

DRAFT DIRECT PAYMENTS CHILDREN'S

London Borough of Haringey

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SECTION 1

1. INTRODUCTION

The London Borough of Haringey (the Council) is committed to promoting families and children's wellbeing by supporting and developing independence for children, young people and provision of short breaks and services for their families.

Direct Payments are a way of providing personalised care and support as they promote independence, choice and control over how children and their families' needs are met.

1.1. What are direct payments?

A direct payment is where the Council pays monies to parents of children with disabilities to enable them to make their own arrangements to meet their respite, care and support needs. They can be paid directly to the families or to the family or young person's nominated person.

1.2. Direct payment policy context & legislation

The statutory duties and responsibilities around Direct Payment are set out in:

- [Chronically Sick and Disabled Persons Act 1970](#)
- [Aiming High for Disabled Children 2007](#)
- [The Special Educational Needs Reforms 2014](#)
- [The Care Act 2014,](#)

2. ABOUT DIRECT PAYMENTS IN HARINGEY

2.1. Who can receive a direct payment

A family whose child has been assessed as being eligible for care and support can request a direct payment.

The eligibility for direct payments is where two of the following factors apply:

- the child has a medical diagnosis;
- the impact of the child's needs are such that the child has care needs which are continuing for longer than would be expected for their age;
- there is involvement of 2 or more professionals to help support the child's development e.g. therapies, specialist teaching;
- the child has an education health and care plan;
- the child is eligible for disability living allowance;
- the child attends a special school.

Assessments for direct payments also cover services to meet a carer's own assessed and eligible needs. Further information about direct payment for carers can be found in the Respite Care Policy for Children, Young People and Adults:

https://www.haringey.gov.uk/sites/haringeygovuk/files/respice_care_policy_final.pdf

2.2 How are direct payments assessed?

All direct payments have to be based on an assessment which may take the form of a child and family assessment from a social worker, or an alternative assessment such as Haringey's Resource Allocation System (RAS), which may be carried out by a family support worker or alternative professional trained to administer the RAS.

Once the assessment is carried out, the likely outcome will be discussed with the family e.g. they are eligible for a budget or not. The results of the assessment will be shared with the Integrated Additional Services Panel (IAS panel) by the person who carried out the assessment. The panel is a group of professionals from health, education and social care who will then make a decision, based on the information available to them, about the level of short breaks the family are entitled to, dependent on their needs as outlined in the assessment.

The family can expect to hear about the outcome of the panel decision within four weeks of submitting their assessment.

Once a level of short breaks has been agreed, the short breaks can be taken as a direct payment.

If families take up the option of direct payments, they then have 'freedom to choose' their provider, or how they meet that child's assessed needs. **Direct payments** can be made on any services as long as they are legal, keep the child safe and healthy, and meet the child's assessed needs

2.3 When are direct payments provided?

The following conditions must be met to receive a direct payment:

- the parent or carer requests a direct payment;
- the person has capacity to make the request and any nominated person agrees to receive the Direct Payment;
- the Council is not prohibited from making a direct payment outlined in Schedule 3, Care and Support (Direct Payment) Regulations 2014 or where discretion is allowed as part of Schedule 3, chooses not to exercise this discretion;
- the Council is not prohibited from making a direct payment outlined in Schedule 1, Care and Support (Direct Payment) Regulations 2014 in respect of persons subject to criminal sentences or orders in respect of drug or alcohol testing or treatment order; released from prison on licence as specified in the regulations;
- the Council is satisfied that the adult, parent or nominated person is capable of managing a direct payment either independently or with support;
- the Council is satisfied the making of a direct payment is an appropriate way of meeting the child and family's eligible needs.

There are cases where a direct payment is not appropriate to meet needs, e.g. where the person requesting the direct payment lacks capacity to manage the direct payment, or where there are safeguarding issues or the family has breached required conditions.

Where a request for a direct payment is declined, the child's short breaks and respite needs will be arranged by the Council on the family's behalf. This is known as a 'managed budget'.

2.4 When can you receive a direct payment?

A request for a direct payment can be made at any time by contacting iasp@haringey.gov.uk. You can also contact the Disabled Children's Social Work Team or SENDIASS if you would like further advice about applying for the direct payment.

Where a family is applying on behalf of a child under 5 years, a child and family assessment will be carried out. This is because the majority of a child's respite and support needs at this age are met by nursery attendance, with support. Please also see 'Inclusion Top Up' for children in nursery.

<https://www.haringey.gov.uk/children-and-families/local-offer/0-4-year-olds-early-years/early-years-inclusion-funding-settings>

Where it is the case that the provision of a nursery place does not meet the family and child's needs, a full assessment will be carried out by a social worker.

2.5 What can a direct payment be used for?

Direct payment must be used to purchase services which are safe, legal, value for money and which adequately safeguard and promote the child's welfare and wellbeing. Direct payments provide the child and the family with the freedom to plan flexible and innovative ways to meet care and support needs, resulting in better outcomes for both the service user and their carer.

