

Direct Payment Agreement

Name:

Date Agreement issued:

This Direct Payment Agreement (“the Agreement”) sets out the steps that you need to take when you receive your direct payment. Please read it carefully as it is legally binding.

1. Basis of Agreement

- 1.1 West Berkshire Council Adult Social Care Service has carried out an assessment of your eligible needs and has agreed to the social care support described in your current care and support plan (enclosed) to be provided through a Direct Payment.
- 1.2 Your allocation will be paid directly into an epayment account¹, or an epayment account managed and operated by us, or your Direct Payment bank account (see 3.3) to enable you to buy the support you have been assessed as needing.
- 1.3 You may only use your Direct Payment to arrange and receive the support detailed in your care and support plan. You will be responsible for paying for the support you receive, including all agency invoices and employee wages/salaries.
- 1.4 Either you or West Berkshire Council may end this Agreement. You should give four weeks notice in writing. (see section 8).

2. Details of your Agreement Period

- 2.1 Once this Agreement has been signed (in the Contract Particulars - Form A), returned and if approved, a letter will be sent to you by WBC Direct Payment Financial Reviewing Team confirming when the next payment and subsequent payments are due to be made. A copy of the signed Agreement will have already been sent to you by your care manager.
- 2.2 This Agreement applies and the payments under it will commence from the Effective Date and will continue unless:

¹ Epayment account – Refers to an online bank account that is set up by West Berkshire Council for the purposes of Direct Payment. It provides online access to both you and WBC to manage and monitor the agreed social care funding.

2.2.1 A review of your eligible needs results in a new support plan and the Payment Agreement. Any previous Payment Agreement will be automatically terminated within 28 days of a new Payment Agreement being issued.

2.2.2 Terminated by WBC after a review, four weeks notice or reasons outlined in section 8.4 - Ending this Agreement.

3. Your Direct Payment Account

3.1 The amount of money you will be paid by us is as stated in the Contract Particulars and the letter accompanying your care and support plan. If the care and support plan includes any services commissioned or provided by us, a summary of costs for these will be referenced within the Contract Particulars.

3.2 You were assessed in accordance with the Council's Adult Social Care Charging Policy to find out if you have to make a contribution towards the cost of your care. If you need to make a contribution, you will be invoiced directly for this and must pay by the date on the invoice. **You must not use the Direct Payment money to pay for your assessed contribution.** If invoices are not paid in a timely fashion then corporate debt recovery will ensue. If you are a carer, please note that carers are not at present required to make a contribution for support services under the Council's Adult Social Care Charging Policy.

3.3 You agree that you will either:

3.3.1 Agree to use an epayment account that will be set up by West Berkshire Council but will be managed and operated by you.

or

3.3.2 Agree to use an epayment account that will be set up, operated and managed by West Berkshire Council.

or

3.3.3 Set up a bank account that will **only** be used for the Direct Payment. This is referred to as the nominated Direct Payment Account in this document.

The details of the above you have entered on Form B.

4. When you will be paid: -

4.1 The start dates of your direct payment will be agreed by West Berkshire Council.

4.2 Subject to 2.1 payments are set out in the payment schedule.

4.3 We will pay either into the epayment account or your nominated direct payment account, which has been agreed by us.

4.4 We have the right to stop your payment under this Agreement temporarily or permanently (refer to section 8)

4.5 If you are not using the epayment account, you must inform us if you change your bank account details.

5. General rules about how to use the money

5.1 Spending Direct Payment money:

- 5.1.1 The Direct Payment is to buy the services / support as detailed in your care and support plan. You should contact West Berkshire Council if you need to make changes to your care and support plan.
- 5.1.2 If your care and support plan identifies purchasing personal care from an agency, this must be from a provider who is registered with the Care Quality Commission.
- 5.1.3 If using an epayment account then payments can be made by bank transfer, standing order or debit card payment only. There will be no requirement to complete monthly returns but supporting documents should be uploaded. **(refer to section 6)**
- 5.1.4 If using a **nominated bank account** then payments can be made by cheque, bank transfer, standing order or debit card payment only, which will be accounted for in monthly returns. (refer to section 6)

