

HIGHLAND DIRECT PAYMENTS SCHEME

**GUIDANCE AND PROCEDURES FOR ALL
SOCIAL WORK SERVICE STAFF**

The Highland Council
Social Work Service
Revised - September 2009

Highland Direct Payments Scheme: Guidance and Procedures

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This practice guidance is intended to assist Social Work Representatives and other staff in the Social Work Service to implement the Highland Direct Payments Scheme. This document represents a working guide to staff and will be subject to review as and when regulations change.

Note about terms and roles:

1. **“Recipient”** means the person receiving a direct payment (see section 1.3.2.).
2. **“Beneficiary”** is the person to whom the support is provided, paid for by the direct payment.
3. The **“Social Work Representative”** is an officer of The Highland Council Social Work Service (or occasionally a Health colleague working to a joint assessment framework) who assesses the eligibility of individuals for entry onto the Scheme.
4. **“Personal Assistants”** or **“PAs”** are persons employed by a Recipient to provide personal care and support.
5. **“Social Work Service”** refers to The Highland Council Social Work Service.
6. **“Service User”** or **“User”** is someone in receipt of a Social Work service.
7. **“Business Support Team”** is the section within the Social Work Service responsible for issuing a direct payment and monitoring its expenditure in accordance with the Scheme: with the Direct Payments Administrator (DPAdmin) having key responsibilities.
8. **“Direct Payments Support Officer”** (DPSO) is the officer of The Highland Council with responsibility to give advice and guidance in line with the Highland Direct Payments Scheme to both Social Work Service Representatives and Service Users.
9. The **“Resource Allocator”** refers to the Officer in the Council providing authority for funds to be given in a direct payment.
10. **“Council-arranged service”** a service provided directly or purchased by the local authority.
11. **“Individual Budget”** a budget for the service user’s sole use to arrange for their support needs. This budget is usually made up from multiple funding streams, including a direct payment from the local authority.

Section 1: Introduction to direct payments

1.1. Legislation and Context

1.1.1 National guidance on self directed support (2007)

In 2007 the Scottish Executive published new guidance on self-directed support.

It states that self-directed support in Scotland is part of the mainstream of social care delivery, targeted at empowering people. The uptake of self-directed support is seen as contributing to the creation of a healthier nation with stronger and safer communities and is key to achieving a fairer and wealthier Scotland. Self-directed support puts the principles of independent living into practice and enables people to be active citizens in their communities. Like the social model of disability, self-directed support is about reducing or removing the physical, organisational or attitudinal barriers that people may experience in the world around them. Self-directed support is about flexibility, choice and control and having a decent quality of life. It is ultimately about promoting confidence and wellbeing for those with an assessed need.

Self-directed support, the guidance says, builds on the platform provided by direct payments legislation and the rights enshrined in the Disability Discrimination Act (Scotland) 2003. Self-directed support is used instead of, or to compliment, support services that the local authority might otherwise have provided. It can buy support for a person to live in their own home, such as having a bath or getting washed and dressed. Out of the home it could be to support an individual in college, or to enjoy leisure pursuits more. It may also be used to pay for someone to provide care and support to enable the beneficiary to take a short break with appropriate personal assistance. A person on self-directed support can buy this from a service provider such as a care agency or voluntary organisation, a local authority (such as their own or a neighbouring one), or by employing personal assistants (PAs). In summary, self-directed support provides an opportunity to meet the assessed needs of the whole person in creative and flexible ways.

The Highland Direct Payment Scheme recognises the importance that the use of local authority resources in the form of direct payments has in the success of self-directed support. A direct payment from the local authority is an important component in the budgets individuals have to control the support they receive – local authority direct payments for support, housing support and equipment and adaptations can be combined with monies from DWP benefit streams (such as the Independent Living Fund (ILF) and Access to Work), monies from Health and other state benefits as well as other income to make up an

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Individualised Budget for those seeking to take advantage of self-directed support.

1.1.2 With respect to the statutory duties placed upon the Local Authority there remains a duty to assess children and adults in need. However the Local Authority also has a duty to offer a direct payment as an alternative to services directly provided or purchased (council-arranged services), to meet that assessed need.

1.1.3 Therefore the details of this Direct Payment Scheme should be understood alongside existing, relevant procedures, including:

- Care Management and Single Shared Assessment Procedures;
- The requirement to provide Free Personal and Nursing Care;
- The service access thresholds contained in “Fair Access to Community Care Services”;
- Children and Families assessment procedures;
- Charging Policy of the Highland Council Social Work Service; and
- The requirement to complete Carer’s Assessments (Carer’s Support Plans)

1.1.4. The 1968 Act requires Local Authorities to ensure that a direct payment is sufficient to enable the Recipient to secure support of a standard that will satisfy them that the person's needs are being met. It should meet the cost of providing a service which is of an equivalent standard to that which the local authority would provide. Therefore the Highland Direct Payments Scheme bases the level of a direct payment upon a rate which is equal to the equivalent monetary value of the council-arranged service. For all direct payments the principle will be to provide a payment based upon the equivalent net cost to the Highland Council of arranging a service.

1.2 What is a direct payment?

1.2.1 A direct payment is a payment made by the Local Authority to an individual as an alternative to services which would have been directly provided, or purchased, by the Social Work Service (a council-arranged service).

1.2.2 Direct payments allow Recipients to: arrange their own support by employing a Personal Assistant; purchase personal assistance from a care agency; or contract with self employed persons to provide personal assistance.

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- 1.2.3 A direct payment can be used as an alternative to some or all of the services which would have been directly provided, or purchased, by the Social Work Service (a council-arranged service).
- 1.2.4 Direct payments should not be offered to a service user if they do not meet the access threshold for a service – a direct payment is a payment made by the Local Authority to an individual as an alternative to a service which would have been directly provided, or purchased (a council-arranged service).
- 1.2.5 For all direct payments the principle is to offer a payment at the equivalent monetary value of a council-arranged service¹ (see Section 2.4 below).
- 1.2.6 If an individual wishes to receive a direct payment they will not be treated any more or less favourably than people for whom the Local Authority arranges the direct provision of services.

1.3 Eligibility

- 1.3.1 To be eligible for receiving direct payments, the Service User must meet the following criteria:
- **Be willing to receive and able to consent to a direct payment.** The Service User must agree to and understand what receiving a direct payment will mean and the conditions attached. This is the person with parental responsibilities in the case of children.
 - **Be able to manage a direct payment** with or without as much help as they need (see Section 3).
 - **Meet the access threshold for service**
- 1.3.2 The following groups may be eligible to become a **Recipient** of a direct payment:
- Disabled² adults assessed as requiring community care services, including housing support services;
 - Disabled 16 and 17 year olds assessed as requiring community care services, including housing support services;
 - Disabled people with parental responsibility to purchase the children's services their children have been assessed as needing;

¹ See National guidance on self directed support (2007) para 63

² All forms of disability are included such as a learning disability or personality disorders

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- Parents and people with parental responsibility for a child in need (under the age of 16) who has been assessed as requiring children's services;
- Parents and people with parental responsibility for children whose health or development may be impaired or below a reasonable standard without services from the local authority;
- Disabled adults and 16 and 17 year olds to purchase housing support services
- Older people aged 65 years and over who are assessed as needing community care services due to infirmity or age;
- Attorneys and guardians with relevant powers can receive self directed support on behalf of people who are unable to give consent to arranging their own services;
- Those community care service users aged 65 or over who are accessing Free Personal and Nursing Care can arrange for the *personal care* element of the package to be received as a direct payment;
- Disabled people aged 16 and 17 to purchase children's services;
- Parents and people with parental responsibility for a disabled child to purchase the services the disabled child has been assessed as needing;

1.3.3 The following groups are **not** eligible to receive direct payments:

- Persons subject to a compulsory treatment order under the Mental Health (Care and Treatment) (Scotland) Act 2003 where a certificate has been granted suspending the measure authorising detention
- Persons subject to a compulsion order under the Criminal Procedure (Scotland) Act 1995 where a certificate has been granted suspending the measure authorising detention
- Persons subject to an emergency detention certificate granted under the Mental Health (Care and Treatment) (Scotland) Act 2003 where a certificate has been granted suspending the measure authorising detention
- Persons subject to a short term detention certificate granted under the Mental Health (Care and Treatment) (Scotland) Act 2003 where a certificate has been granted suspending the measure authorising detention, and

- Persons subject to a compulsion order under the Criminal Procedure (Scotland) Act 1995 and a restriction order under the same Act who have been conditionally discharged.

1.4 What can a direct payment be used for?

- 1.4.1. A direct payment can be made as a cash alternative to some or all of the personal care and support services that the Local Authority might otherwise have provided (council-arranged services). These include services arranged by the Social Work Service; Short Breaks and respite³; Housing Support services⁴; and Equipment and temporary adaptations⁵.
- 1.4.2. All monies spent must be clearly targeted at meeting care and support needs as indicated in the individual's care plan.

1.5 What can a Direct Payment not be used for?

The Scheme does not cover Direct Payments to purchase:

- A place in a care home;
- Health Services, such as nursing or medical care or housing services;
- Services normally provided by the local authority education service;
- Housing Services (other than housing support services).

