

Direct Payments Agreement - Standard

This agreement sets out the responsibilities and obligations of:

City of York Council (the Council) **and**

Name: _____ (the Direct Payment Recipient)

Address: _____

I consent to receive Direct Payments and confirm that I understand and will comply with the conditions contained in the attached agreement.

Signature of Direct Payment Recipient:

.....

Name of Direct Payment Recipient (please print):

.....

Date:

Signature of witness:

.....

Name of witness: (please print):

.....

Date:

Agreed on behalf of City of York Council:

Name and position of officer (please print):

.....

.....

Date:

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Introduction

The Council has carried out an assessment of needs and determined that the Direct Payment Recipient's needs as identified in the attached Support Plan should be met.

The Council and the Direct Payment Recipient have agreed that the Direct Payment Recipient should take direct responsibility for the provision of the services required to meet the Direct Payment Recipient's needs.

The Direct Payment Recipient has agreed to make all necessary arrangements to ensure the said services are provided, with support if required.

The Council has agreed to make the arrangements to fund the provision of the said services as set out in this agreement.

Reference in this agreement to the use of the Direct Payment by the Direct Payment Recipient shall include the Direct Payment Recipient's assessed financial contribution.

Responsibilities of the Council:

The Council Agrees:

1. To make Direct Payments into the Direct Payment Recipient's bank account in accordance with the details listed in the Direct Payments Schedule, in order to meet the assessed eligible needs outlined in the Support Plan.
2. To make Direct Payments at the agreed frequency.
3. To make payments with a maximum 8 week float.
4. To provide information in relation to the use of Direct Payments.
5. To review the Direct Payment Recipient's situation within 6 weeks, to decide whether the service is meeting the assessed needs.
6. To reassess the needs of the Direct Payment Recipient and the operation of this agreement annually, or more frequently, to determine whether the assessed needs have changed, how arrangements for the provision of the services are being managed, whether the Direct

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Payment Recipient remains willing to receive Direct Payments, and whether the Direct Payment Recipient remains able to manage the Direct Payments.

7. To increase or decrease the amount of Direct Payments paid at any time following a reassessment of needs which results in the revision of the Support Plan, and to give appropriate notice of any changes. (at least 2 week's notice in writing stating the reasons)

8. To review the amount of the Direct Payment on 1 April each year in respect of contracted rates for respite/domiciliary care.

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9. To meet the agreed priority needs of the Direct Payment Recipient as set out in the Support Plan if the arrangements made by the Direct Payment Recipient break down for any reason.

10. To ensure that regular checks are undertaken on the management of Direct Payments and provide advice and support or take corrective action where issues are identified.

11. To undertake a financial audit annually or more regularly if the Council deems it appropriate and take appropriate action for the recovery of any money due as a result of ending the Direct Payments.

12. In the event of the Direct Payment Recipient's death, the Council will consider what contractual responsibilities existed at the time of death when determining what sum is to be repaid to the Council. Any monies held in the Direct Payment Recipient's Direct Payments account will not form part of the Direct Payment Recipient's estate. If expected monies are unpaid the Council may make a claim against the Direct Payment Recipient's estate.

The Council will not:

➤ Have any liability for the service arranged by the Direct Payment Recipient other than providing Direct Payments.

Responsibilities of the Direct Payment Recipient:

The Direct Payment Recipient agrees:

12. To open a separate bank account for the sole purpose of securing services that meet the care needs identified in the Support Plan. This account may only be used for monies relating to Direct Payments (including the Direct Payment Recipient's assessed financial contributions), Independent Living Fund or Supporting People Fund.

13. To use any interest earned from Direct Payments towards the cost of services to meet the assessed needs.

14. The Direct Payment recipient or holder of the account will report back to the Council any funds that are over the 8 week float, so that arrangements can be made to reclaim the excess amounts held in the account.

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15. To be liable for any bank charges which arise as a result of mismanagement of Direct Payments.
16. To use the Direct Payment for the purchase of all services that meet the assessed needs identified in the Support Plan.
17. To pay, into the bank account, any financial contribution towards the cost of the services assessed in accordance with the Council's customer contribution policy..
18. To adjust any financial contribution towards the cost of the services assessed in line with annual changes in state benefits following the April review.
19. To secure services and comply with all safety and legal requirements that may arise in making such arrangements.
20. To pay all invoices and costs relating to the purchasing of services using the Direct Payment on time, including employee costs, any services purchased from an agency or organisation and any managed bank account or payroll services.
21. To ensure that all the legal obligations and requirements which relate to the purchase of services and employment of people are met and kept up to date.

This may include:
Appropriate recruitment procedures,
Disclosure & Barring Service checks,
Purchase of Public and Employer's Liability Insurance,
Arrangement of relevant training, to provide employees with a safe working environment.
22. To have a contingency plan that can be implemented if the arrangements for the provision of service that meet the assessed care needs break down.
23. To keep for a period of 6 years (plus the current years) and make available to the Council on request, documents relating to the Direct Payment in order for financial audits to be carried out on expenditure.
Documents include:

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Completed timesheets, holiday and sickness records – if relevant
PAYE, National Insurance and any other payroll records, as applicable
Bank Statements relating to the Direct Payment account
A record of all payments (cheque number, payee, amount)
Related invoices
Related receipts
Items purchased as specified in the support plan
Items purchased using funds from the Direct Payment Account
Insurance documents

24. To manage any changes with agencies, organisations or employees from which services are obtained, following an increase or decrease in Direct Payments.