The direct payment scheme has been designed to apply to a wide range of community care and short break services including:

- a carer;
- play schemes and after school clubs;
- holiday clubs;
- holiday flights for your child, where the parents receive a break from caring and where the child has access to leisure and hobbies as appropriate;
- babysitters for a child in the home who are not habitually employed by families for care;
- support in the home for household activities if this helps a family to care for their child
- Small pieces of equipment following agreement, which are not part of the child's essential equipment needs.

Where a family chooses to spend a large proportion of their direct payment on home support or a holiday flight for their child, it should be noted that the budget is provided according to assessed need rather than proportionate costs of services purchased, e.g. if the child's needs are assessed and a budget of £750 provided, it is at the families discretion if they choose to spend the money on a holiday flight for one break during the year.

It should be noted that any equipment purchased via a direct payment will belong to the family and the family will be responsible for its care and maintenance. The family will need to take all legal responsibility for the equipment, which includes health and safety.

The purpose of the respite and short breaks in the form of a direct payment is to ensure that families can live as 'normal' a life as possible, and to give families a break from caring.

The direct payment may be used to ensure that you are able to carry out every day household tasks which are necessary to help you care for your child.

2.6 What direct payment cannot be used for

Direct payments cannot be used to purchase:

- anything that will harm a person's health, safety or wellbeing e.g. purchase of alcohol, tobacco or gambling;
- anything illegal;
- any health care needs that should be provided by the Clinical Commissioning Group, such as long term residential or nursing care;
- services, equipment and or minor adaptations which are responsibility of other public bodies;
- generally spend should only be incurred in the UK (see exceptions for family flights where respite is provided at the destination, as above);
- you cannot use the direct payment to fully fund a family holiday but it can be used to pay for your child's flight on a holiday that provides you and your child with respite.

Payment via cash should be avoided where possible, as the money is difficult to track and audit. It is recommended that where use of cash is unavoidable, a written record is kept of the transaction and usage is kept to a minimum, e.g. this is usually for small amounts where it is not avoidable such as bowling trips or fun fairs

Families can ask the direct payments team about pre-paid cards as an alternative for cash payments, or for circumstances in which cash can be used.

2.7 Responsibility to spend the budget appropriately

Whilst the Council has a duty of care to recipients of direct payments, it also has a duty to protect public funds and to ensure that these are spent appropriately. In delivering this responsibility, the Council must be satisfied that the direct payment is being used to meet a child and family's eligible needs as set out in the initial assessment, short breaks statement or support or care plan. The direct payment will be audited yearly.

2.8 Transfers between direct payment and Council provided service

If, for any reason, the family does not agree to a direct payment or if they are no longer in a position to arrange their own services, the Council will put in place arrangement to ensure that the child receives the care and support they need through a 'child in need' plan.

Families who are already in receipt of Council provided services may wish to switch to a direct payment. It is also possible to arrange a mixture of Council provided services and a direct payment, if it is appropriate to do so.

2.9 Safeguarding

It should be noted that Haringey Council will support families in receipt of a direct payment to minimise risk of abuse from people who are individually employed by the family, as it is noted that these employees are not monitored by the Council. It is essential to put safeguards in place to prevent any potential financial or other abuse.

In the event that Haringey Council considers the provider of support to be placing the family at risk, the direct payment maybe suspended and alternative provision provided, whilst a safeguarding investigation is undertaken.

If a family has concerns about their carer, they can contact ...to discuss any concerns and make referrals if necessary. If abuse is thought to have taken place and includes any criminal acts, then there may be police involvement e.g. If a vulnerable young person is being financially abuse or direct payments misused for criminal acts.

2.10 Calculating the value of the direct payment

The amount of direct payment given to families is calculated from the resource allocation tool (a questionnaire which can be found the local offer website for more information), or child and family assessment and resulting support plan. The assessment is likely to be to the value of £750 to £3,000, as assessed by the resource allocation tool. The assessment is based on the level of support needed to access universal services, where universal services are services such as cinemas, leisure centres, holiday clubs, libraries, shops, zoos and parks.

The level of a direct payment provided will be one of the following values, depending on the level of a families assessed needs, as identified during the child and family assessment or through the use of the resource allocation system:

Banding	Level of need	How assessed	Level of budget
A	Some support needed to access universal services	Resource Allocation System	£750
B	Moderate support needed to access universal services	Resource Allocation System	£1000
C	High level of support needed to access universal services	Resource Allocation System	£1500
D	Some specialist support needed	Resource Allocation System	£2000
E	Moderate levels of specialist support needed	Resource Allocation System	£2500
F	High levels of specialist support	Resource Allocation System or Child and	£3000

	needed	Family Assessment	
G	Intensive specialist support needed	Child and Family Assessment	Over £3000

If the family requires a level of support over £3,000, this will be assessed through a child and family assessment carried out by a social worker.