1.6 How may the Recipient secure their services?

- 1.6.1. A Recipient may use a direct payment to purchase support;
- By recruiting and employing a Personal Assistant(s) who is 16 years of age or over. (This person must not be a partner or a close relative who lives in the same household as the Recipient as per new Scottish Government guidelines November 2007 - see section 1.6. for details).
 - By purchasing services from an independent sector provider. In this case, the agency has all the responsibilities of being an employer, but the Recipient controls the money and what service is provided, when, where and how. The Social Work Service has a list of organisations

³ See National guidance on self directed support (2007) paras 78-80

⁴ See National guidance on self directed support (2007) paras 65-67

⁵ See National guidance on self directed support (2007) paras 68-72

and businesses that are 'approved' by them and meet certain standards. This is called an Approved Providers List.

- By contracting with a self-employed person. (In this case the Recipient must check that the person is actually self-employed: The Inland Revenue has strict criteria on what type of work they consider to be employment and what work they class as self-employment. Details of the criteria for self-employment work can be found in the [Inland Revenue fact sheet ES/FS2](#) which is available from the tax office or the Direct Payments Support Officer)⁶.

1.6.2 Local Authorities do have the power to sell their services to direct payments Recipients however the Highland Council Social Work Service has made a decision not to sell its services to direct payment Recipients. Recipients may purchase the services of other Local Authorities.

1.7 Partners, close relatives and Personal Assistance

1.7.1 As of November 2007 Recipients are not able to purchase personal assistance from the beneficiary's:

- Grandparent;
- Parent
- Son or daughter
- Brother or sister
- Half-brother or half-sister
- Aunt or uncle
- Nephew or niece
- Grandchildren
- Spouse or civil partner
- Aunt or uncle's son or daughter
- Stepparent, stepchild, stepbrother, stepsister, or step grandchild
- Others stipulated by statutory instrument⁷

1.7.2 The expanded list of close relatives of the beneficiary from whom services may not normally be purchased **applies irrespective of where they live.**

1.7.3 However the Highland Direct Payment Scheme does now have discretionary powers to allow the employment of a close relative, who would otherwise be prohibited, where the Highland Council is satisfied that securing the service from such a person is necessary to meet the

⁶ If the Recipient does take on a PA on a self-employed basis, they should retain copies of the following documents as proof of their status: Self-assessment registration number; A signed document from the Inland Revenue stating that the PA is self-employed for care work and copies of the PA's Public Liability Insurance.

⁷ http://www.opsi.gov.uk/legislation/scotland/ssi2007/pdf/ssi_20070458_en.pdf

beneficiary's need for a service, or that securing a service from such a person is necessary to safeguard or promote the welfare of a child in need.

- 1.7.4 The relationship between the Recipient and the PA must be contractual rather than personal. A live-in PA can be employed if they are not a partner or close relative. In all cases the relationship should be professional, not personal.

1.8 Complaints and Comments about the Scheme

- 1.8.1 Social Work Service staff are responsible for informing people of the [Highland Council Social Work Service Comments and Complaints Procedure](#) if they have a comment, complaint or compliment about the operation of the Highland Direct Payment Scheme.
- 1.8.2 [The Scottish Commission for the Regulation of Care](#) (known as the Care Commission) will deal with comments or complaints about any registered service or agency.

Section 2: Setting up a Direct Payment: Process

2.1 Assess the Service User's needs

2.1.1 In the first instance the Direct Payment Scheme makes no change to the statutory duty placed upon the Local Authority to assess the needs of adults and children who appear to be in need and to offer a carers' assessment to 'substantial and regular' carers.

2.1.2 When an existing Service User requests that they receive a direct payment as an alternative to services currently being directly provided, or purchased, by the Social Work Service a new assessment is to be undertaken by the Social Work Representative.

2.1.3 Financial Assessment and charging for services (Community Care)

When undertaking any new assessment the Social Work Representative must also complete a Financial Assessment (this is for Community Care Services: Children's services are not financially assessed). As with a council-arranged service the Recipient may have to contribute towards the cost of their personal assistance.

There is no cost to the Service User/Recipient if they are aged 65 or over and the services to be provided are specifically in relation to Personal Care. Where a Direct Payment is offered as an alternative to these services a Recipient will not need to make a contribution.

Liaison with Business Support is necessary to calculate the Service User's financial contribution. It is essential therefore that the Social Work Representative ensures that the Financial Assessment is with the Area Business Support Team as promptly as possible to enable them to provide this figure.

2.1.4 Once the Financial Assessment is completed the Social Work Representative forwards this to the Area Business Support Team who will use this information to calculate whether the Service User/Recipient must make a personal contribution to any service provided. Where the Recipient is assessed as having to make a contribution a direct payment will be made net of that contribution.

N.B. Recipients must pay their personal contribution into their Direct Payments bank account (see 3.4 below) and purchase services in line with the agreed Care Plan (Plan). If this is not done their direct payment may be suspended.

2.2 Plan Care and provide information on receiving a direct payment

2.2.1 Where services are required to meet assessed need these will continue to be outlined in the Care Plan (sometimes known simply as

the Plan). The Care Plan should be agreed between the Social Work Representative and the Service User (and/or their carers). Where the assessment of needs has pointed to a requirement for service provision this should also be contained within the Care Plan. The Social Work Representative must make clear in the Care Plan what type of council-arranged service(s) are required to meet assessed need.

This Care Plan (or Plan) should be a written document and Social Work Staff should use current, relevant documentation.

2.2.2 Accessible information about direct payments should be offered at the care planning stage by the Social Work Representative: potential Recipients should be told that that the services they require can be arranged by the Social Work Service in the usual way or arranged with the use of a direct payment; and that a direct payment can be used as an alternative to some or all of the council-arranged services identified as necessary to meet assessed needs.

Where the Service User indicates that they may want a direct payment the information given must cover

- the roles and responsibilities of the direct payment Recipient
- the conditions which are attached to the Highland Direct Payment Scheme
- the requirement for the Recipient to be able to consent to and manage a direct payment (see sections 2.3 and 3)

N.B. The Social Work Representative must make clear in the Care Plan what type of council-arranged service(s) are required to meet assessed need – it is these services that any direct payment will be offered and calculated as an alternative to.

2.3 *Decide upon the Service User's ability to consent to and manage a Direct Payment*

Where the Service User indicates that they want a direct payment the Social Work Representative must satisfy themselves that the potential Recipient can consent to a direct payment and are able to manage a direct payment (with as little or as much help as is required).

[Section 3](#), below, deals in detail with the issues regarding consenting to and managing the responsibilities of a direct payment.

Only once the Social Work Representative is satisfied that the potential Recipient has the ability to consent to and manage a direct payment

should they continue on the next step of the process - requesting resource allocation.

2.4 Request Resource Allocation

2.4.1 The Care Plan (Plan) should detail assessed needs and how these are to be met. The Social Work Representative must make clear in the Care Plan what type of council-arranged service(s) are required to meet assessed need⁸: where a direct payment is sought it will be offered at an equivalent monetary value to the council-arranged services described.

The completed Care Plan will form the basis for a request for resource allocation.

2.4.2 The Social Work Representative should pass the Care Plan to their local Area Business Support Team ahead of requesting resources from the Resource Allocator.

The Business Support Team will calculate the level of the direct payment to be requested by translating the Care Plan (and the council-arranged services described within it) into an equivalent monetary value. The Area Business Support Team will do this by completing a Direct Payments Costing Sheet.

2.4.3. The resource request for a direct payment should be made by the Social Work Representative to the appropriate Resource Allocator (Area Resource Allocation Panel for Community Care; or Head of

⁸ As with all interventions it is important that the Social Work Representative assure themselves there are not alternative resources which may be accessed by the Service User, ahead of seeking resources allocated by the Social Work Service.

As stated above, The Highland Direct Payment Scheme recognises the importance that the use of local authority resources in the form of direct payments has in the success of self-directed support. A direct payment from the local authority is an important component in the budgets individuals have to control the support they receive – direct payments for support, housing support and equipment and adaptations can be combined with monies from DWP benefit streams (such as the Independent Living Fund (ILF) and Access to Work), monies from Health and other state benefits to make up an Individualised Budget for those seeking to take advantage of self-directed support.

N.B. One of the main funding streams is the Independent Living Fund (ILF) (1993). Eligibility Criteria to receive payments from this fund is as follows. Individuals must:

- Receive at least £320 per week / £16,640 per annum, or equivalent value, of services or direct payments from the Social Work Service;
- Be between 16 and 64 years of age;
- Receive the highest rate Care Component of Disability Living Allowance (DLA);
- Expect to live in the Community for the next six months;
- Have capital of less than £22,250 (excluding the property they live in). This amount includes any capital/savings their partner may have.

Priority will be given to applicants who:

- Work 16 hours or more each week
- Get income support, income-based jobseekers allowance, income-related employment and support allowance, pension guarantee credit or similar income
- Have a total care package which costs £500 or more each week

Children's Services) and should be accompanied by the Care Plan and a completed Direct Payments Costing Sheet ([Appendix I](#)).

- 2.4.4. The Resource Allocator will be responsible for examining the information provided in the Care Plan (Plan) and in the Direct Payments Costing Sheet before approving a resource request. (As with the provision of other community care packages any direct payment should not exceed 125% of the net cost to the Council of the service user moving to an appropriate Care Home ([Appendix II](#)))

Where a direct payment is approved the Resource Allocator must decide upon and stipulate the budget code(s) from which resources will be transferred to meet the direct payment.

The Resource Allocator will inform the Service User, their Social Work Representative, the Direct Payment Support Officer and the Budget Holder responsible for the budget code(s) from which resources will be transferred to meet the direct payment that a direct payment resource allocation has been approved. A standard letter is available to facilitate this ([Appendix III](#)) and the approved Direct Payments Costing Sheet should also be included in this correspondence. The date of this letter is the date from which a Direct Payment is authorised – the payment itself can be made when Business Support receive a completed CIC5 form (see section 2.6).