25. To notify, and /or advise next of kin/executor that, the Council must be informed at the earliest opportunity of any changes in circumstances which would affect your assessed needs or entitlement to Direct Payments. This will include any changes in capacity to consent or ability to manage Direct Payments or in the event of the death of the Direct Payment Recipient.

26. To notify or advise next of kin/executor that in the event of death the Direct Payment account and any funds contained in it will not be regarded as an asset of the estate.

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27. Following the ending of Direct Payments to provide, or arrange for the next of kin/executor to provide, documents relating to Direct Payments in order for a final financial audit to be undertaken and recovery of any money due. If the expected amount is not available to be returned from the Direct Payment account the Council may claim the amount from the estate.

28. To repay the Council Direct Payment funds or any part of it should a request be made to do so in the manner agreed (See Guidance Notes) with the Council. Options may include deducting an agreed amount over a specified period or the Direct Payment Recipient making a repayment to the Council, or suspension of payments for a limited period. This may be due to any of the following reasons:

- The Direct Payment or any part of it has not been used to secure the provision of services, or some part of the services that meet the assessed needs.
- There has been an over payment
- The conditions of this agreement have not been met.
- Payment has been received by the Direct Payment Recipient from a third party for the same services to meet the same needs.
- Money has been misspent from the Direct Payment bank account.

The Direct Payment Recipient will not:

- Make cash payment from the Direct Payments account, except in circumstances that have been agreed as part of the Support Plan, and detailed records of cash payments kept of what this has been spent on.
- Use the Direct Payment to secure services from a partner, a close relative or anyone else that lives in the Direct Payment Recipient's household unless otherwise agreed by the Council in writing.
- Use the Direct Payment to buy health services, long term residential care, to pay household bills, to buy food or other personal expenses.
- Use the Direct Payment to pay any other charges owed to the Council.

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Joint Agreement

The Council and the Direct Payment Recipient agree that:

28. If, in the opinion of the Council, the person or organisation appointed by the Direct Payment Recipient is either not able to provide an adequate service or is unfit to provide a service, the Council has the right to require a change to the person or organisation who is providing the service.

29. The Direct Payment Recipient has the right to complain under the City of York Council's Adult Social Care complaints procedure about the operation of this agreement.

Suspension and termination of the Direct Payment Agreement

30. The Council may suspend payment of the Direct Payment temporarily if the Direct Payment Recipient is admitted to hospital or are otherwise temporarily unable to receive services. Any decision to suspend payment will take account of any reasonable existing liabilities including periods of notice relating to the Direct Payment Recipient's service arrangements.

31. The Council has the right to suspend or stop the Direct Payment if it is decided that the arrangements made for purchasing services are not adequate to meet the needs and outcomes of the Support Plan.

32. The Council has the right to suspend or stop the Direct Payment if any of the terms and conditions of this agreement have not been met.

33. The Council will terminate this agreement with immediate effect if any part of the Direct Payment is used for the following purposes:

- Anything illegal
- Gambling
- Investment

34. The Council will consider the Direct Payment Recipient's contractual and statutory responsibilities when determining the balance of the Direct Payment to be repaid to the Council in the event of the Direct Payment Recipient suddenly becoming permanently unable to manage Direct Payments.

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35. The Council will stop the Direct Payment when the entitlement to Direct Payments has ended or Direct Payments are no longer required.

36. The Council will consider the Direct Payment Recipient's contractual and statutory responsibilities when determining the balance of the Direct Payment to be repaid to the Council in the event of the death of the Direct Payment Recipient.

37. Subject to the Council's right to terminate the agreement with immediate effect under paragraph 33 above, either party may terminate this agreement by giving to the other party 4 week's notice in writing. The period of four weeks will commence on receipt of the written notice.

Attachments:

- ❖ Support Plan
- ❖ Schedule of Direct Payments
- ❖ Adult Social Care Direct Payments Guide

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Schedule of Payments

Name of Direct Payment Recipient:

Date of Agreement:

The City of York Council agreed on ----/----/---- to make a direct payment to you.

Assessed Financial Contribution	
City of York Council will pay	
Total Direct Payment will be	

Reason for Payment <i>(Please insert details)</i> <i>(Receipts should be provided where appropriate)</i>	Frequency <i>One off/Annual</i> <i>4-weekly/Other</i>	Amount
<p>Provide a clear breakdown of the total package of funding</p> <p>Assessed Financial Contribution – this will be the amount you will pay towards your direct payment following your financial assessment</p>		

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Payment:

Net weekly payment to be made
£.....per week

One off Payment £.....

Payment Arrangements (for ongoing services):

Payments to be made 4 weekly in advance

Start Date for Payments ; (When the Finance Team receive a copy of the first provider invoice or Personal Assistant time sheet)

Agreed Account Surplus

Calculated as (insert number of weeks).....x the week payment plus contingency amount.

(Normally equivalent to one weeks payment).

£

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You will be advised in writing if you are requested to repay any surplus above you agreed maximum holding

Note: At no time should funds accrued in the DP bank account exceed the equivalent of 8 weeks direct payments, other than funds accrued for legitimate purposes as agreed by the Council.