The direct payment amount is the equivalent to the Council's estimate of the reasonable cost to provide your child short breaks and respite. This means that the direct payment should be sufficient to enable the family to secure a service of a standard the council considers to be reasonable to fulfil their needs.

The Council will provide services in accordance with assessed need. The Council, however, can decide the way that such services are provided, in the interests of safeguarding, public funding and making efficient and effective use of limited resources.

The Council is not obliged to fund particular costs incurred by the family that is not part of the respite agreement or is not supported by the assessment of need.

2.11 Payment Method

Haringey Council will pay the direct payment amount agreed into either a pre-paid card account or to the dedicated account. The preferred method/option is to be agreed between the Authority and family at the time of the assessment.

Haringey Council has a pre-paid card system in place which can be used to receive direct payment and may be preferred by families due to the ease of use. The pre-paid card system can be used like a basic bank account to make payments and set up direct debits or standing orders

2.12 Frequency of Payments

Direct payment will be sent directly to a separate account or pre-paid card account on a 4 weekly basis in advance. On request and where appropriate to meet needs, The direct payment can also be paid in a lump sum.

It is important that a separate account for the direct payment is used from family accounts

2.13 Start-up and Administration Costs

If families choose to employ a carer, additional funds will be paid by Haringey to cover necessary employer's liability insurance and Disclosure and Barring Service (DBS) Checks and is not included in your budget. The costs of renewing insurance policies after the first 12 months and any future DBS checks will be budgeted for within the Direct Payment funds.

2.14 Unspent money in the account

If you wish to bank your direct payment to ensure you have enough funds to cover the longer holiday breaks, you will need to let the direct payments team know that this is your intention

at the start of the financial year, and send evidence as part of the yearly audit. At the outset of establishing a direct payment, the direct payments department will discuss with you, your likely pattern of spend.

The direct payments department may ask for a review of the respite and support needs for your child if there are difficulties for you in finding the services for your child, or being able to pay for them.

Under the Care Act 2014, Haringey Council are entitled to recover any under spend or misuse of direct payment funds from a family if there is evidence to show that the funds have not been used for their intended purpose e.g. items have been purchased that are not for your child, or that there has been a misrepresentation of information e.g. your child's needs are not as described. In a case where a condition specified under subsection (2)(b) or the condition mentioned in subsection (3) is breached, the local authority—

(a) may terminate the making of direct payments, and

(b) **may require repayment of the whole or part of a direct payment** (with section 69 accordingly applying to sums which the local authority requires to be repaid).

Additionally, Section 69(4) of the CA 2014 – provides - Where a person misrepresents or fails to disclose (whether fraudulently or otherwise) to a local authority any material fact in connection with the provisions of this Part, the following sums are due to the authority from the person—

(a) any expenditure incurred by the authority as a result of the misrepresentation or failure, and

(b) any sum recoverable under this section which the authority has not recovered as a result of the misrepresentation or failure.

3.0 DIRECT PAYMENTS SUPPORT TEAM

The Direct Payment Support Team can help families with advice and support with establishing the direct payments and advice on how to manage them.

Where a family wants to employ a carer, the team can help with:

- setting up the direct payments
- interviewing for staff
- references
- induction
- job descriptions and contracts of employment
- training available for staff
- disclosure and barring checks
- payroll services
- monitoring the direct payments

3.1 Setting up the direct payment

The family may need support with setting up and managing their direct payment and fulfilling their role as an employer. The Council's Direct Payment Support Team will provide support in all aspect of the process, including setting up payments and monitoring of direct payment.

Families may purchase assistance, for example record keeping, payroll and other employment related services or a managed account, from a commissioned direct payment support service of their choice.

Families are responsible and accountable for how direct payment are used. Information and support will be given early in the process about what receiving direct payment will involve from the direct payments team. This can be in the form of individual meetings or telephone support.

Once completed, forms are received, including the Direct Payment Agreement Form, the Direct Payment Support Team will arrange for payment to be made to the payment card or direct payment account and will confirm in writing to the family that the direct payment arrangement is now in place.

The Direct Payment Support Team will then monitor all direct payment on an ongoing basis.

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3.2 Employing personal carers for a child

Where a provision of a directly employed carer has been identified has been identified by the family as a way of implementing the child and families short breaks, the direct payment will include funds to employ a carer's employers' national insurance contributions, income tax, employers' liability insurance, pension and DBS checks.

The Council will provide information and support on the interview and employing a carer and will provide regular monitoring to ensure payments are being made correctly. Becoming an employer carries with it certain responsibilities and obligations, in particular in relation to paying tax, national insurance, minimum wage requirements, sick pay and annual leave and ensuring that any person employed has the right to work in the UK. A payroll agent will be provided for this service if required.

Families employing carers are legally obliged to sign a written contract of employment with their carers prior to employment. The contract will outline the terms and conditions of the carers work including all the statutory entitlements (e.g. maternity leave) and the job description. The employer and employee should both sign the contract and keep copies for future reference.

