead of requiring you to work any period of notice. Subject to a satisfactory review, your employment will be made permanent.

Hours of work:

Your normal hours of work will be:

(insert the hours when the PA will usually be working).

These hours of work may be varied by mutual agreement. You will be required to fill in and sign a time sheet for all hours worked. Hours worked over and above those stated will be paid at the rates quoted above.

Lateness:

You are expected to be a good timekeeper and work the total time agreed. If you are going to be more than 10 minutes late, you should phone and advise me as early as possible.

Holidays:

You are entitled in addition to the normal public holidays, to take weeks per year (pro rata) paid holiday. Holiday periods are calculated from 1st April - 31st March. You will be paid daytime rate during such holidays.

If your employment commences or terminates part way through the holiday year your entitlement to holidays during that year will be assessed on a pro rata basis and deductions from your final salary on termination of employment will be made in respect of holidays taken in excess of entitlement.

Holidays must be taken at times convenient to me and all requests for annual leave must be made at least one month before the date the leave is required.

Holiday entitlement unused at the end of the holiday year cannot be carried over into the next holiday year.

You will not be entitled to be paid in respect of holidays accrued due but not taken as at the date of termination of employment.

Sickness or injury:

If you are unable to come to work because of illness, then you must let me know as soon as possible so that I can make other arrangements. The only payment for sick leave will be Statutory Sick Pay, as appropriate. You will need to follow these procedures:

In the event of absence on account of sickness or injury you (or someone on your behalf) must inform me of the reason for your absence as soon as possible and no later than one hour before you are next due to work.

In respect of absence lasting 7 or fewer calendar days you are not required to produce a medical certificate unless specifically requested by me to do so but you must complete the sickness absence form on your return to work.

In respect of absence lasting more than 7 calendar days, you must on the 8th calendar day of absence provide me with a medical certificate stating the reason for absence and thereafter provide a like certificate each week to cover any subsequent periods of absence. I reserve the right to ask you at any stage of absence to produce a medical certificate and/or undergo a medical examination.

I operate the Statutory Sick Pay scheme and you are required to co-operate in the maintenance of necessary records. For the purposes of calculating your entitlement to Statutory Sick Pay 'qualifying days' are those you are normally required to work. Payments made to you by me under sick pay provisions in satisfaction of any other contractual entitlement will go towards discharging my liability to make payment to you under the Statutory Sick Pay scheme.

I am insured against accidents or injury under my Employers and Public Liability policy.

Notice Period:

The employment may be terminated:

- by you on giving me not less than 4 weeks written notice of resignation from employment;
- by me on giving to you written notice as follows:
 - during the first 2 years of continuous employment not less than one week's notice;
 - during the third to twelfth years of continuous service not less than one week's notice for each year of continuous employment
 - after 12 years of continuous employment, not less than 12 weeks notice;
- by me without notice or payment in lieu of notice in the event of serious or persistent misconduct by you.

Confidentiality and Security:

You shall not at any time during employment (except so far as is necessary and proper in the course of your employment) or at any time after your employment has terminated, disclose to any person any information about myself or my family. You must respect my privacy (and that of my family) and maintain a professional approach at all times. You should keep any information gained in the course of working for me as confidential and not discuss my affairs with others, save with my specific permission.

Pensions:

There is no pension scheme.

Supervision and training:

Supervision and support will be given on a regular basis.

Union membership:

You may join the Union of your choice if you wish to.

Grievances:

Any grievances should be raised directly with me and I will deal with them at the earliest opportunity.

Disciplinary procedure:

A disciplinary procedure, covering unsatisfactory work and gross misconduct, is attached to this contract.

I have read the above statement of conditions of employment. I understand the conditions and agree to abide by them:

Signature (employee) Date

Signature(employer) Date.....

DISCIPLINARY PROCEDURE

At every stage, you will have the opportunity to state your case and be represented, if you wish, by a person of your choice, providing they are acceptable to me as well. I may also call in an advocate to assist me.

In the first instance I will establish the facts surrounding the matter. If I consider that it is not necessary to resort to the formal warning procedure, I will discuss the matter with you suggesting areas for improvement. The discussion will, insofar as is possible, be in private and you will be informed that no formal disciplinary action is being taken.