- 2.4.5 Appeals may be made to a decision not to allocate a direct payment, or to the level of the direct payments allocated. Appeals should be directed to: The Highland Care Charge Review Group in respect of applications for Community Care resources; and the Director of Social Work for applications from Children and Families clients.

In all cases the Highland Council Social Work Services 'Comments and Complaints Procedure' maybe followed if the appellant is not satisfied with the service received.

2.5 Complete the Agreement Form

- 2.5.1 When the direct payment has been allocated the Social Work Representative and the DPSO will visit the prospective Recipient and work through the Direct Payments Scheme Agreement Form and the Direct Payments Scheme Financial regulations ([Appendices IV and V](#) respectively).

The Social Work Representative /DPSO should also reiterate to the prospective Recipient the need to set up a separate Bank Account in which to receive their direct payment, and to provide the Area Business Support Team with details of this. The Social Work Representative / DPSO will request that the recipient complete and return the Bank Details Return Proforma ([Appendix VII](#)) to the local Area Business Support Team.

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Once the Direct Payments Scheme Agreement Form has been explained, understood and signed, the Recipient, Social Work Representative and Business Support should each retain a copy. The Agreement must be signed by the Recipient before the Direct Payment can progress.

The Direct Payments Scheme Agreement Form forms a contract between the Social Work Service and the Recipient.

- 2.5.2 The Social Work Representative / DPSO must ensure that a copy of the Direct Payments Scheme Agreement Form is sent to the Area Business Support Team. The signed Agreement Form together with the standard Resource Allocation Letter ([Appendix III](#)) constitute authorisation to the Area Business Support Team to make the Direct Payment. The Direct Payment will actually be made on receipt of details of the Recipient's separate Direct Payment Bank Account and the CIC5 Form indicating the actual starting date ([Appendix VI](#)).

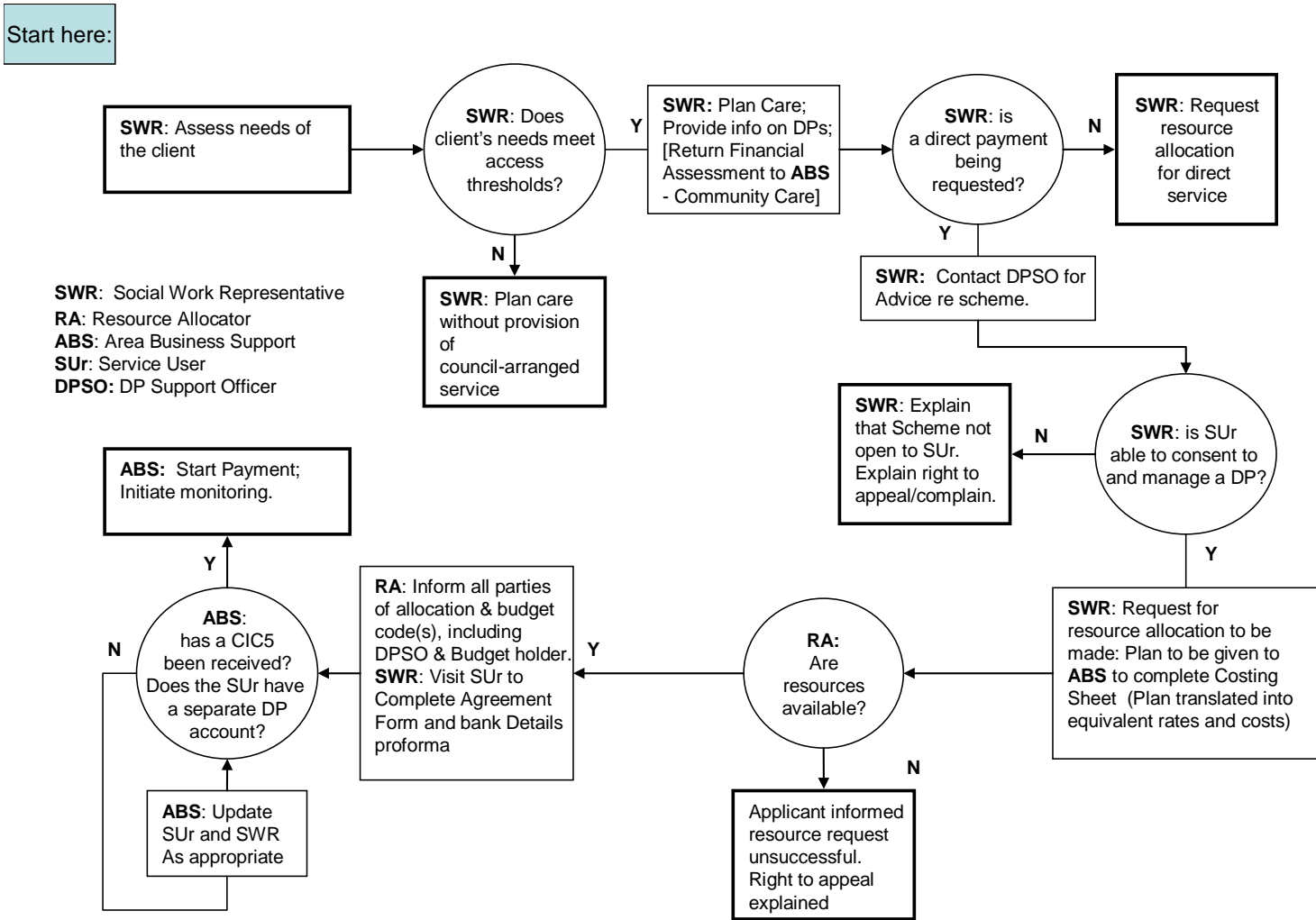
2.6 Flow Charts

Diagrams 1 and 2, below, chart the process for setting up a Direct Payment in the form of flow charts.

Diagram 1 charts the respective roles and responsibilities of the Social Work Representative, the Area Business Support Team, the Service User, the Direct Payment Support Officer and the Resource Allocator in setting up a direct payment.

Diagram 2 charts their respective roles and responsibilities in relation to budgeting and budget transfers to account for resources used as a direct payment.

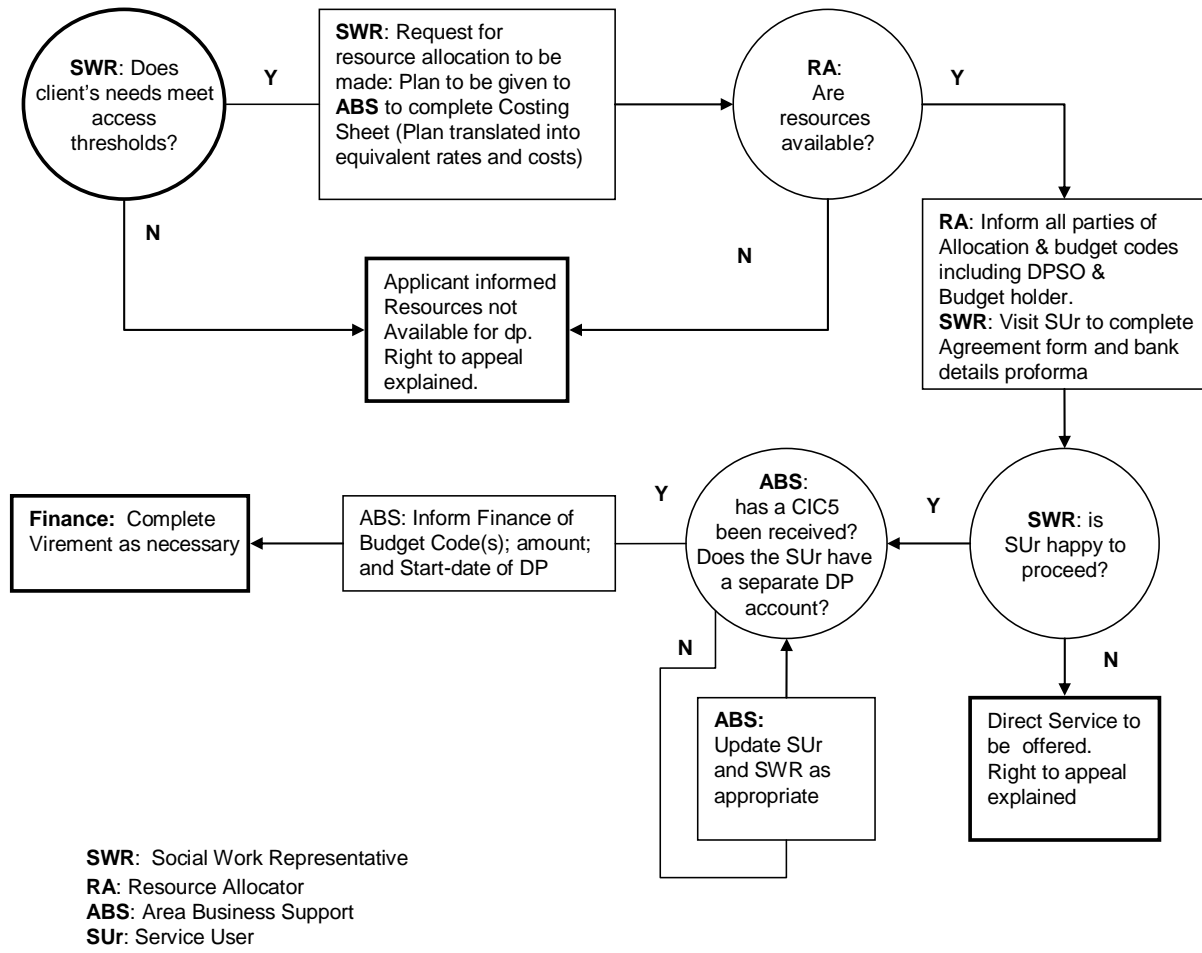
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Direct Payments - Social Work Representative's role

Diagram 1

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Finance Flow Chart - Direct Payments

Diagram 2

Section 3: Consenting to and managing a direct payment

3.1 Consenting to a Direct Payment

3.1.1 A direct payment may only be made with the consent of the Recipient. The Social Work Representative will need to make sure that the Service User understands and accepts the responsibilities involved. These responsibilities are significant and can include: the legal responsibilities of being an employer; the need to account for how the direct payment is spent; and ensuring that the needs identified in the agreed Care Plan (Plan) are being appropriately met.