When employing a carer, the family shall comply with their legal duties and obligations as an employer in the United Kingdom including that which is required by HM Revenue and Customs and the UK Border Agency. The family shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to its workers, register as an employer with HMRC and ensure all checks are made of their potential employee including a DBS check and the right to work in the UK.

The Council will fund for an enhanced Employer's Liability Insurance and Public Liability Insurance for the family before the carer starts work. This is to be with reputable insurers or underwriters with a minimum limit for any one claim of £10 million (the limit to be increased from time to time as reasonably required by the Chief Finance Officer of the Council).

The insurance policy and premium receipts must be produced on demand when requested by Haringey Council.

The Council strongly recommends that DBS checks are obtained for all employed personal assistants or carers. The Council's Direct Payment Support Team can provide advice and support in undertaking DBS checks for individuals that the family wish to employ.

3.3 Employing babysitters

Some families may prefer to pay babysitters to assist with delivering a child's short breaks entitlement. Government guidance in respect of childminders and carers provisions sets out the circumstances when a person does have to register with Ofsted when looking after children at home, and whereby a babysitter is not an employee of the family:

They refer to this as childminding or looking after children 'on domestic premises'. This can be in the child's home or someone else's home. There is no requirement to register if that person:

- is a nanny, looking after children in their own home
- are only looking after children over the age of 8 in someone's home
- do not receive any money, vouchers, goods or services in return for childcare

- are a babysitter, looking after children at home between 6pm and 2am
- look after a friend's children for less than 3 hours a day for some payment
- are providing home education to a child of school age who is educated outside school full-time

The term babysitter therefore applies to evening arrangements. The requirement to register for the Childcare Register applies to other settings but depend on whether the offer counts as a long-term commitment to provide childcare i.e. in crèches.

Certain roles are not yet required to have **DBS checks**, this includes both nannies and registered **babysitters**.

Current government guidance re personal assistants can be found at <https://www.gov.uk/au-pairs-employment-law> which in summary states "You're usually considered the employer of a nanny, housekeeper, gardener or anyone else who works in your home if you hire them and they're not self-employed or paid through an agency. This means that the person has certain responsibilities, like meeting the employee's rights and deducting the right tax."

3.4 Paying Family Members

The 2009 Direct Payment Regulations excluded the payment from being used to pay for care from a close family member living in the same household, except where the local authority determined this to be necessary. Where Direct Payment is thought to be necessary to be used to secure the services from a family member who lives in the same household - in exceptional circumstances – this need to be agreed in writing by the Head of Service.

3.5 Mixed package of care using an agency and employing a carer

The family can have a mixed package of care using an agency, and employing their own personal assistants, or could use an agency to cover when an employee is on holiday or sickness absence.

If the agency chosen charges a higher rate than the standard Direct Payment rate, then the adult, family carer or the nominated or authorised person should pay the difference from their own personal monies.

3.6 Using a care agency

Purchasing services directly from an agency means that the recipient does not directly employ the people who provide the care and the recipient does not have responsibilities as an employer. Instead the contract is with the agency.

3.7 Managing care agency costs

Sometimes an agency may charge an hourly rate which is more than the direct payment hourly rate paid by the council. It is likely the family will have to pay the difference from their own personal funds, should the Authority identify an appropriate alternative provision at the lower hourly rate. There will be an opportunity for discussion and consultation regarding this rate, and if the cost of purchasing appropriate care should be covered even if this is above the rate being paid to meet the needs of other children. The rate of pay allowed should also take into account the range of different hourly rates that would need to be paid for, such as day , night ,emergency cover The direct payment can only pay for care hours. The Council

advises families to discuss any additional costs with their social worker when their direct payment are arranged.

3.8 Care Quality Commission (CQC)

In England, the Care Quality Commission (CQC) is the Health and Social Care regulator and has an online directory of registered independent care services. The agency that you choose to contract your Direct Payment care support with, must be registered with the Care Quality [Commission \(CQC\)](#) and must have appropriate registration for working with Children.

3.9 Disputes

If the recipient or nominated/authorised person has a complaint about services they have purchased independently, they should address this with the service provider or employee concerned and inform Haringey Council. The council will review the issues outlined in the complaint and take appropriate action, including safeguarding procedures if required.

3.10 Receiving a Direct Payment while in Hospital

Haringey Council may temporarily reduce or suspend payments if the child is unable to receive services for a period of time, such when a long stay in hospital is required. Following discussions with the family, Haringey Council will give consideration to the family's circumstances and consider the appropriate action. Direct payment may continue to be paid for short stays in hospital for up to 8 weeks to facilitate staff retention by the family.

3.11 Care and support while staying outside of the UK

If the child needs care whilst abroad, they can take their regular carer, but must pay for their travel expenses and accommodation.

Direct payment may be used to pay a carer to accompany the care for person on holiday. The carer will not be a member of the family and should be specifically employed as a carer to enable the care for person to have a holiday.