If I consider that it is necessary to invoke the formal warning procedure I will inform you. The following procedure will then apply, but depending upon the seriousness of the offence, may be invoked at any level including summary dismissal.

Formal Procedure:

Formal oral warning

In the case of minor offences you will be given a formal oral warning. You will be advised that the warning constitutes the first formal stage of the disciplinary procedure and that a note will be placed on your personal file. The nature of the offence and the likely consequences of further offences or a failure to improve will be explained to you. In the event that I am unable, for whatever reason, to give you such a warning orally, the warning will be given in writing. In such circumstances, the warning is nevertheless to be regarded as the first formal stage of the disciplinary procedure.

Written warning

In the case of serious offences or a repetition of earlier minor offences you will be given a written warning setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period.

Final written warning

In the case of a further repetition of earlier offences, if you still fail to improve or if the offence, whilst falling short of gross misconduct, is serious enough to warrant only one written warning, you will be given a final written warning setting out the precise nature of the offence containing a statement that any recurrence will lead to dismissal or whatever other remedy I determine. Depending upon the seriousness of the matter and all the circumstances, any of the above stages may be omitted.

In the case of gross misconduct or if all of the appropriate stages of the warning procedure have been exhausted you will normally be dismissed but only after consideration of other possible disciplinary action, including (but without limitation): loss of salary increment, suspension (with or without pay).

Where you are accused of an act of gross misconduct you may be suspended from work for up to 5 days on full pay pending the outcome of investigation into the alleged offence.

In all cases before any disciplinary action (including warnings) is taken you will be interviewed by me and will be informed of the allegations made against you. You will be given the opportunity to state your case and at the interview may be accompanied by a representative. If the complaint is upheld, you will be informed of the disciplinary action to be taken, the stage in the disciplinary procedure to be adopted depending upon the seriousness of the offence, and the right to appeal.

Gross Misconduct:

If you are suspected of gross misconduct you will be suspended immediately pending investigation. If gross misconduct is confirmed, you will be instantly dismissed.

Some examples of gross misconduct include:

- Theft or fraud;
- Incapacity for work due to being under the influence of alcohol or illegal drugs;
- Physical or sexual or racial assault or harassment (either whilst at work or outside work hours);
- Verbal abuse (whether to me or any other person);
- Threatening behaviour (whether to me or any other person);
- Gross insubordination (which will include any behaviour that tends to undermine my independence or self determination);
- Breach of confidentiality;
- Deliberately or knowingly endangering my safety;
- Persistent unreasonable lateness.

TO BE RETURNED TO SOCIAL SERVICES WITH QUARTERLY RETURNS

PERSONAL ASSISTANTS WEEKLY TIMESHEET

Your name

Personal Assistants Name:

Week commencing:

Day	Standard Rate (enter no. of hours)	Premium Rate (enter no. of hours)	Annual Leave (enter no. of hours)	Sick leave (enter no. of hours)	Total gross pay
Sunday					
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					
TOTAL HOURS					
Pay					
Pay less tax and national insurance (if applicable)					

Your signature:

Personal Assistants signature:

For More Information on Direct Payments:

The Department of Health:

www.doh.gov.uk/directpayments

Valuing People – South East region:

Wellington House,
135-155 Waterloo Road
London SE1 8UG
0207 972 4036
Jean.collins@dh.gsi.gov.uk

The National Centre for Independent Living:

NCIL is based in South London, but works all over the country.

4th Floor, Hampton House
20 Albert Embankment London
SE1 7TJ
Tel: 0207 587 1663
Fax: 0207 582 2469
Text: 0207 587 1177
E-mail: info@ncil.org.uk

The Department for Trade and Industry:

Department of Trade and Industry
Ministerial Correspondence Unit
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000
or 020 7215 6740 (Minicom)
Fax : 020 7215 0105
email: dti.enquiries@dti.gsi.gov.uk

ACAS:

Acas Helpline answers your employment questions in one confidential phone call.



08457 47 47 47

Monday - Friday 08:00 - 18:00



08456 06 16 00

for Minicom users

Monday - Friday 08:00 - 18:00

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