3.1.2 It is important to recognise that there is no automatic assumption that an individual does not have the capacity to consent simply because they belong to a particular client group, unless the individual has been assessed otherwise under the Adults with Incapacity (Scotland) Act 2000. The decision about someone's ability to consent should not be made on the basis of the person's capacity to give consent in other areas of his or her life.

3.1.3 The Social Work Representative needs to be clear about what choices and decisions are involved for the Service User in consenting to direct payments. For example, is the individual consenting to stay in his or her own home, or to be able to choose a support worker, or to go on a college course one day a week instead of to the day centre? An assessment about capacity to consent needs to be clear about an individual's ability to express preferences holistically in order for a judgement to be made about the choice and control an individual has over the decision to receive direct payments, and what this will mean for them. Issues relating to capacity and ability to consent are contained in [Guidance](#) relating to the Adults with Incapacity (Scotland) Act 2000.

Support should be provided to an individual if the Social Work Representative is not sure about the individual's ability to consent. The use of Independent [Advocacy](#) may be helpful in assisting with this.

3.1.4 Where the person requiring a service is unable to consent to a direct payment and there is an existing Attorney or Guardian (i.e. a Proxy) the Proxy may be able to consent on the person's behalf. The social work representative may check with the Office of the Public Guardian whether the service user has a proxy in place.

Where there is no Proxy an application for Welfare and Financial Guardianship will be required. The person(s) who will take responsibility for the direct payment should be the Guardian(s); it is advisable that specific powers to consent to and manage the direct payments are sought in the application. Consideration should also be

made when making application whether a Management Plan; an Inventory; and a Bond of Caution need be required.

The Guardian(s) will be the person(s) responsible for managing the direct payment.

Parents of children who are assessed as eligible for service can consent to and receive a direct payment. It should be noted, however, that where a child lacks capacity at the age of 16 parents can no longer automatically give consent and Guardianship will be required.

- 3.1.5 A person can withdraw their consent for a direct payment at any time. In such an instance the Social Work Service resumes the responsibility to directly provide, or purchase, services in accordance with the agreed Care Plan.

3.2 *Managing the responsibilities of a direct payment*

- 3.2.1 It must be established that prospective Recipients are able to manage the responsibilities of a Direct Payment with or without assistance (for responsibilities see Section 3.4). The Social Work Representative should refuse a direct payment if they believe that the person is not able to manage one, or does not have the necessary support to manage one.

The Direct Payments Support Officer will be able to offer assistance to the Social Work Representative in helping them to assess the potential Recipient's ability to manage a direct payment.

- 3.2.3 Recipients can have as much help as they need to manage a direct payment but remain accountable for the way the direct payment is spent.
- 3.2.4 A Recipient may say how their Personal Assistance should be provided, then leave all the details and organisation to others acting on their behalf. The Recipient must remain in control of the arrangements and is accountable for them.
- 3.2.5 There is very little restriction on who may help a person manage their direct payment. For example the individual's carer, family, friends, advocate, support group, relative etc. may be involved. However the person helping to manage the direct payment should not be the provider of any personal assistance that is being paid for by the direct payment.
- 3.2.6 If Recipients are unable to manage their direct payment without assistance explicit information on who will provide the support to manage the direct payment must be provided to the Social Work Representative before the application for a direct payment can proceed.

- 3.2.7. The Social Work Representative has an ongoing responsibility to monitor arrangements to ensure that control of the direct payment does not pass to a third party, with or without the consent of the individual.

3.3 People with fluctuating conditions

- 3.3.1 Some people with learning disabilities and mental health problems may go through periods where their health deteriorates and they are not able to manage payments. A clear contingency plan will need to be put in place to take account of these occasions. Without such a plan any application for a direct payment should not proceed.
- 3.3.2 The key is to try to find ways around the obstacles. For people with deteriorating conditions, this may include setting up a Living Will, an Advanced Directive or a User Controlled Trust. Advice may be sought from the [National Centre for Independent Living](#), whose details can be found to the rear of this document.

3.4 Responsibilities Recipients assume on receipt of a direct payment

- 3.4.1 All direct payment Recipients, regardless of how they purchase their personal assistance, must open up a separate bank or building society account for the Local Authority to pay the direct payment into. If this is not in place the direct payment will not commence. Where direct payment Recipients are liable to pay a personal contribution the contribution must also be paid into this account. If it is not paid into the account the Direct Payment will be suspended.
- 3.4.2 All Recipients must complete a Direct Payments Return, issued by the Area Business Support Team (DP Admin), to evidence how they have spent the direct payment. This return should include all original documentation such as bank statements, wage slips, invoices etc
- 3.4.3 Non-completion of Returns. After one missed Return Area Business Support (DP Admin) will inform the Recipient, the Social Work Representative, their Area Manager and the DPSO of the situation; help and support will be co-ordinated by the DPSO with the assistance of the DP Admin. If, however, a second, consecutive Quarterly Return is missed the DP Admin will notify the Social Worker and the Area Manager. The Area Manager will then make the decision on whether the direct payment should be stopped.
- 3.4.4 The management of a direct payment is ordinarily more complex when Recipients employ their own staff; the Social Work Representative must be aware of the responsibilities an employer takes on when assessing a prospective Recipient's ability to manage a direct

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payment. The Social Work Representative, with the support of the DPSO and line management, has to make the decision that that the prospective Recipient is able to assume the responsibilities of being an employer. In the first instance the Social Work Representative must be satisfied that the prospective Recipient would be able to employ staff safely and take reasonable decisions, evidencing due regard to the protection of Adults and Children.

- 3.4.5 The Recipient must use any information about prospective or current Personal Assistants appropriately. They will be expected to use the information provided in Enhanced Disclosure Checks (see 3.4.9 below) in a reasonable manner evidencing due regard to the protection of Vulnerable Adults and Children.

N.B. If the Social Work Representative has any concerns regarding the ability of the Recipient to protect Vulnerable Adults and Children provided with personal assistance through the direct payment this should be interpreted as an inability of the Recipient to manage the direct payment and the payment should stop.

In situations of this sort, the Council's Child Protection Procedures and/or the Protecting Vulnerable Adults Procedures should be followed immediately

- 3.4.6 When accepting a direct payment as part of their individual budget to employ staff directly a Recipient must be clear that they can comply with relevant employment legislation. Recipients must take the following items into account when budgeting to employ staff directly⁹:

- Pay rates and maximum working hours legislation for staff
- Employer's National Insurance
- Employer's Insurance (see Section 3.4.7. below)
- Minimum statutory holiday and bank holiday pay
- Statutory sick pay and cover
- Statutory maternity, paternity, adoption or dependents' pay and cover
- Ongoing training costs

⁹ An individual budget needs to be sufficient to enable the Recipient to secure support of a standard that will meet their needs satisfactorily. The Highland Direct Payments Scheme bases the level of a direct payment, a constituent element in most individual budgets, upon a rate which is equal to the equivalent monetary value of a council-arranged service.

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- Emergency cover for staff absence
- Any required protective clothing for PAs
- Payroll and book-keeping (see Section 3.4.10. below)

When employing staff directly Recipients should also have the following in place:

3.4.7 Employer and Public Liability Insurance

Purchasing Employer and Public Liability insurance will cover the employer (Recipient) against claims from their PAs in event of a PA having an accident. Ordinarily insurance policies of this sort require renewal each year and therefore it is the employer's (Recipient's) responsibility to ensure that they have taken insurance out and keep it up to date. The cost of Employer and Public Liability insurance must be taken from the Direct Payment.

N.B. A great majority of current Recipients in Highland use [FISH Insurance and their 'Independent Living Insurance Policy'](#) to cover their responsibilities in this area. A further two companies now offer similar policies: [Ellis Bates Care](#) or [Direct Care Insurance](#).

3.4.8 Contracts of Employment

A contract of employment is a legal agreement between an employer and an employee. It comes into force when an employee agrees to work for an employer in return for pay and therefore is an essential part of a Recipient's responsibilities.

3.4.9 Enhanced Disclosures

[Disclosure Scotland](#) is part of the Scottish Criminal Records Office Disclosure Bureau and is a service designed to enhance public safety by providing potential employers with criminal history information on individuals applying for posts. Disclosure Scotland issues certificates - known as "Disclosures" - which give details of an individual's criminal convictions or state that they have none.