5.2 Your responsibility as an Employer

- 5.2.1 If you employ a Personal Assistant (PA) you must ensure that, as an employer, you take full responsibility to cover payment of any employment rights that the Personal Assistant may have. This should be covered in the costing of your support. You are expected to have money in your account to cover for employee's sick pay, holiday pay and other employer's expenses. Any bank charges/legal charges/Inland Revenue costs will be your responsibility.
- 5.2.2 All Personal Assistants should have an agreed contract of employment, which includes terms and conditions. i.e. agreed holiday / sick pay
- 5.2.3 All employees must be employed in accordance with all relevant UK legislation. You are responsible for taking out references and obtaining enhanced Disclosure and Barring Service (DBS) checks regarding all employees. As the employer, you are responsible for any sums legally due to the employee as outlined in 5.2.1
- 5.2.4 Anyone employed through a Direct Payment will not be considered an employee or agent of West Berkshire Council and the Council will not be responsible for any income tax or national insurance contributions, VAT or any other payment payable or legal responsibilities in relation to employees including Personal Assistants.
- 5.2.5 You are responsible for the goods and services you contract for.

We will not be responsible for any claims, losses, liabilities and demands of any kind whatsoever arising out of or related to this Agreement (unless due to our negligence, or our officers or agents) including damage to property or personal injury or death of any person employed by you occurring in the performance of the service. You are responsible for ensuring that anyone employed by you maintains the necessary insurance cover in respect of the provision of the service(s) agreed.

- 5.2.6 You will be expected to ensure that you have made provisions for help in emergency situations or when any employees are not able to attend, such as when they are on annual leave or off sick.
- 5.2.7 If the Direct Payment is used to purchase any items of equipment as agreed in your care and support plan, maintenance must be considered. If the money is used for something that is sold within 5 years, or it is no longer used for the purpose for which it was agreed, we will ask to see that the money has been put back into the epayment account or nominated Direct Payment account.

5.3 Unspent Money

- 5.3.1 You will be allowed to keep up to 8 weeks unspent funds in your Direct Payment Account, excluding any funds allocated for respite care.
- 5.3.2 If you have more than 8 weeks unspent funds in your account, you need to say why the money is there and you will be subject to a financial review. (refer to section 6)
- 5.3.3 If this saving is not planned, you will be required to pay the money back; alternatively we may agree to reduce ongoing payments until the balance is used up.
- 5.3.4 If using an epayment account then an agreed amount will be withdrawn.
- 5.3.5 If using a nominated bank account, any money should be returned via bank transfer or cheque made payable to West Berkshire Council to the following address:

Direct Payment Financial Reviewing Team
Client Financial Services
West Berkshire Council
Market Street
Newbury
RG14 5LD

- 5.3.6 If money has to be given back to us, your contribution may also be reduced.

6. Keeping Records and financial audit of your Direct Payment account

- 6.1 West Berkshire Council has a responsibility to ensure that public funds, including Direct Payments, are spent on the intended services.
- 6.2 For all Direct Payments you must keep all records e.g. bank statements, receipts, invoices and payslips for seven years to show what the money is spent on.
- 6.3 If using an epayment account, there is no requirement to complete a monthly return; however receipts and invoices should be uploaded into the epayment account.
- 6.4 If using a nominated Direct Payment account each month you must provide us with details accounting for Direct Payment spend, this will include:
- A full copy of the bank statement of the nominated Direct Payment account

- Monthly Financial Return Forms of income and expenditure in respect of employment of staff and related costs including receipts and all invoices.

This should be sent to the following address:

Direct Payment Financial Reviewing Team
 Client Financial Services
 West Berkshire Council
 Market Street
 Newbury
 RG14 5LD

You agree to let us monitor the service received, records and receipts.

- 6.5 An individual financial review will be held annually or sooner if any concerns about management of your Direct Payment are identified. You agree to provide access to all your records when your Direct Payment account is audited as part of this review.

7. Change of circumstances

- 7.1 If there are any changes in your personal or financial circumstances that might affect your Direct Payment you need to notify us. e.g. change of address, going into hospital.

8. Ending this Agreement

- 8.1 WBC has the power to recover funds and /or discontinue payments in the event of non-compliance with the terms of this Agreement

- 8.2 Either you or we may terminate (end) this Agreement by giving four weeks' notice in writing to the other(s).

- 8.3 You may have to repay money back to us. This would be dependent on the amount of time left that the Direct Payment is allocated to cover.