The family can also contact a care agency in the country they are traveling to. They will need to find out if the country has a system for regulating social care equivalent to the CQC in England, and ensure the provider fully complies with this. The family retains the responsibility to ensure that any employee particularly if this is outside the UK, complies with the country's employment rules and regulations.

The family must retain receipts for payment of wages to employees as well as all other documentation related to such employment; this includes copies of timesheets, receipts and invoices relating to purchases made from their Direct Payment bank account. These should be submitted to Haringey Council along with their financial monitoring returns for the annual review.

3.12 Receiving a Direct Payment while in Residential Care

A Direct Payment can be used to fund a short term stay in residential care.

4.0 MONITORING DIRECT PAYMENTS

A direct payment is public money, and needs to be monitored and fully accounted for. Families are required to account for how the money has been spent and providing copies of the following information:

- details of all purchases/ transactions made, showing cheque numbers to aid reconciliation.
- all monthly bank statements relating to the direct payment account.
- invoices and payslips if you employ a worker.
- receipts for any agreed purchases made using your direct payment funds.
- one-off agreed purchases should be made and receipts retained.

If it is clear that the family is struggling to understand their responsibilities in operating the direct payment, the Council shall assist with further information, advice and support and may offer an alternative service if deemed necessary.

As part of the Direct Payment Agreement, failure to comply with the above requirement may result in the suspension or even cancellation of a direct payment.

4.1 Six Week Review of Direct Payment

As part of the monitoring and review process an initial light-touch review will take place 6 weeks after direct payment have started to ensure that the family is comfortable with using the Direct Payment, and experiencing no initial issues. Thereafter, the direct payment will be reviewed annually as part of the annual audit.

The monitoring will take place across both the financial aspects of the direct payment and to identify risks and issues. For example, if the family is employing people correctly. Haringey Council will include in the review, checks to ensure the family is fulfilling their responsibilities as the employer. In particular, that they are submitting PAYE returns to HMRC as well as paying tax and National Insurance deductions made to HMRC.

If at the initial 6-week review it becomes clear that the family is struggling to understand their responsibilities in operating the direct payment, Haringey Council shall assist with further information, advice and support.

The outcomes of the review should be written down, and a copy given to all parties. Where there are issues that require resolving, the resolution method should be agreed with all parties involved, as far as is reasonably practicable. Where appropriate, the council would advise recipients of their rights to access the council's complaints procedure.

Expenditure from any Pre-paid card account will be monitored. It is important that receipts and invoices to evidence payment from the card are kept and submitted to the council in line with the financial monitoring policy requirement.

All documentation will be held securely in line with the Data Protection Act 1998.

4.2 Annual Review of Direct Payment

All direct payment will be reviewed at twelve monthly intervals through an audit of the budget. Reviews and reconciliations may be more frequent depending on the circumstances.

The review will establish if direct payment are being used to meet needs/outcomes as intended, conditions are met and public monies are being used effectively.

At this stage, families may request a review of their budget is they feel it is no longer meeting their child's needs. Ideally this should be discussed as part of the education health and care plan annual review process.

The review will look at:

- whether needs have changed?
- whether outcomes are being met?
- whether there are benefits from receiving a Direct Payment?
- how the money being paid is being managed?
- are appropriate records being kept?
- whether there has been a breach of any conditions

Reviews must involve the family, anyone providing paid administrative or management support and the child.

Where Haringey Council has identified a change in circumstance that it thinks affects the current level of direct payment due, Haringey Council will give the family 7 days written notice of the change. This notice period may be extended where a reduction may affect any pre-existing contractual arrangements, such as a carer.

Parents can contact the Council about a change in circumstance at any time, however families are expected to ensure that arrangements are in place to notify Haringey Council immediately if there are any changes in their circumstances which may affect their entitlement to Direct Payment.

Examples of changes are: if the recipient is admitted to hospital, is going to be away for periods beyond 4 weeks or no longer requires the service, a change of address or support arrangements. It will also include any changes due to a criminal conviction or community testing or treatment order in respect of drugs and alcohol as specified in 2.1 above. It is the responsibility of the family to check with Haringey Council if they are unsure if a change in circumstance will affect their eligibility to continue to receive Direct Payment.

A formal review or reassessment of the families circumstances by Haringey Council can be requested at any time.

4.3 Audits of Payments

The monitoring will look at all aspects of the direct payment to identify risks and issues. For example, if the family is employing someone to provide regular care, Haringey Council will review and check to ensure the family is fulfilling their responsibilities as the employer. In particular, that they are submitting PAYE returns to HMRC, and that tax payments and National Insurance deductions are being made.

A set of principles covering an approach to auditing will be followed:

- families have independence and choice but they also have responsibility. It is reasonable to ask families to account for how they have spent their budget money to achieve the desired outcomes.
- Monitoring arrangements will be proportionate to risk involved.