It is a requirement of the Highland Direct Payments Scheme that an Enhanced Disclosure is completed for all people employed to provide personal assistance using a direct payment. This stipulation is in force regardless if potential employees already work in the care sector or have recently completed an Enhanced Disclosure for another post. Enhanced Disclosures are job specific and therefore a new disclosure must be completed for each new post applied for.

Potential employers and employees should also understand that when the plan is to provide personal assistance to the Beneficiary in the Personal Assistant's own home then other adults in the house should also be Disclosure checked (and, as counter-signatory for the Umbrella organisation, the Highland Council may also liaise with its Child Protection Committee Partners to gather other information as to the suitability of the environment as a care-setting)

To apply for an Enhanced Disclosure check the potential employer (Recipient) will need to use a recognised Umbrella Body for this purpose. The Umbrella Body is responsible for the management and administration of Disclosure applications. When the check has been completed by Disclosure Scotland and the Disclosure Certificates issued, a member of the Umbrella body staff will inform the prospective employer of the result (two copies of the certificate are issued one to the counter signatory on behalf of the prospective employer and one to the person seeking the position).

Scottish Ministers have published a Code of Practice to guide users of the Disclosure system. To comply with the Ministerial Code of Practice the Umbrella Body is required to ensure the eligibility of those on whose behalf it countersigns Disclosure applications by ensuring that they:

- Are entitled to receive Disclosure information by virtue of their being entitled to ask exempted questions¹⁰.
- Take reasonable steps to ensure that those to whom they pass Disclosure information observe the Ministerial Code of Practice.

It will also be the responsibility of the Umbrella Body to be satisfied about the identity of the applicant for the Disclosure. The applicant for the Disclosure is the person seeking to be employed as a personal assistant.

N.B. The Highland Council acts as the Umbrella Body for all Disclosure checks that are undertaken in respect of direct payments. The counter-signatory is the Programme Manager for Modernisation and Quality Assurance.

Disclosure Certificate

The Disclosure certificate containing any information on the applicant will be sent by Disclosure Scotland directly to the counter signatory at

¹⁰ Exempted question

The terms of the Rehabilitation of Offenders Act 1974 Act recognises that there are some circumstances where information about spent convictions ought to remain available. The Act therefore includes an order-making power to specify circumstances which would set aside or modify the protection afforded by the Act's provisions. This power has been used to create a number of exceptions where both unspent and spent convictions should be disclosed. Amongst the exceptions are positions involving working with children and other vulnerable people in a variety of settings.

the Umbrella Body. Thereafter the counter signatory will assist the prospective employer to understand the content of the Disclosure, in line with the job description supplied by the prospective employer. Ultimately, it is the responsibility of the prospective employer to decide whether to offer the applicant a position.

The Disclosure certificate carries no predetermined period of validity or absolute guarantee of accuracy. Enhanced Disclosures are position specific and considered valid only at the time of issue. The Ministerial Code of Practice indicates that Disclosure information must not be used for purposes other than that for which it was sought.

Confidentiality and privacy

Confidentiality and privacy are crucial to this process, and there are penalties in accordance with Police Act 1997, Part V, for the misuse of Disclosure information. An employee or officer of an Umbrella Body acting on behalf of others may only disclose Disclosure information in the following circumstances: in the course of his/her duties, and either to another member, officer or employee within the Umbrella Body; or to the individual at whose request the Umbrella Body countersigned the application.

The Umbrella Body will countersign a Disclosure application on behalf of the prospective employer (Recipient) and will pass on information to the prospective employer on its receipt. The prospective employer (Recipient) would commit an offence if he or she passed the disclosure information to any one else.

On rare occasions relevant non-conviction information will be withheld from the applicant in the interests of the prevention or detection of crime and not appear on the applicant's copy of the Disclosure Certificate. It will however be supplied separately to the counter signatory on behalf of the prospective employer. In such situations neither the counter signatory nor the prospective employer may discuss the information with the applicant.

N.B. Currently the Highland Council acts as the Umbrella Body for all Disclosure checks that are undertaken in respect of Direct Payments.

The fee for the initial Disclosure checks of prospective Personal Assistants should be indicated in the Start Up costs of the Direct Payment (see Costing a Direct Payment below). The Start Up costs will be paid NET of the cost of Disclosure checking component; Recipients will not be invoiced for Disclosure checks.

The Direct Payment Support Officer will keep a record of all new direct payments to ensure that corresponding Disclosure Checks have been carried out. This officer will liaise with the Recipient, their representative and/or the Social Work Representative to ensure the Disclosure checking responsibility has been discharged.

Process

Before employing a PA the Recipient should contact the DPSO to request a Disclosure Application form and detail who it is for. Once the DPSO is satisfied that they are entitled to ask exempted questions this officer will organise for a record to be made on a secure database of who is to be disclosed before arranging for the Disclosure Application form to be sent the Recipient.

It is the Recipient's responsibility to make sure the Disclosure check is completed before employing a Personal Assistant; however it is the potential employee's responsibility to complete the Disclosure Application form – and the counter-signatory at the Umbrella body needs to be sure of the applicant's (potential employee's) identity before sending it to Disclosure Scotland for processing.

The potential employee therefore should contact the DPSO to make an arrangement to have their ID verified and to return their completed Disclosure Application. The DPSO will then pass the completed Disclosure Application and the verified ID to the counter-signatory for their attention. The counter-signatory needs to be satisfied of the identity of the potential employee before counter-signing the application.

Once the Disclosure check has been completed and the counter-signatory has received notification of the outcome they will intimate any information disclosed to the Recipient.

3.4.10 Private Payroll Services

If the Recipient is not willing or able to administer their own payroll in line with Employment Legislation a private sector payroll service can be accessed by contracting with a local company, who provides such a service. As an employer the Recipient is responsible for paying their PAs, providing them with an itemised pay slip, and making the correct deductions from their wages for Income Tax and National Insurance. The Recipient will need to explain to the PAs that by law, Tax and National Insurance will be deducted from their pay.

Private sector payroll services ensure that PAs' Tax and National Insurance are correctly deducted and therefore the Recipient and the PAs are safeguarded against demands from the Inland Revenue. There are many private payroll services available in the Highland Area and their fee must be taken from the Direct Payment.

N.B. A majority of Recipients are using [Eagle Consulting](#) to administer their Payroll. Further companies have also been identified in Ritsons www.ritsonsc.com or Fergus Neilson www.fergusneilson.co.uk . A CD-Rom is also available from [Inland Revenue](#) to assist clients with payroll responsibilities.

3.5 Coping with contingencies; managing difficulties

- 3.5.1 To be able to manage a direct payment a potential Recipient will need to outline arrangements for emergencies, e.g. if their usual care arrangements were to break down due to ill health. The Social Work Representative must be satisfied that adequate arrangements will be in place to cover contingencies before proceeding with an application for a direct payment. The Social Work Service will normally only provide emergency assistance to Recipients where arrangements have completely broken down. In these circumstances the direct payment will be suspended with the Social Work Service resuming responsibility for providing care.
- 3.5.2 The Social Work Service may recover some or all of the money paid out in the form of a direct payment if it is not satisfied that the Direct Payment has been used for the intended purpose. The Social Work Service will calculate the amount to be recovered and state how it will be recovered. Circumstances in which the Social Work Service will consider stopping a direct payment should be made clear to the Recipient before a direct payment begins. (See Section 3.7)

3.6 Making the final decision about the appropriateness of making a direct payment

- 3.6.1 The decision about whether a direct payment is appropriate rests with the Social Work Representative with the support of their line-management structure. The Direct Payments Support Officer will assist by giving detailed advice about the provisions of the Scheme but will not be otherwise involved in the decision making process.

The decision should take into account the views of all relevant parties including all formal and informal support networks. The decision needs to be made on an individual basis and the Social Work Representative must avoid making blanket judgments about groups of people, especially when assessing ability to consent to a direct payment.

- 3.6.2 If the Social Work Representative decides that a direct payment is inappropriate, the reasons should be clearly recorded and shared sensitively with the Service User and any informal support network. The Service User should also be made aware of The Highland Council Social Work Service Comments and Complaints Procedure should they wish to challenge the decision.

3.7 Stopping a Direct Payment

3.7.1 The Social Work Representative should inform the Recipient of the circumstances in which a direct payment may be discontinued, before the application for a direct payment proceeds. Examples of such circumstances include:

- Where the Recipient is placing his/herself (or the beneficiary) at an unacceptable risk, e.g. the Recipient is unable to employ or purchase sufficient personal assistance to meet his/her (or the beneficiary's) needs.
- Where the Social Work Representative considers that the Recipient is placing Vulnerable Adults or Children at risk because of the personal assistance they have arranged with their direct payment. This should be interpreted as an inability of the Recipient to manage the direct payment and the payment should stop.
- Where the Recipient does not contribute their calculated personal contribution.
- Where the Recipient uses the direct payment for a purpose other than meeting their assessed needs in accordance with the agreed Care Plan (Plan) and without the agreement of the Social Work Service.
- Where the Recipient does not fully disclose financial information, e.g. if a cash withdrawal is made it will not suffice to write 'petty cash' on the Direct Payments Scheme Quarterly Return.
- Where the Recipient fails to complete/submit their Direct Payments Quarterly Return¹¹.
- Where the Recipient is no longer able to manage their direct payment or care arrangements and no one else deemed appropriate by the Social Work Service is available to carry out its management on the Recipient's behalf.

3.7.2 If the Social Work Service withdraws a direct payment then it will need to arrange services to meet assessed needs. The Social Work Service will normally give a minimum of 28 days notice of the discontinuation of a direct payment, although this period may be reduced depending on the situation.

