

Appendix 2 – Agreement for Direct Payments

Children Services – Personal Budget Direct
Payments for Young People with Education
Health and Care Plans

AGREEMENT FOR PERSONAL BUDGET DIRECT PAYMENTS

between

NAME OF PERSON RECEIVING DIRECT PAYMENT
OR NAME OF TRUST

and

SWINDON BOROUGH COUNCIL

1. The Direct Payments Agreement

- a) We wish to give you a direct payment so that you are able to meet the agreed provisions as described in the Personal Budget Provision Agreement.
- b) The amount of money to be paid is based on your child's SEND needs.
- c) In signing the Agreement you are agreeing to the following terms and conditions.

2. Details of your Direct Payments Account

- a) You have opened a separate bank account for your Personal Budget or you are using an existing Direct Payment account. Swindon Borough Council (SBC) and you will hold details of this account.
- b) If you have been offered a one off Direct Payment you do not have to have a separate bank account for this. See 5g below.
- c) When you sign this agreement you are giving Swindon Borough Council permission to request information from you about your Direct Payments bank account.

3. How we will pay the money to you

- a) Unless we have agreed otherwise, you must have a dedicated bank account or a Direct Payments Bank Account at the Bank or Building Society of your choice. This should be a banking account (not savings). You need to be able to make bank transfers from this account.
- b) This account must be in the name of the person receiving the Direct Payments or the name of the trust.
- c) You have chosen to have this money paid into the bank account:

Monthly **Annually** **One off**

4. Using your Direct Payments

- a) You can **only** use Direct Payments to buy products or services to meet the provision agreed in your Personal Budget Provision Agreement.
- b) You **cannot** use your Direct Payment to buy services in advance.
- c) The Direct Payment **cannot** be used to employ a 'close' relative living in your household unless there are exceptional circumstances. If you believe this is your only choice this would need to be discussed with your Direct Payment Advisor and agreed by the Team Manager of the Disabled Children Team before you started employment.
- d) You cannot use a direct payment to purchase a school place.
- e) If you choose to spend your Direct Payments on employing a worker/s you become an employer. As an employer you will be responsible for all the parts of Employment Law relating to employing worker/s. This includes making sure that any Tax and National Insurance payments are made and that you enrol with the Pension Regulator. You can get support, advice and information from the Direct Payments Support Advisor to help you do this.
- f) If the person you have contracted to work says s/he is self-employed they will have an Inland Revenue Registration Number which you must record and then contact the Inland Revenue to confirm that this is current and relates to the service they are providing. The Direct Payment Support Advisor can offer information and advice on this.
- g) It is a legal requirement to take out Employer's Public Liability Insurance if you chose to employ people. The Direct Payments funding can be used to pay for this. You must remember to renew this insurance annually.

5. The management of your Direct Payments

- a) Payments from your Direct Payments Account may only be made by cheque and bank transfers. **Cash must not be used.**

- b) You **cannot** take cash out of your Direct Payments account or transfer any money from this account into another personal account other than for reasons of personal repayments.
- c) The Direct Payments account must not become overdrawn. You will be responsible for any charges the bank may make if this happens. You are also responsible for all bank management fees.
- d) The Direct Payments account must only be used for Direct Payments funding and not for any other purpose.
- e) You need to keep a record of the money you have spent from the Direct Payments account. You will have to give any employees a wage slip. You also need to keep all bank statements, cheque stubs, time sheets for 4 financial years. This is to show what you have spent the money on. Insurance invoices only need to be kept for the current year.
- f) You must let us have a copy of the Expenditure form we provide you with and along with your bank statements. This shows us how you are spending your Direct Payment money.
- g) For one off payments you must keep all receipts, invoices and wage slips. You will be expected to provide these with the Expenditure form that we will provide. This will show us how you have spent the money. If you do not have a separate bank account you will not be expected to show us your statements.

6. Change of Circumstances

- a) You must let us know as soon as possible if you/your child's circumstances or needs change. This may be a change in your personal situation or changes in the nature of the services you are buying. For example you may have been employing someone but now use an agency.
- b) If for any reason you are temporarily unable to receive the services you have contracted an employee to provide, you must contact your service provider or your Direct Payments Support Advisor to seek advice on paying a retainer. If it is decided that the service is no longer needed you will need to follow the process of giving your employee(s) notice to terminate their contract of employment.

- c) Things may change and you may no longer get a Direct Payment. If Swindon Borough Council decides to stop or change the amount of your Direct Payments or you no longer wish or need to receive a Direct Payment, 4 weeks' notice must be given.
- d) If your Direct Payments stop you may have bills that still need to be paid. These bills must be paid within 4 weeks.
- e) You will also be required to return all unspent money and submit a final Expenditure Form within 4 weeks of receipt.

