

AGREEMENT FOR REGULAR DIRECT PAYMENTS



1 PARTIES

This Direct Payments Agreement is made between Newport City Council, (the Council), of the Civic Centre, Newport, NP20 4UR, and

(1) **(Direct Payment Service User)**
Of (address)
.....
.....
(Postcode)
(Telephone)
(E-mail)

And, (where applicable),

(2) **(Direct Payment Service User's Representative or Suitable Person
– state role, e.g. Attorney, Carer, Trustee, Next of Kin)**
Of (Name)
(Address)
.....
(Postcode)
(Telephone)
(E-mail)

NB: In this document, the term 'Service User' may refer to, and include, the Service User's Representative or Suitable Person.

2 CONTEXT

Direct Payments are made under the [Community Care \(Direct Payments\) Act 1996](#), the [Health and Social Care Act 2001](#), and the [Community Care Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004](#).

This Direct Payments Agreement should be understood in conjunction with the corporate policies, guidance and procedures of Newport City Council, and the particular policies, guidance and procedures of Social Services. A copy of the Council's Direct Payment Guidance can be provided on request.

3 THE COUNCIL'S DUTIES, RESPONSIBILITIES AND OBLIGATIONS

3.1 The Council has:

- (1) Assessed the Service User as needing community care services and has prepared a Care Plan identifying how those needs will be met.
- (2) Assessed that the Service User is eligible to receive Direct Payments, with assistance, as appropriate.

3.2 The Council will:

- (1) Make Direct Payments to the Service User until such time as it has been agreed, or it considers that Direct Payments are no longer appropriate, or until the Service User has requested that they be discontinued.
- (2) Pay an amount that is sufficient to enable the Service User to obtain the resources (services and/or equipment) of a standard the Council considers appropriate to meet the assessed needs.
- (3) Ensure that the Service User has access to the advice and support needed to make best use of Direct Payments via the Direct Payments Support Team.
- (4) Require DBS checks to be undertaken on potential employees and offer Service Users the opportunity to have an enhanced DBS check paid for by the Council prior to the commencement of the employment of a Personal Assistant until such time as the provisions of [Safeguarding Vulnerable Groups Act 2006](#) supersede current DBS arrangements.
- (5) Meet all reasonable costs of the Service User being an employer.
- (6) In accordance with the principles of the Council's [Fairer Charging Policy April 2012](#) ensure that a Service User has a financial assessment completed by the Visiting Team and that they are informed of any assessed charge that needs to be paid direct to the Fairer Charging

account. Ensure that the Service User will be notified by letter from the Finance and Income Team of the relevant amount to pay in respect of the charge and given a choice of payment methods.

- (7) Automatically refer a Service User to the Corporate Debt Management Team should they fail to pay their assessed charge.
- (8) Make payments at 4 weekly intervals into the Service User's dedicated Direct Payments bank account in accordance with the details listed in the Direct Payments schedule provided. Payments are made three weeks in advance and one week in arrears.
- (9) Pay any bank charges if the Service User's dedicated Direct Payments account becomes overdrawn through the Council's failure to make Direct Payments in accordance with the timetable set out in the Payments Schedule produced annually by the Finance and Income Team.
- (10) Review the Care Plan *and* this Agreement to ensure the Service User's needs are being met, after six weeks, and then at least annually thereafter. Reviews can be held earlier than this at the request of the Service User. The Direct Payments *amount* will be reviewed as part of such Reviews, as will the currency and validity of the Employer's Liability Insurance, the Disclosure and barring Service (DBS) Check, and the continuing appropriateness of the **contingency plans** and any **conditions** that may have been imposed.
- (11) The Council will regularly audit paperwork submitted by the Service User.
- (12) The Council will suspend or withdraw Direct Payments if the Service User fails to submit information within a reasonable period of time, or submits incomplete or erroneous information. This action may also be taken if a Service User refuses to submit information that has specifically been requested.
- (13) The Council may immediately suspend or withdraw Direct Payments if the Service User is found to have used monies fraudulently, inappropriately or in breach of this **Agreement** and reserves the right to meet any essential care needs in other ways. Where there is evidence of fraud or misuse of Direct Payment funds the Council will reclaim and recover any misappropriated Direct Payments monies.
- (14) The Council reserves the right to terminate or suspend Direct Payments if, following assessment or review, the Service User's circumstances have changed.
- (15) The Council retains the right to terminate this **Agreement** or require the Service User to change the person or organisation providing services if that service cannot meet the obligation of the Care Plan.