3.7.3 A Direct payment may be discontinued temporarily, for example, when a person is in hospital for more than four weeks or unable to manage

¹¹ After one missed Return Area Business Support (DP Admin) will inform the Recipient, the Social Work Representative, their Area Manager and the DPSO of the situation; help and support will be co-ordinated by the DPSO with the assistance of the DP Admin. If, however, a second, consecutive Quarterly Return is missed the DP Admin will notify the Social Worker and the Area Manager. The Area Manager will then make the decision on whether the direct payment should be stopped.

their Direct Payment due to ill health. When this is the case it will be important for the Social Work Representative to appraise the Area Community Care Manager or the Area Children's Services Manager of developments. Where this temporary situation is likely to extend to more than 3 months the Direct Payment will normally be stopped after 3 months at the discretion of the Area Manager.

- 3.7.4 Recipients will usually be required to give notice to employees. The duration of a direct payment should be sufficient to cover payment of any period of notice. It is strongly advised for Recipients to contact either the Direct Payments Support Officer or an organisation such as [ACAS](#) (Advisory, Conciliation and Arbitration Service) or [SPAEN](#) (Scottish Personal Assistants Employers Network) before dismissing any employee. Both part and full time PAs have employment rights and certain procedures will have to be followed to dismiss them fairly.
- 3.7.5 In all cases the Social Work Representative should make a record of when and why the payments are suspended, reduced or discontinued in the file notes before payments are changed. A completed CIC5 should always be sent onto the Area Business Support Team detailing any changes to be made to a direct payment.
- 3.7.6 Where necessary the Social Work Service will provide emergency assistance to the Recipient when a direct payment is stopped.
- 3.7.7 When the direct payment is stopped because the Recipient has not followed the Scheme's regulations, including financial regulations, the Social Work Service will seek to recover any misused monies.
- 3.7.8 It should be made clear to any interested party that the Social Work Service is in no circumstances responsible for any claim that party may have against the Recipient.

3.8 TRANSFERS

- 3.8.1 When a service user relocates to a different local authority area the funding of their care (the direct payment included) should transfer to that local authority and the Highland Council should cease payment.
- 3.8.2 When a service user (child and adult) becomes 'ordinarily resident' in Highland we assume the duty to assess them where they are or appear to be in need. Where people are assessed as needing and eligible for services we have a further duty to offer these, in part or in their entirety, as a direct payment (see Section 1). **Scottish Office Circular No SWSG1/96.**

Section 4: Monitoring of Direct Payment

4.1 MONITORING OF DIRECT PAYMENT

- 4.1.1 Recipients must open a bank or building society account for the sole purpose of managing the money to be used for their personal assistance. The Recipient must also pay their personal contribution, if applicable, for their care arrangements into this account. Recipients must request monthly bank statements in respect of the account.
- 4.1.2 The direct payment will not commence until the Area Business Support Team has authorisation for the direct payment (a letter from the Resource Allocator, a signed copy of the Direct Payment Agreement Form, a completed Change of Circumstances CIC5 Form) ([Appendix IV and VI](#)) and has been given bank details of the Recipient's dedicated DP account. Good practice suggests that Start Up costs should be made immediately but that the direct payment proper should commence when the CIC5 form is returned by the Social Work Representative, and that this should be dependent on the Recipient being in a position to imminently manage/deploy their personal assistance.
- 4.1.3 Financial monitoring will take place every 13 weeks, using the Direct Payments Scheme Financial Return ([Appendix VIII](#)). The Recipient will complete and sign the Direct Payments Financial Return which will include details of: the total income from direct payments; personal contributions; interest if applicable; total expenditure on care and other costs; and the balance carried forward. Original bank statements for the period should be included, along with all paperwork relating to transactions, such as payslip summaries, invoices from agency providers and all receipts.¹²
- 4.1.4 The Return will be checked and filed by the DP Admin and a copy will be returned to the Recipient along with their original documents. If the return indicates any significant divergence from the Scheme's Financial regulations (for example an excessive 'balance at end of quarter' of a figure equalling more than 2 months Direct Payments) then the Business Support Team will provide a Monitoring Balance Check Form) ([Appendix IX](#)) to the Social Work Representative and to the Direct Payments Support Officer with the aim that the issue is addressed as a matter of urgency between the DPSO, DP Admin, Social Work Representative and Recipient.¹³

¹² The regularity of the return is in the process of being reviewed in accordance with the latest Chartered Institute of Public Finance and Accountancy (CIPFA) guidance.

¹³ Where there does not appear to be any good reason for an excessive balance a reclaim of monies will be initiated by the DPAdmin

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4.1.5 Where the financial return highlights immediate concern, or where there has been no improvement since the issuing of the first Monitoring Balance Check Form, a copy of the Monitoring Balance Check Form will be sent to the appropriate Social Worker or Area Manager with a recommendation that care arrangements are reviewed with minimal delay or that the payment be stopped.

4.1.6 When there is non-submission of supporting documents with the Financial Return the DP Admin will contact the Recipient directly requesting any outstanding paperwork; again the aim is that the issue is addressed as a matter of urgency. Continued non submission would result in the matter being dealt with by DPSO, DP Admin, Social Work Representative and Recipient.

All monies spent should be in line with the care plan of the service user and any misuse of funds must be accounted for.

4.1.7 Non-completion of Returns. After one missed Return Area Business Support (DP Admin) will inform the Recipient, the Social Work Representative, their Area Manager and the DPSO of the situation; help and support will be co-ordinated by the DPSO with the assistance of the DP Admin. If, however, a second, consecutive Quarterly Return is missed the DP Admin will notify the Social Worker and the Area Manager. The Area Manager will then make the decision on whether the direct payment should be stopped.

4.1.8 Financial monitoring will allow the Social Work Service to ensure that the assessed financial contribution has been paid into the Direct Payments account by the Recipient.

4.1.9 If the Independent Living Fund (ILF) is partly funding the care arrangements, then any under-spend of ILF money would be calculated by the DP Admin by adding together the DP contribution and ILF contribution and working out the percentages paid. DP Admin would then notify ILF and our Area Finance of the percentage and request that invoices are issued to the recipient to reclaim the monies.

4.1.10 Recipients should keep proper financial records of all transactions relating to their direct payment account in line with current [Inland Revenue](#) requirements if directly employing their staff.

4.1.11 The DP Admin will refer to the costing sheet/care plan to ensure expenditure is broadly in line with care planning objectives.

4.2 MONITORING MULTIPLE RECIPIENTS IN ONE FAMILY

4.2.1 If there is more than one Beneficiary in a family who is receiving direct payments they should have been assessed separately and a care plan for each produced. A separate direct payment will be made in respect

of each Beneficiary. However it is recognised that personal assistance may be purchased collectively and, for monitoring purposes, a joint bank account and a joint return will be acceptable provided the link between expenditure and the care plan for each Beneficiary can be seen.

4.3 INSURANCE COMPANIES

4.3.1 Where an insurance company is also making payment to a service user for care then the Scheme requires that there is clarity as to what component of their care is paid for by the direct payment and what is organised independently; the Highland Council should ensure that they are not double-funding any care being provided. Best practice should mean that the care-planning process takes full account of any care being independently organised in the first instance.

4.3.2 Situations such as these will mean that the costing sheet should make clear the areas of care that the local authority accepts the responsibility to fund (often free personal care). Therefore when monitoring the monies spent it should be clear that expenditure aligns closely with the care described in the care plan/costing sheet.

4.4 PETTY CASH

4.4.1 A petty cash sheet is provided to monitor any unavoidable “cash transactions”: this sheet is to allow Recipients to account for the cash withdrawals that ordinarily have to be taken from their direct payment account ([Appendix X](#)).

4.5 RECORDS

4.5.1 All monitoring records held by the DP Admin should maintain the following:

- Approved Costing Sheet
- Care Plan
- Signed agreement
- Bank Proforma
- Financial Needs Assessment with a record of Personal contribution (if applicable)

Section 5 Reviews and reassessments

- 5.1. As with all care arrangements the Social Work Representative remains responsible for reviewing the Care Plan (Plan) agreed with the Service User. Where the Service User has chosen to be a Recipient of a direct payment the personal assistance purchased with the direct payment will be subject to review. The aim is to check that the quality and level of the care is adequate. Following a review, the amount of the direct payment therefore may need to be increased or reduced to reflect the adequacy of care arrangements¹⁴.
- 5.2. Good practice will also mean that consideration is given in reviews to whether there is successful management of a direct payment. The Social Work Representative and/or the Direct Payments Support Officer will analyse the management of a direct payment.
- 5.3. When a direct payment is first set up (i.e. used to purchase personal assistance) a review should be undertaken at 6 weeks, then at least annually or when requested by the Social Work Representative, the Recipient or their representative, in line with current care management procedures ([Children and Families Procedures](#) are available on the Intranet). It will represent good practice for all 6 weekly reviews to include the Direct Payment Support Officer and Direct Payments Administrator for monitoring.
- 5.4. The Social Work Representative should contact the Area Business Support Team ahead of any formal review to check they are satisfied that their monitoring arrangements have not brought to light any issues with respect to the financial management of the direct payment (see also section 4.1.5)
- 5.5. At reviews there should always be consideration of who the Recipient is employing as a Personal Assistant and whether they have had an up-to-date Enhanced Disclosure check¹⁵.