- 8.4 We may terminate (end) this Agreement with immediate effect if we find that:-

8.4.1 You are not keeping to the Agreement; or

8.4.2 You are using the money illegally; or

8.4.3 If we find that the money has been spent elsewhere other than the use for which it was intended; or

8.4.4 If we have reason to believe that future monies would be misspent; or

8.4.5 If you fail to complete the returns requested; or

8.4.6 If you fail to provide the documentation requested at an audit.

- 8.5 On termination of this Agreement we will confirm in writing that all money held in your nominated account must be paid immediately to us and the account should be closed. If you are using an epayment account we will close this account.

8.6 In the event of death:

8.6.1 If using an epayment account we will freeze this account and your Estate should liaise with us regarding any outstanding debts.

8.6.2 If using a nominated Direct Payment account your Estate needs to ensure that all surplus funds held will revert back to us. In these circumstances, the account will be closed and the closing balance forwarded to us. Your Estate must also provide us with the account's final statement and any additional information requested by us regarding how your Direct Payment has been spent.

9. Changes to the Direct Payment Agreement

9.1 We may change the Conditions of this contract at any time by advising you in writing about the change. Changes will normally only be made for a good reason, such as changes in policy, changes in the law or other requirements affecting us. We will give you reasonable notice of these changes and give you an opportunity to withdraw from the Agreement.

10. If Problems Arise

10.1 When taking on a Direct Payment you have the responsibility to use the money as outlined in your support plan and make arrangements in emergencies.

10.2 However, if despite all efforts, you find yourself without assistance you should contact Adult Social Care on 01635 503050

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Form A - Contract Particulars

| | |
|----------------|--|
| Effective Date | |
|----------------|--|

The Personal Budget detailed relates to:

| | | | |
|---------|--|-----------|--|
| Name | | Client ID | |
| Address | | | |

This Payment Agreement is between West Berkshire Council (referred to in this Agreement as 'we' or 'us')

and

the person receiving the Direct Payment, referred to in this Agreement as 'you', this may be your representative.

| | |
|--|--|
| Name of Person / Organisation managing account | |
| Name of Client / Account holder <i>This should be the name on the Account</i> | |
| Address | |
| Relationship | |
| Reason for Managing Direct Payment Account | |

Summary of Personal Budget breakdown:

| |
|--|
| Expected period for which this budget covers |
|--|

| Enter the amount for the whole of the period identified above - usually annual | Amount (£) |
|--|------------|
| Ongoing Direct Payments <i>Normally paid by 4-weekly instalments</i> | |
| One-off Direct Payments <i>Normally paid 28 days from receipt of this agreement</i> | |
| WBC Commissioned services | |
| Total agreed Personal Budget allocation | |

This Agreement should be read alongside your Care and Support Plan and costing breakdown, which details costings for your Personal Budget and summarises how these will be spent.

Signatures

By signing this Agreement you (the account holder or their representative) and we both agree to work to the detail in this Agreement.

The person legally bound by this Agreement is the named person holding the bank account.

| | Signature | Name and title <i>Please print</i> | Date |
|--|-----------|---------------------------------------|------|
| Team Manager <i>On behalf of WBC</i> | | | |
| Client / Account holder / Representative | | | |

FOR OFFICE USE: A signed copy of this form to be scanned and attached to Care Director

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CLIENT ID

Form B – Epayment / Nominated Bank account information sheet:

| | |
|---|---|
| Name of Client / Account holder <i>This should be the name on the account</i> | |
| Care Manager | |
| Agreement for WBC to set up an epayment account | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Do you want West Berkshire Council to operate and manage the e-payment account? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If using a nominated bank account, please state the name of person/organisation managing/operating the account | |
| Name and address of the bank the account is held with <i>DP team to provide if e-payment account agreed</i> | |
| Sort Code <i>DP team to provide if e-payment account agreed</i> | |
| Account Number <i>DP team to provide if e-payment account agreed</i> | |
| Address for remittance advice <i>This should be the address on the Account unless a West Berkshire Council Managed Account, where the address should be the Direct Payments Team</i> | |

| Signature | Name and title (please print) | Date |
|--|--------------------------------------|-------------|
| Client/the account holder/representative | | |

For Care Management use:

This page should be sent to contracts and not attached for confidentiality purposes.