- Monitoring will be aligned as closely as possible with the support plan review processes so that information contributes to an understanding which can support families to make the best use of resources available to them.
- Families will have flexibility to spend the resources allocated to meet their needs flexibly, and in ways which reflect their own priorities.
- Families will be given clear boundaries about the limit of flexibility that apply to the use of their budget.
- To ensure that payments are not used for unauthorised purposes

The family shall keep all documents and records generated in connection with the provision of care and support provided by a Direct Payment Agreement with Haringey Council for a period of seven years following the end of the agreement. The documents or records held by the family may be inspected by Haringey Council at any point during this period.

If the family has set up their own dedicated Direct Payment bank account, a quarterly return is required with following documentation:

- a fully completed quarterly return form, with details of all purchases/transactions made during the quarter, showing cheque numbers to aid the council reconciliation of payments in the account;
- copies of all bank statements from the relevant quarter;
- invoices, pay slips and timesheets if someone is employed to deliver the care;
- receipts for any purchases made using your Direct Payment funds;
- one off purchases.

These are the most common reasons for reconciling are:

- the recipient moves permanently away from Haringey.
- due to a change in circumstance that was not notified to Social Care, overpayment may sometimes occur.
- if a recipient is using their budget on expenditure that is not in line with their agreed plan, it may trigger a review and subsequently, monies not used will be reconciled.

In any of the above circumstances, the council staff will work with the family to ensure that they are not disadvantaged, when direct payment monies are being clawed back.

Haringey Council has the right to suspend or terminate the direct payment as a result of the findings of the audit of the direct payment account however such action will not be unreasonably applied.

4.4 Unspent Direct Payment

Where money in a Direct Payment bank account is uncommitted or unaccounted for beyond an 8-week payment period, a review of the direct payment will be considered. Families can let the SEND department know that this is their intention to bank the money and carry over for the next holiday period e.g. Easter, but this must be evidenced in the yearly audit

In these cases, Haringey Council will undertake a review of care and support plan with the family to ensure they are not disadvantaged. Following a review, the direct payment may be changed to ensure it still meets the needs of the family.

Haringey Council reserves the right, after discussion with the family, to adjust future payments, recover any over-payments or under-spends. This may occur when the person has long hospital stays, a change in circumstances or, sadly, the death of the child. The

Council will take into consideration all required expenses in relation to the direct payment such as statutory holidays, or payments due to the HMRC.

Details for making a payment:

<p>Account Number:</p> <p>Sort Code:</p> <p>Make cheques payable to:</p>

In cases of misuse or fraud relating to the use of a direct payment, Haringey Council will take action to recover all or part of the monies where appropriate, including:

- in the event that fraud, abuse or misuse is reasonably suspected, Haringey Council may refer the matter to the Internal Audit Team;
- Haringey Council will refer any potential criminal activity to the Police for further investigation and reserve the right to prosecute where fraud is suspected to have taken place.

4.5 Suspending or Ending a Direct Payment

The Council will stop a direct payment agreement by notice if:

- the family no longer agrees to receive a Direct Payment;
- the family is no longer entitled to social care support for which the Direct Payment are made e.g. for short-term packages when leaving care home or hospital. Direct Payment for after-care services under section 117 of the Mental Health Act would also cease once the clinical commissioning group and Haringey Council are satisfied that the child concerned is no longer in need of such services;
- if one or more of the qualifying criteria or terms in the Direct Payment Agreement are breached by the family. For example, failure to comply with the auditing and monitoring of your Direct Payment may result in the Direct Payment being temporarily suspended until evidenced;
- If Haringey Council is no longer satisfied that the family is acting in the best interests of the child;
- the Council believes the family can no longer manage the Direct Payment effectively to meet their needs, and no suitable assistance is available to enable them to do so and alternative provision will be offered;
- if misappropriation of fund is suspected, following investigation the council may pursue the return of the misappropriated funds;
- the Council believes that the recipient is no longer a suitable person to receive and manage a direct payment due to a safeguarding matter. However the Council retains a duty of care and service would be delivered via other options such as commissioned services;
- the child or family is placed by the court under a condition or requirement relating to a drug and/or alcohol dependency;
- as part of an investigation or plan under the Safeguarding Procedures.

In such cases, Haringey Council will put a managed service in place to ensure that the child's eligible needs are met. Haringey Council will also initiate a review to consider revision of the care and support plan and direct payment.

Notice required will depend on recipient circumstances. Haringey Council will endeavour to put in place a 4-week notice period unless an evaluation of risks or other relevant factors require a speedier resolution.

Once a direct payment has been suspended or terminated for the above reasons a new direct payment will not be considered until all outstanding issues from the original direct payment have been resolved, for example all outstanding balances are repaid and safeguarding issues resolved.

4.6 How to discontinue Direct Payment

If a family no longer wishes to receive direct payment, they should inform the Council by contacting Direct Payment Support Team and provide 4 weeks' notice to enable Haringey Council to, if required, meet the care and support plan outcomes by alternative means.

4.7 Ending Direct Payment when child is deceased.

If a child dies, their family should contact Haringey Council's Direct Payment Support Team as soon as possible to inform of death and the date when the child passed away so that direct payment can be finalised correctly. Officers will treat parents and carers with respect and sensitivity at all times through this difficult process.