¹⁴ The Social Work Representative will need to seek authorisation from the resource allocator ahead of submitting a new CIC5 to Area Business Support

¹⁵ This guidance introduces the need for all new Personal Assistants to have been Enhanced Disclosure checked (this had previously only been the case for PAs working with children).

Section 6 Support Arrangements

6.1 Information about the Highland Direct Payments Scheme

The Direct Payments Support Officer (DPSO) and the Direct Payments Administrator (DP Admin) are the officers of Highland Council who are primarily concerned with offering advice and guidance in relation to the conditions contained within the Highland Direct Payments Scheme (this guidance). This officer is available to offer advice and guidance to the range of stakeholders with an interest in the Scheme: Service users; Carers; Social Work Staff; statutory and independent sector partners etc.; and any other person with an interest.

This officer is responsible for monitoring the impact of the scheme across Highland, and for taking steps to ensure that there is not a differential impact on equalities groups¹⁶.

¹⁶ A range of equalities legislation has placed statutory duties upon local authorities (among other public bodies) to assess the discriminatory potential and impact of their policies and practices.

Section 7 Appendices

Appendix I Costing Sheet.

The use of the Costing Sheet is to calculate the equivalent monetary value of the services described in the Care Plan. When completing the Costing Sheet Area Business Support staff will input the appropriate standard and non-standard fee rates, in liaison, where appropriate, with the Social Work Representative and/or the Contracts Section. A sample costing sheet is shown below or is available on Public Folders / Social Work Services.

2008 / 2009		DIRECT PAYMENT COSTING SHEET											
NAME													
ADDRESS		DOB:	AGE	Social Work Representative:		TEAM:							
			09										
		Place x in box if a child <input type="checkbox"/>											
Type of Service for which DP is alternative	Total Hours per Week	Hourly Rate / Daily Rate	Weekly Cost of Service	+	Weekly Transport / Mileage (Please detail in Notes)	-	Weekly Client Charge for This Service	-	ILF Amount (or other funding source amount)	x	Total Weeks per Year	Annual Cost	+ by 52 Weeks
Day Care													
Homecare - Domestic													
Homecare - Personal													
Support Work													
Respite in residential Unit													
Respite in Nursing Unit													
Date of Care Assessment		Full weekly cost of Service:											
		NOTES inc. Detail of START UP Costs >£250 towards expenses incurred. Approval required.											
Date of Last Financial Assessment												Total Weekly Direct Payment	<input type="text"/>
Date Package Started												Total 4 Weekly Direct Payment	<input type="text"/>
Form Prepared by:												Annual Direct Payment	<input type="text"/>
Date Form Prepared:													

Start Up costs

Start Up costs can be provided to Recipients when they set up their alternative arrangements, these will cover the expenses that incur whilst setting up support, such as recruitment and initial training. This funding is

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based on the Recipient's individual requirements as some people, for example, will not have to advertise for staff while others may have to.

The fee for Disclosure Checks of prospective Personal Assistants should be included in the Start Up costs section (however as Highland Council is currently the umbrella body for Disclosure Applications the Start Up costs will be paid net of these costs and the Recipient will not be invoiced for this service).

Details of all Start Up costs should be included in the notes section of the Direct Payment Costing Sheet.

Start Up costs are separate to the ongoing direct payment as they are a one-off expenditure; evidence and receipts for this expenditure should be included in the Direct Payments monitoring return.

Travel costs

The cost of travel is only to be included in a direct payment in exceptional circumstances - ordinarily the cost of the equivalent, council-arranged service will include the travel component within it. Any travel requirement should be clearly linked to the assessment of need and detailed in the Care Plan.

Proper consideration needs to be given here by the Social Work Representative of whether the service user is already in receipt of benefits to support their travel use e.g. DLA Mobility component etc. before an application is made for an extra payment to meet travel costs.

It should also be clearly detailed whether the application is for the Recipient's travel costs or to cover the cost of travel for staff (including PAs).

In calculating the amount of exceptional travel the principle of best value needs to apply; it will be important that all alternatives are considered (e.g. using public transport with the use of concessionary scheme cards etc) before applying for a specific level of direct payment. Where car use is considered necessary it is important that a transparent figure for mileage is included in the Costing Sheet. Mileage will be paid at the casual rate in accordance with the Highland Council's Travel and Subsistence rates. Receipts for petrol use will need to be included within the monitoring.

When costing Short Breaks and Respite it is assumed that travel and subsistence are included in the monetary value of the equivalent council-arranged service.

Appendix II Community care packages limit.

As with the provision of other community care packages any direct payment should not exceed 125% of the net cost to the Council of the service user moving to an appropriate Care Home. Calculating the net cost requires taking into account the income and the value of the service user’s capital assets, but excludes the value of their home (the house they ordinarily live in).

To calculate the maximum amount of a direct payment in this instance:

- A. Assess all needs using FACCS eligibility criteria
- B. Cost total care required and gross care home cost (using the standard contract rate for the appropriate type of Care Home)
- C. Calculate the service user’s financial contribution to both the package and to the alternative Care Home placement taking into account the person’s income and the value of their capital assets including notional income from capital (except the value of their home).
- D. Where the appropriate Care Home is a **Nursing Home** the component the Highland Council receives to cover the cost of nursing care should also be taken from the gross cost – whilst the Council is funded by the Government to pay for nursing care in a Care Home at £65 per week, the NHS has responsibility to provide free nursing care in the community.
- E. Calculate the net costs: $B - (C+D) = E$.

See table below

See table below	Care Package Cost	Care Home Cost
B. Gross Cost		
C. Financial Contribution		
D FNC (£65) Nursing Home		
E. Net Cost		

The Highland Council will only fund a community care package up to a maximum of 125% of the net cost of the Care Home alternative. Where the net cost to the Council if the person were placed in a Care Home is at or below the relevant free personal care (FPC) contribution of £145 per

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week then the Council will provide personal care services up to a maximum of 125% of that £145, that is up to £181.25

Appendix III Standard Letters from Resource Allocator

Please Ask For:

Direct Line:

E-mail:

Your Ref:

Our Ref:

Date:

Dear _____,

Re. Allocation of resources as a direct payment

I am pleased to tell you that your application for a direct payment to meet needs detailed in your Care Plan has been successful. Authorisation has been given to offer you:

a payment of £ _____ to be paid each month;
and an award of £ _____ for other, detailed costs.

There is a Direct Payment Costing Sheet attached which give details of how these figures have been calculated.

Your Social Work Representative will arrange to visit you shortly.

They will discuss with you your responsibilities in joining the Highland Direct Payment Scheme, including meeting financial and monitoring requirements, and seek your express agreement ahead of a direct payment starting.

They will also discuss with you when you expect to start making your own arrangements and ask that you provide details of the Bank Account to receive the direct payment.

Yours sincerely,

Resource Allocator

C.C. _____, Social Work Representative
_____, Area Business Support
_____, Direct Payments Support Officer

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Please Ask For:

Direct Line:

E-mail:

Your Ref:

Our Ref:

Date:

Dear _____,

Re. Application for allocation of resources as a direct payment

I am very sorry to tell you that your application for a direct payment to meet needs detailed in your Care Plan has not been successful.

The decision makers within the Service came to this decision because

Your Social Work Representative will arrange to visit you shortly. They will aim to discuss with you what other arrangements can be made to address your current situation.

If you are unhappy with this decision you do have the right to appeal. Your Social Representative will advise you how to do this.

I have also enclosed a copy of the Highland Council Social Work Service's 'Comments and Complaints Procedure' for your information.

Yours sincerely,

Resource Allocator

C.C. _____, Social Work Representative
_____, Area Business Support
_____, Direct Payments Support Officer

Appendix IV Agreement Form

DIRECT PAYMENTS SCHEME

AGREEMENT FORM

1. I hereby confirm that I wish to participate in the Direct Payment Scheme administered by The Highland Council.
2. I confirm that I have received a copy of the financial regulations ([Appendix V](#)) governing this scheme, and agree to fully adhere to these.
3. I acknowledge that failure to comply with these financial regulations may result in my name being immediately withdrawn from the scheme.
4. I will use any Direct Payment Scheme monies to purchase services to meet my needs as assessed and agreed in my Care Plan, as amended when reviewed and monitored from time to time.
5. I agree to give The Highland Council 4 weeks prior notice in writing should I wish to withdraw voluntarily from the Direct Payment Scheme.
6. In the event of my voluntarily withdrawing from, or being withdrawn from, the Direct Payment Scheme, I understand that it will be the responsibility of The Highland Council to arrange the services required to meet my assessed needs as agreed in my Care Plan, as amended when reviewed and monitored from time to time.
7. In the event of an emergency caused by the breakdown of my Direct Payment Scheme arrangements, I understand that The Highland Council will provide services to ensure my immediate safety until the Direct Payment Scheme arrangements can be restored. I further understand this does not necessarily involve The Highland Council duplicating immediately all the services I have arranged under the Direct Payment Scheme.
8. I accept that I am responsible for meeting all Inland Revenue requirements, applicable employment legislation, and for maintaining adequate employer's liability insurance.
9. I accept that I am responsible for ensuring that my Personal Assistance arrangements are part of a proper agreement between me and my service provider.
10. I accept I should make clear to any interested party that The Highland Council is in no circumstances responsible for any claim that party may have against me as Recipient.

Name of Recipient	
Recipient's Address	
Name of Representative(if applicable)	
Relationship to Recipient	
Signature of Recipient or Representative	
Social Work Representative's Name	
Signature	
Date Agreement signed	

Recipient to retain one copy. Other to be retained by the Social Work Representative.

Appendix V Financial Regulations

HIGHLAND DIRECT PAYMENTS SCHEME

FINANCIAL REGULATIONS

1. All Direct Payments Scheme financial transactions must be made through a bank account.
2. All payments made by the Recipient must be made by cheque or bank automated transfer, with receipts obtained and retained wherever possible.
3. Appropriate assistance will be given to Recipients in maintaining and administering these accounts. Arrangements will vary between individual Recipients and different Social Work Service areas. Care should be taken that all such arrangements ensure compliance with these financial arrangements.
4. The Recipient will be responsible for any bank charges incurred, but any interest which accrues should be repaid to the Social Work Service.
5. Any Direct Payments Scheme payments which are under spent by the Recipient must be returned to the Social Work Service. This would normally be by a request that the Recipient raises a cheque for the said amount from the said account to the Social Work Service.
6. Direct Payments Scheme payments from Social Work will be paid in advance on a 4 weekly cycle, and will be net of any user (Recipient) contribution assessed in accordance with the Social Work Service charging policy.
7. The Recipient will be informed in writing before the Direct Payments Scheme commences of both the net payment from the Social Work Service they will receive and any contribution to the cost of the care package they will be required to make. Direct payments can only be used to meet needs defined by NHSACCA Act 1990, and for services encompassed in the Direct Payment Costing Sheet.
8. The contribution required to be made by the user (Recipient) should be paid in full into the said bank account at the same frequency as the Social Work Service net payments are made.
9. The Social Work Service has the discretion to waive this regulation in event of emergency payments being required. Authority to utilise this section lies solely with the Area Social Work Manager.
10. Direct Payments Scheme monies cannot ordinarily be paid to the Recipient's partner or a close relative living in the same household for the provision of care services (see 11 below).
11. Direct Payments Scheme monies can only be paid to a Recipient's close relative in exceptional circumstances. Express agreement for this must be obtained from the Scheme.

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12. Direct Payments Scheme payments will be based upon a rate which is equal to the local authority's estimate of the reasonable cost of a service.

13. Services purchased by Direct Payments Scheme monies should not cost unreasonably more than comparable local authority arranged services.

14. Financial assessment of the user's (Recipient's) contribution towards any care package will be reviewed annually, or at any time when there has been significant change, either an increase or a reduction, in Recipient's income or financial resources, for example where the Recipient's Medical Insurance agrees to cover a proportion of the cost of care. Responsibility for the notification of any such changes to the Social Work Service lies with the Recipient.

15. All the Direct Payments Scheme monies must be used to purchase an appropriate service to meet the assessed needs identified in the care plan, and services provided are for an amount equal to, or within reasonable limits of, the Direct Payments Scheme monies received.

16. The Social Work Service will not attempt to direct the Recipient towards any particular service provider.

17. The Recipient or his/her representative will supply any financial records reasonably requested in order that the Direct Payments Scheme accounts can be audited to ensure that financial regulations are being adhered to.

18. There will be a full review of all financial transactions, utilising whatever records are available, yearly, by the Business Support Team.

19. The Recipient is aware that they are to be regarded as an employer if direct personal services are purchased, and this will involve all the legal responsibilities of being an employer.

20. Direct Payments Scheme monies cannot be used to purchase services from The Highland Council.

21. The Recipient is aware that misuse of Direct Payments Scheme monies may be deemed significant grounds for the Area Social Work Manager to withdraw the user from the scheme.

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Appendix VI **Change of Circumstances Form (CIC5)**

CIC5/09/01/03 **CHANGE IN CIRCUMSTANCES – COMMUNITY CARE**

Name _____ SSID Number _____

Address _____ Nat Ins Number _____

Area Team _____ D.O.B _____

Client Group _____ Financial Assessment Form: Completed / Not Applicable*

Income Support Form: Completed / Not Applicable*

TYPE OF SERVICE	SERVICE PROVIDER	VERY DEP. ELD.	ROOM TYPE		F.P.C HOURS REQ'D	NON F.P.C HOURS REQ'D	F.N.C	HOURLY RATE	HOURS PER DAY	DAYS PER WEEK	WEEK COST	START DATE	END DATE	EXPLANATORY NOTES
			EN S	SNG										
NURSING CARE														
NURSING RESPITE														
RESIDENTIAL														
RESIDENTIAL RESPITE														
HOME SUPPORT														
DAY CARE														
TRANSPORT														
OTHER														

Signed _____ Date _____ Approved _____
(Budget Holder / Team Manager)

Designation (S.W. etc) _____

For Office Use Only

Distribution Copies to:

Area Admin Office

HQ Finance

Client File

SWS/22 Jan 2003

Appendix VII Bank Details Return Proforma

This Form is to be completed to provide the Area Business Support Team with a Direct Payment Recipient's bank account details.

The Recipient may be required to open a dedicated bank account specifically to receive the direct payment.

The Area Business Support Team needs these bank account details before any payment can be made.

Direct Payments Recipient's Name								
Address								
Bank or Building Society Name								
Branch sort code			-			-		
Account Name								
Account Number								
E-mail Address								
Fax Number	STD Code							
	Number							

Please return this form to:

Name:	Gail MacMillan
Designation:	Direct Payments Support Officer
Address:	Kinmylies Building Leachkin Road Inverness
Post Code:	IV3 8NN

Please sign here:

Date:

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Appendix VIII Financial Return

2009 / 2010

DIRECT PAYMENTS SCHEME FINANCIAL RETURN

Quarter: 1

NAME
ADDRESS

Completed Return due by: 03 August 2009

A	B	C	D	E
Week	Week Commencing	ALL INCOME *(See note C)	ALL EXPENDITURE *(see note D)	DESCRIPTION OF ALL INCOME AND EXPENDITURE *(see note E) - (continue on a separate sheet of paper if necessary)
1	06 April 2009			
2	13 April 2009			
3	20 April 2009			
4	27 April 2009			
5	04 May 2009			
6	11 May 2009			
7	18 May 2009			
8	25 May 2009			
9	01 June 2009			
10	08 June 2009			
11	15 June 2009			
12	22 June 2009			
13	29 June 2009			

*F	*G	*H	*I	*J
Balance from previous quarter	Total of Column C	Total of Column D	Balance at end of quarter	Reason for Balance

The information stated above is an accurate record of expenditure, which I have incurred in relation to my agreed package for the above weeks.

Signed:	Date	Auditors Signature: <i>(All original paperwork will be returned to you)</i>	Date: <i>*COMPLETION NOTES OVERLEAF</i>
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Appendix IX Direct Payments Scheme - Monitoring Balance Check Form

Direct Payment Financial Return Balance Check Form						Year: 2008/09 Quarter: 1
NAME:						
Week No	Week Commencing	Income	Description of Income <small>✓ if on bank statement</small>	Expenditure	Description of Expenditure <small>✓</small>	<i>Balance b/f:</i>
1	07-Apr-08					0.00
2	14-Apr-08					0.00
3	21-Apr-08					0.00
4	28-Apr-08					0.00
5	05-May-08					0.00
6	12-May-08					0.00
7	19-May-08					0.00
8	26-May-08					0.00
9	02-Jun-08					0.00
10	09-Jun-08					0.00
11	16-Jun-08					0.00
12	23-Jun-08					0.00
13	30-Jun-08					0.00
TOTALS		0.00		0.00		
						<i>Balance to c/f:</i> 0.00
Weekly Care Package:		£0.00	4 wkly Payment Amount:			Excessive balance threshold: £0.00
Reason for Excessive Balance:						
Supporting invoices received for salary payments.						
Bank Statements received.				Yes/No		
Bank Statement Balance:				<input type="text"/>		
COMMENTS:						

Appendix XI Contacts for Further Advice and Information

[The Scottish Personal Assistant Employers Network](#), SPAEN is a national support organisation offering advice, support, advocacy and training on the practicalities of PA employment procedures including all aspects of safe recruitment, the drafting and issuing of terms and conditions of employment, and the day to day personnel management of employees. They will charge a small annual fee which can be taken from the Direct Payment. It is advisable that new Direct Payment Recipients are sign posted to this organisation for help in managing and running their Direct Payment effectively. This organisation will be of particular help to those opting to employ their own staff.

[Scottish Consortium for Learning Disability](#) has produced information for people with learning disabilities, *Direct Payments: Frequently Asked Questions*.

For people with mental health difficulties, [The National Centre for Independent Living](#), has useful information: *Direct Payments for Mental Health Users/Survivors: a guide to some key issues*.

[ENABLE](#) provides information sheets about the Adults with Incapacity Act and what this means for people with learning disabilities.

[EAGLE CONSULTING](#) or [RITSONS](#) or [FERGUS NEILSON](#) – all Direct Payment Recipients who employ their own staff will require payroll service. This can also be completed by CD-ROM from [Inland Revenue](#)

[FISH INSURANCE](#) or [ELLIS BATES CARE](#) – all Direct Payment Recipients who employ their own staff will require the '*Personal Assistant Employment Protection*' policy which provides both employers and public liability cover.

[Department of Trade and Industry](#) – this website will give Direct Payment Recipients, who choose to become employers, information on basic employment law such as the minimum wage, employee's holiday and sick pay entitlement, working time directives.

[ACAS](#) (Advisory, Conciliation and Arbitration Service) – this organisation will be able to advise on all aspects of employment law.

The Inland Revenue's [New Employer Helpline](#) can help with a range of questions about being an employer and can issue an employer starter pack.