- (16) Recover any surplus monies following the audit of the paperwork submitted. The cessation of Direct Payments will result in any surplus monies being recovered.
- (17) Reassess *adult* Service Users' weekly charge on at least an annual basis, under the Council's [Fairer Charging Policy April 2012](#) or following notification of a change in financial circumstances or care package. *Children* are exempt from charges.
- (18) Arrange or provide services directly to the Service User if the Council is satisfied that assessed needs are not being met even though the Service User is receiving Direct Payments to buy such services.
- (19) The Care Manager will ensure that the Service User is given a copy of Newport City Council's [Complaints Policy](#) and Social Service's [Listening To You Complaints Leaflet](#) and explain how to make a complaint about Social Service's service.
- (20) Pay an amount equal to one week's Direct Payment into the Service User's dedicated Direct Payments account in addition to the first payment. This will remain in the account and be available for emergencies.
- (21) From time to time, the Council may contact you to ascertain your views concerning the service you have received, or about planning services for the future.

3.3 The Council will not:

- (1) Have any liability for the service arranged by the Service User other than providing Direct Payments.

4 THE SERVICE USER'S (OR REPRESENTATIVE'S) DUTIES, RESPONSIBILITIES AND OBLIGATIONS.

4.1 The Service User has:

- (1) Consented to receive and manage Direct Payments from Newport City Council to buy services and/or equipment that will meet the objectives in the Care Plan, *instead* of the Council arranging or providing those services directly. The Service User takes on responsibility for his/her own service and/or equipment.

4.2 The Service User will:

- (1) Set up a dedicated cheque account with a bank or building society which will be used exclusively for Direct Payments money. This is an essential requirement as without it NCC is unable to pay Direct Payments. Even

a single or one-off payment needs a bank account so that a payment may be made.

- (2) Keep the dedicated Direct Payment account in credit at all times. Any charges made to the account (other than those arising from late payment by the Council), must be paid by the Service User.
- (3) Not withdraw cash nor transfer monies from the Direct Payments bank account and pay it into another personal bank account with a view to gaining interest on the monies. Any sums withdrawn or transferred from the Direct Payments Account must be used for the expressive purpose of paying Direct Payment expenses.
- (4) Only use the Direct Payments money for the purposes specified in the Care Plan and take responsibility for the way in which the Direct Payments money is spent.
- (5) Make back-up arrangements in case the arranged service break down e.g. a Personal Assistant becomes ill.

(5) The **contingency plans** are:

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- (6) Where replacement Personal Assistants are employed the Council expects the Service User to contact the ILA in order that a DBS check can be undertaken as per 3.2(4).
- (7) Pay any assessed charge towards their package of care direct to the Fairer Charging Account via their chosen payment method. If a Service User neglects to pay their assessed charge at any time Newport City Council reserves the right to withdraw the Direct Payments. Any debt will automatically be referred to the Councils Corporate Debt Management team.