7. Looking at how things are working / Reviews

- a) You will have a review after 3 months of the start date of your Direct Payment. After that your direct payment can be looked at during the Education Health and Care Plan annual review. However, if you feel you or your child's needs change you can request an updated assessment at any time.
- b) The purpose of this review is to review the assessed needs and to make sure that the services you are buying with your Direct Payments are meeting the needs assessed in your Child's Plan.
- c) There will be a **six monthly** reconciliation of your Direct Payment. The Direct Payment Support Advisor will do this.
- d) The purpose of this review is to check how you are spending your Direct Payments and how much money you have in that account. This is done by filling in and returning the Expenditure forms provided to you along with bank statements.
- e) You will be requested to provide a statement showing the balance of your Direct Payment account on 31st March each year. Any money left from that years funding will need to be repaid back to Swindon Borough Council.
- f) If you receive a one off Direct Payment you will be expected to return any unspent funding to Swindon Borough Council. You will receive an Expenditure form to record all payments made from the Direct Payment

funding. This will be returned to the Direct Payment Support Advisor along with all the paperwork stated in 5f above.

- g) There will be a review by your Direct Payments Support Advisor. This will take place within 6 months of starting your direct payment and annually thereafter. The purpose of this review is to check how you are managing your Direct Payments and that you are following Statutory Employment laws. This may be combined with the review done by your case holder/ Social worker if suitable.

- h) If you find it difficult to manage your Direct Payment account we will work with you to help solve any problems. We would not expect this to take more than 3 months. If you continue to have a problem we will hold a meeting to talk about what to do. One of the options may be to suspend or stop the Direct Payment and meet your needs in another way. Another option may be that you need a higher level of support from you Direct Payment Support Advisor.

- i) If you make a genuine mistake we will work with you to try and sort it out. However, if you do not keep to the terms and conditions in this Agreement we may suspend or stop the Direct Payments immediately (without notice). Some or all of the payments made to you may be reclaimed and your needs would be met in other ways. Where there is evidence of fraud or misuse of the Direct Payments, we reserve the right to stop the Direct Payments straight away. We will then meet your needs in other ways. We will take action to reclaim and or recover monies paid by us as Direct Payment.

8. Swindon Borough Council has a duty to promote the Welfare and Safety of Children and Young People.

As a result we **strongly** recommend that all service users receiving Direct Payments take up valid Disclosure and Barring Service (DBS) checks **before** they start employment of worker/s.

Swindon Borough Council will process and fund DBS checks on your behalf.

If you are using direct payments to purchase care via an agency you **must** ensure that the agency undertakes DBS checks on their staff and that the worker looking after your child has **received** a valid DBS check.

Contact your Direct Payments Support Advisor for information on how to

request a DBS check for any worker(s).
You will be asked to sign a separate letter stating you have been given this advice.

Swindon Borough Council are informing you that when purchasing support/employing worker/s via a direct payment you need to be aware there are rules and laws designed to safeguard the welfare of all children under 8 years old.

The OFSTED rules state that **anyone caring for a child under eight for over two hours a day and for payment in their own home have to be registered as a child minder**. The only exceptions to this are if the worker is a relative of the child, a registered or private foster carer, or only looks after the child between the hours of 6pm and 2am, or during the day for less than 14 days a year and have notified OFSTED in writing or email 14 days before starting the provision.

It is your responsibility to be aware of all the rules. You can ask the Direct Payments Support Advisor for more information or contact OFSTED.

If it is felt that your child/young person is being put at risk by the arrangements you are making we will not be able to continue to provide you with a Direct Payment.

9. Contact Details

OFSTED contact details are:

08456 404040
enquiries@ofsted.gov.uk
OFSTED
Royal Exchange Building
St. Anns Square
Manchester
M2 7LA

If you need advice on managing your Direct Payment contact
The Direct Payments Support Advisor
Tel: 01793 464231/ 07785 454360
mstygall@swindon.gov.uk

Special Educational Needs Disability and Inclusion Service

Tel: 01793 464641
Email: SENDservice@swindon.gov.uk

If you have any reason to complain about the service you receive from The Direct Payments Support Advisor please contact Mark Green, Integrated Service Manager Email: mgreen@swindon.gov.uk .

If you have any reason to complain about the service you receive from The

SEND Service contact Lisa Savage, Interim SEND Lead Email:
lsavage@swindon.gov.uk

10. What to do with the completed Agreement

- a) We will both keep a signed copy of the Agreement.
- b) It is important that you are clear about what you have to do and what you can expect us to do to make sure that arrangements work well.

This agreement is intended to assist the person receiving the Direct Payment and the Swindon Borough Council by setting out the arrangements for a Direct Payment. However, it is not a legally binding contract.

Signed by the Interim SEND Lead on behalf of Swindon Borough Council

Name:

Position:

Signature:.....

Date:.....

Signed by Direct Payment Recipient/s

1. Name:.....

Signature:.....

Date:.....

2. Name:.....

Signature:.....

Date:.....

Where the signatory is a Trustee:

Signed By Trustee/s

1.Name:.....

Signature:.....

Date:

2.Name:.....

Signature:.....

Date: