

Contract between Barking & Dagenham Council and the Service User in Relation to Individual Budgets

Parties

This agreement is between:-

- (1) London Borough of Barking & Dagenham, Adult and Community Services, Civic Centre, Dagenham, Essex RM10 7BW ("the Council")

- (2) Service User Name: ("the Service User")

Basis of the contract

The Council is responsible for ensuring that the Service User receives the services they need in order to live independently in the community.

This contract is made on the basis that:-

- (A) An assessment of the Service User's needs for community care services has been completed and that they are eligible to receive these services as outlined in his/her support plan ("the Service").

- (B) The Service User is willing and able to secure the services detailed in his/her support plan via 'Direct Payments' (with assistance if necessary) in accordance with the eligibility criteria as determined by the London Borough of Barking & Dagenham. This refers also to people who are the chosen decision maker for (and acting in the best interest of) the Service User.

The Council and Service User agree as follows:

1. The Service User agrees to be responsible directly or through an agent or with the assistance of Adult and Community Services for the day-to-day management of their Individual Budget including that of employing workers who are able to provide assistance as identified within their support plan.

2. During the employment of any person by the Service User, the Service User must comply with Inland Revenue requirements, Health and Safety, Equal Opportunities, Employment and any other relevant legislation.

3. The Service User understands that when employing persons who will have unsupervised access to young people during the course of their work that they should carry out a Discloser & Barring Service (DBS) check to ensure that the person has no relevant criminal convictions which would preclude

them from being employed in such a role. If DBS checks are required the Adult and Community Services will provide assistance to the Service User in order to carry out these checks.

4. The Service User is required to have in force Employer's Liability Insurance which includes Public Liability Insurance. This is to be with reputable insurers or underwriters with a minimum limit for any one claim of £1 million (the limit to be increased from time to time as reasonably required by the Chief Finance Officer of the Council). The relevant insurance policy and the premium receipts must be produced as and when required by the Council. Adult and Community Services will provide assistance to the Service User in implementing this policy of insurance.
5. The Council agrees to pay a sum on a four weekly basis in advance into a nominated bank/building society account set up to be used only for the payments covered by the Individual Budget and set out in the support plan. The sum to be paid is determined in accordance with the support plan. After the Council carries out a review of the support plan the amount of the Individual Budget may change. The Service User may not be entitled to receive payments if they do not comply with the terms of this Agreement.
6. The Service User must keep all the documents/records in connection with the Service for 6 years. These can be inspected by Council Officers at any time. This may include a review by the Council's Internal Audit Service or others authorised by the Council. The Service User should also follow the Financial Procedures set out in Annex 1.
7. The Service User agrees that he/she has received enough information and support relating to the receipt and use of an Individual Budget and has been notified of the complaints procedure of the Council.
8. The service user understands that they may not secure services from a partner or a close relative (as defined in Annex 2 to this contract) who lives in the same household except where the council has given permission in writing and has confirmed in writing that there is an exceptional circumstance which allows the service user to do this
9. The Service User agrees to maintain contact with his/her assessment team as and when requested by the Council to do so and to submit to periodic monitoring of the service, including that of records and receipts, by the Council and anyone authorised by the Council.
10. Anyone employed by the Service User using an individual Budget will not be considered an employee or agent of the Council and the Council is not responsible for any income tax or national insurance contributions or any other payment payable in relation to the Service User's employees including their Personal Assistant.
11. The Service User must take all reasonable steps to make sure that any person employed by the Service User including their Personal Assistant shall not say that he or she is an employee or agent of the Council.

12. The Council will not be responsible for any claims, losses liabilities and demands of any kind whatsoever and howsoever arising out of or related to this Contract (unless due to the negligence of the Council, its officers, servants or agents) including in respect of damage to property or personal injury or death of the Personal Assistant or any other person employed by the Service User occurring in the performance of the Service. The Service User and not the Council will be responsible for insuring the Personal Assistant and any other person employed by the Service User and the Service User will be responsible for maintaining the necessary cover required by law and by the Council in respect of the provision of the Service in accordance with Clause 4 of this Agreement.
13. The Council retains its responsibility to review the Service User's community care needs and will therefore appoint a care manager to assess that the needs of the Service User as agreed in the support plan are being met.
14. The care manager will review the Service at intervals of not more than twelve months and will provide notification in writing to the Service User of the result of such reviews.
15. A Resource Officer (or such other person as shall be notified to the service user by the Council from time to time) shall be designated to monitor the Contract and to receive notices provided for in the Contract. The Resource Officer shall monitor the Service at his/her discretion and by such means and at such intervals as he/she considers are required.
16. The Service User must ensure that arrangements are in place to notify the Council if they stop or are due to stop using the Individual Budget in accordance with their support plan. Such notice shall be confirmed in writing as soon as is possible i.e. hospital admissions, respite stays.
17. Following discussion with the Service User the Council may temporarily suspend payments if the Service User is unable to receive services for a period of time, such as for long stays in hospital. Individual Budgets can continue to be paid for up to 4 weeks whilst in hospital to facilitate staff retention and continuity.
18. The Service User will be expected to ensure that he/she has made provisions for cover in emergency situations or when their Personal Assistant is able to or not due to attend, such as in the case of annual leave and sickness.
19. The Service User agrees that the Individual Budget must be used for its designated purpose and any under-spends be re-paid to the Council on demand. Any interest accrued in the Individual Budget account should be left in the account and included in any reconciliation records submitted to the Council.
20. Where an Individual Budget is made up from funding secured from one or more sources (i.e. Local Authority, Independent Living Fund and/or

Supporting People), the Service User will ensure that funds are spent within the criteria laid down for each funding stream and as agreed within the support plan.

21. The Council are at liberty, after consultation with the Service User, to adjust future payments to recover any over-payments or under-spends after taking into consideration any other expenses the Service User is required to meet in relation to their Individual Budget such as statutory holiday, Inland Revenue payments etc.
22. Without prejudice to its rights under sections 22 and 23 of this Agreement, Barking & Dagenham Council retains the right to recover Individual Budget payments in full or in part if it is satisfied that the money has been diverted from the use for which it was intended.
23. In the event of the death of the Service User any amount of an individual Budget remaining in the Service User's account should be repaid to the Council following the fulfillment of contractual and legal obligations relating to any person employed by the Service User including the Service User's Personal Assistant.
24. The Council may discontinue payments and terminate this agreement with immediate effect if the Service User fails to comply with the terms of this agreement and the Council has reason to believe that future monies would be misspent.
25. This Contract may be terminated by the Service User by giving 4 weeks notice in writing to the designated officer.
26. This Contract may be terminated by the Council by giving 4 weeks notice in writing to the Service User and in exceptional circumstances with one weeks notice.

I confirm that I understand and will comply with the terms and condition of this agreement.

Signed by the service user

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Name

Address

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Date

Signed by chosen decision maker for the Service User

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Name

Address

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Date

Witness Signature

Name

Address

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Date

Signed on behalf of the Council

Signature

Name

Designation

Address

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Annex 1

FINANCIAL PROCEDURES FOR SERVICE USERS

1. All transactions will go through a bank account which will be used only for this purpose and will be the sole responsibility of the Service User.
2. Payments out of the account should only ever be to meet the needs identified in the support plan.
3. Payments out of the account should be made by Cheque. In any event, receipts, statements and/or payroll documentation should be available on demand to substantiate all payments.
4. Service Users should retain for audit purposes:
 - Bank statements, cheque books and paying-in books
 - Invoices and receipts
 - PAYE, N.I and other payroll records
5. Monthly bank statements must be received and retained by the Service User who will be responsible for checking the statements and highlighting any discrepancies, making a note of any action taken or required on a regular basis.

Annex 2

WHO YOU MAY EMPLOY

In general you may not use Direct Payments to secure a service from:

Your spouse or partner i.e. the other member of a married or unmarried couple or a close relative living in the same household.

A close relative means a parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, stepson or daughter, brother or sister of the service user

In *exceptional* circumstances, the Council may consider allowing you to use Direct Payments to pay a close relative who lives in the same household, if the Council decides that this is the only satisfactory way of meeting your care needs.

Written confirmation of such a decision by the Council should be received by you before you embark on the course of employing someone living with you