- (8) Keep the required paperwork in good order and in a safe place and make it available to the designated staff of Newport City Council and/or those of the Support Provider. The paperwork should include:
- Bank statements
 - Cheque books – details must always be recorded on the stub
 - Paying in books
 - Invoices
 - Receipts
 - BACS advice slips
 - Cash book
 - Bank reconciliation statements
 - PAYE, National Insurance and any other payroll records, as applicable
 - Timesheets and personal records such as holiday or sickness records
 - In the very rare cases where a Personal Assistant claims self-employed status, evidence of that status.
 - Insurance cover.
- (9) Provide copies of the information required for audit purposes to Newport City Council every 3 months. If no records are submitted within a reasonable timescale or after a specific request, Newport City Council will investigate the situation and may suspend or withdraw Direct Payments.
- (10) Accept all the legal responsibilities of being an employer, e.g. Health and Safety, HM Revenue and Customs, and National Insurance requirements, and ensure that adequate employer and public liability insurance is in place.
- (11) Inform Newport City Council of any change of address or other change that may affect their Direct Payments as soon as possible.
- (12) Request a review of their Care Plan if their needs are not being met by the Direct Payments.
- (13) Give Newport City Council one month's notice to arrange services if they wish to stop using Direct Payments.
- (14) Repay to Newport City Council Direct Payments money should they be requested to do so in the manner agreed with the Council.
- (15) Return money to Newport City Council within 14 days of being asked to do so. A review of the amount owed may be requested if s/he does not agree with the amount being recovered.
- (16) Upon termination of the Agreement return any surplus monies remaining, after all final bills have been paid, promptly to Newport City

Council and close the Direct Payments bank account. A bank statement must be enclosed showing final transactions and the nil balance.

4.3 The Service User will not:

- (1) Make cash payments from the Direct Payments account unless there is no alternative method of payment. All cash payments **must be documented** with all relevant receipts retained and included with the paperwork submitted for audit.
- (2) Employ one or any of the following persons living in the same household as a Personal Assistant without explicit written agreement from the Council:

Spouse – husband, wife or civil partner
 Partner or other member of an unmarried couple
 Close relatives of their spouse or partner (e.g. parent, parent-in-law, aunt, uncle, grandparent, son, daughter, stepchild, brother or sister).

5 DIRECT PAYMENTS: AMOUNT AND PAYMENT ARRANGEMENTS

5.1 The Direct Payments Amounts:

- (1) Calculation:

Item	Amount in words	Amount in figures (£)
The total cost, per week, of meeting the needs identified in the Care Plan is: Pounds and Pence	£
Therefore, Newport City Council agrees to pay, every 28 days (21 days in advance, 7 in arrears): Pounds and Pence	£

- (2) The Direct Payment amount will be reviewed annually, and/or when the Service User’s Care Plan is reviewed. This may result in a change to the above figures of which the Service User will be notified by the Finance and Income Team.
- (3) Additionally, a further amount, equal to one week’s Direct Payment will be paid into the Service User’s dedicated Direct Payment account along with the first payment. The purpose of this additional amount is that it **remains** in the account to be available for use in emergencies.

- (4) This **Agreement** may be changed with the written consent of both the Service User and the Council, or following a **Review**.

5.2 Direct Payments Arrangements:

- (1) The Council will pay an amount as calculated above, to the dedicated Direct Payments bank account described below:

Name of Account Holder:
Name of bank/building society/other:
Address of branch:
(Postcode)
Sort Code:
Account Number:

(2) Payments will commence on (date):
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5.3 Conditions relating to Direct Payments

Reasonable conditions may be imposed to address any issues identified through the assessment process.

The conditions are:
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6 SIGNATURES

- (1) This **Agreement** has been explained to the Service User and / or the Service User's representative, using assistance as necessary.
- (2) This **Agreement** has been understood by the Service User and / or the Service User's representative, using assistance as necessary.
- (3) This **Agreement** has been agreed by the Service User and / or the Service User's representative, using assistance as necessary.
- (4) By signing this agreement the Service User agrees to give Newport City Council permission to contact external agencies dealing with Direct Payment financial affairs in order to deal with any queries that may occur e.g. Accountants, Payroll Services etc.

Signature or mark of Service User:

Date:

Signature of Service User's Representative:

Date:

Signature of Care Manager:

Date:

Signature of Team Manager:

Date:

Copy for Service User and Copy to be scanned onto ESCR documents