Any personal contribution remaining in the direct payment bank account will be paid to the family within 28 days of termination of the direct payment, subject to all records being made available to Haringey Council. Any additional amount remaining in the direct payment bank account will be returned to Haringey Council.

4.8 Transition - when a child becomes an adult

Young people from the age of 16 can consent to receiving a direct payment themselves. Where a young person becomes an adult (on their 18th birthday), Haringey Council will take reasonable steps to ascertain whether the young person, if eligible, still requires to receiving a direct payment.

4.9 Direct Payment Agreement

All families agreeing to a direct payment will be required to sign an Agreement Form before the arrangement will commence. A copy of the Direct Payment Agreement Form is attached at **Appendix A**. The Agreement Form for carers attached in **Appendix B**.

APPENDIX A – DIRECT PAYMENT AGREEMENT

DIRECT PAYMENT AGREEMENT: V2.0

Direct Payment Agreement

London Borough of Haringey Social Care Direct Payments Service

1 PARTIES

This agreement is between the London of Haringey (LBH), River Park House, Level 2, 225 High Road, London, N22 8HQ (referred to as LBH) and the person receiving the direct payment (referred to as the recipient) who lives at _____

The recipient _____

2 THE RECIPIENT OF DIRECT PAYMENTS

LBH will provide support by making Direct Payments (DP) to (please tick the appropriate box):

Client	Authorised Person	Third Party

The recipient is eligible to receive (please tick the appropriate box):

Ongoing direct payments	One-off direct payment
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- **Client:** a person in need of support.
- **Recipient:** the person receiving the DP.
- **Authorised Person:** a person who consents to receiving DP's on behalf of the client in need of support who lacks capacity. LB Haringey need to be satisfied that a suitable person is an appropriate representative to manage DP's on the behalf of the client.
- **Third Party** – a person who consents to receiving DP's on behalf of the client who requires support with managing their allocated funds.

Please note that only in exceptional circumstances and only with LB Haringey's prior written agreement can a close relative or spouse living in the same household as the client be employed as a paid carer through the DP scheme. However, DP money may be used to pay for assistance from a relative who lives elsewhere.

3 THE RECIPIENT'S RESPONSIBILITY

Receiving money: The client/recipient agrees to receive DP's from LB Haringey to arrange and purchase social care support as detailed in the client's care and support plan, and will only use the money to meet the outcomes set out in the support plan. The money must not be misused in any way.

Monitoring: The client/recipient person agrees to fully co-operate with LB Haringey in monitoring the use of DPs (see section 8).

The client/recipient agrees to notify LB Haringey if any conditions are not met which includes being subject to a relevant criminal order/sentence or community testing or treatment order which prevents LB Haringey from making DPs.

Purchasing Goods or Equipment: If the client/recipient uses DP funds to purchase goods/equipment, the client/recipient is responsible for paying the supplier in full, and the client is the owner of such goods/equipment upon purchase.

Where maintenance and insurance costs have been included in the DP, the client/recipient is responsible for the insurance, maintenance and upkeep of the goods/equipment. This includes taking all legal responsibilities that may arise (including health and safety). Any expense relating to goods/equipment which exceeds the DP funds provided by LB Haringey will be met by the client's personal funds.

The client/recipient must not sell or dispose of goods/equipment purchased with DP funds without LB Haringey's prior written agreement. If sold without LB Haringey's prior agreement, LB Haringey may reclaim the full amount of the goods/equipment from the DP. If LB Haringey has overpaid, it is entitled to reclaim the overpayment.

If the client is assessed as needing new or different goods/equipment, the client is responsible for any costs incurred in disposing of existing goods/equipment bought with DP funds. Any income raised by the disposal must be put towards the cost of new goods/equipment and will form part of any new DP.

Additional responsibility of the authorised person or third party:

If the authorised person or third party is not a close relative or friend of the client they must undertake a Disclosure and Barring Service (DBS) check.

The authorised person or third party will use the DP funds at all times in the best interests of the client.

The authorised person helping you to manage the clients DP cannot have any financial interest in the DP.

4 LBH'S RESPONSIBILITY

Meeting the client's needs – LB Haringey has agreed that the DP will be used towards meeting the client's social care outcomes as set out in their care and support plan.

Amount of DP - The amount of the DP will be based on the assessment of the client's needs.

Payments – LB Haringey will normally make payments 4 weekly in advance, and will write to the client/recipient at the start of the DP with further details.

LBH will send to the client/recipient warning letters detailing any concerns in respect of the handling of the DP. LBH will send out warning letters before suspension and ending of the DP and will provide advice on what steps should be taken to prevent this from happening.

5 PAYMENT METHODS

The DP will be paid using one of the following methods:

- 1) **Pre-paid card** – The card offers instant, anytime access to the account. Payments can be made by telephone or internet banking, and the card can be used to pay providers who accept MasterCard.
- 2) **Managed payroll** – the DP is paid directly to an independent organisation who manages it on behalf of the client. The client still retains full control and responsibility over their DPs.
- 3) **Bank account** – on request and where appropriate to meet needs, DP's can be paid into a separate bank account. In those circumstances, the client/recipient must regularly provide LB Haringey with financial monitoring information as per **section 8**. The client/recipient will keep the DP bank account in credit and not allow it to become overdrawn. If the account becomes overdrawn, the client will be responsible for paying any charges.

The following will apply to all DP clients/recipients:

- 4) Cash withdrawals can be made only with LB Haringey's prior written agreement, to agreed limits.
- 5) DP funds remain the money of LBH.

6 INFORMATION AND ADVICE

LB Haringey has agreements with organisations to support client/recipients in budgeting and using their DPs. LBH wishes to ensure that the client/recipient is aware of all advice and support available on the use of DPs. LB Haringey will provide the client/recipient with the support organisation's contact details at the start of the DP.

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7 USING DIRECT PAYMENTS

LB Haringey wants to ensure that client find DP's suitable and effective. However there are some limitations on how DP's can be used:

- **Direct Payments are only for social care:** The DP must only be used to achieve the outcomes identified in the assessment. It must not be used for anything else, such as health care services, housing costs, or general living expenses.
- **Unlawful use:** The DP must not be used for unlawful purposes and must only be used for permitted purposes approved by LB Haringey.
- **Legal requirements and other obligations:** The client/recipient has a duty to make proper disclosure to the revenue authorities and not to attempt to mislead. The client/recipient agrees to comply with all relevant laws, regulations and guidance, particularly with applicable employment, tax, and insurance requirements and obligations. The client/recipient agrees to the Local Authority informing the revenue authorities of any tax liabilities. The DP support organisations can advice on these subjects.

8 MONITORING THE USE OF DIRECT PAYMENTS

LB Haringey will monitor how DP's are used to ensure that the DP is being managed safely and spent in line with the outcomes identified in the care and support plan. The client/recipient is required to cooperate with monitoring by keeping records and providing information as requested. In circumstance where the DP is paid into a bank account, this means providing copies of bank statements, receipts and any other relevant documentation on a regular basis. If the client/recipient does not cooperate with monitoring, LB Haringey reserves the right to suspend the DP or change it to a commissioned service. The client/recipient must keep monetary records for seven years.

To improve the service and to widen the choices available to DP clients, LB Haringey may also request information from the client, for example about how they chose to use their DP.

9 REASSESSMENT OF NEED

LB Haringey will contact the client to carry out a reassessment of their needs at an agreed date and time. This will look at:

- 1) Whether the client's needs or circumstances have changed.
- 2) Whether the client has been able to achieve the agreed outcomes that were discussed when the DP's was started, and whether LBH or the DP support service can do more to assist the client.
- 3) Whether DP's remain the best method of meeting the client's social care outcomes.
- 4) If there is a change in the client's needs or circumstances LB Haringey must be informed.
- 5) If the client goes into hospital or respite LBH must be notified as soon as possible.

10 RETURNING MONEY TO LBH

The client/recipient must also return money to LB Haringey in the following circumstances:

- 1) Where there has been an overpayment by LB Haringey.
- 2) The amount in the account is more than is needed to pay for purchased or planned services e.g. it has been banked and assessment shows that it is not going to be used.
- 3) The DP has been used for purposes other than meeting the outcomes agreed in writing by LB Haringey.
- 4) The client is no longer eligible for DPs.
- 5) The termination of this agreement.

11 ENDING/SUSPENDING A DIRECT PAYMENT AGREEMENT

LB Haringey will stop paying DP's to the client/recipient if:

- 1) The client no longer agrees to receive them.
- 2) The client is no longer entitled to social care support from LB Haringey.
- 3) The client/recipient has not kept to the terms of this agreement.
- 4) LB Haringey believes the client/recipient can no longer manage the DP's effectively to meet their needs, and no suitable assistance is available to enable them to do so.
- 5) The client loses the capacity to consent to the payment of DP's, and there is no suitable person who could receive and use the money on their behalf.

Privacy and Data Protection

Your Personal Information

The personal information you give us on this form will be used to provide the Direct Payment Service. We will keep this information on our system as part of your care record. We will share this Information with the Prepaid Card provider or bank provider or direct payment support service provider, who will keep your data safe and only use it for the payment service and will delete it if and when the service ends.

The information you supply for the purposes of Social Care Direct Payments Service may be used by us in connection with the provision of other council services to you. This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided for the prevention and detection of fraud. We may share/check the information provided with other bodies responsible for auditing or administering public funds, such as HM Revenue and Customs and the Department for Work and Pensions, in order to prevent and detect fraud.

The Data Protection Act gives you the right to see your personal information that we hold about you.

We are also required under Part IIA of the Audit Commission Act 1998 to participate in the National Fraud Initiative (NFI) data matching exercise. Please see our **Privacy Statement** for further details.

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