

Direct Payment

Support Finance Broker Agreement

This agreement is between:

- (1)(the “**Support Finance Broker**”) for and behalf of the Mayor and Burgesses of the London Borough of Croydon (the “**Council**”); and
- (2)(the “**Service User**”).

Introduction

The purpose of this agreement is to allow the Service User to receive Direct Payments under the Direct Payment Scheme and for those Direct Payments to be brokered by the Support Finance Broker. The Support Finance Broker will also provide certain other services to the Service User.

For ease of reference, the Council has included a “Glossary” at the end of this agreement setting out the meanings of capitalised words used within it.

This agreement is an important legal document as it sets out the relationship between the Service User, and the Support Finance Broker. Please read its terms and conditions carefully before signing it. The Council recommends that the Service User seeks independent legal advice before signing this agreement or the Direct Payment Independent Living Agreement.

PLEASE NOTE, UNDER A DIRECT PAYMENT INDEPENDENT LIVING AGREEMENT, THE SERVICE USER MAY FORM CONTRACTS WITH PARTIES OTHER THAN THE COUNCIL. THE SERVICE USER SHOULD, THEREFORE, CAREFULLY CONSIDER HIS OR HER POSITION WITH REGARDS TO THESE OTHER PARTIES BEFORE GIVING NOTICE TO END EITHER THIS AGREEMENT OR THE DIRECT PAYMENT INDEPENDENT LIVING AGREEMENT. THE SERVICE USER SHOULD NOTIFY HIS/HER CARE MANAGER OF ANY SUCH INTENTION AT THE EARLIEST POSSIBLE OPPORTUNITY.

Agreed Terms

1. Support Finance Broker services

- 1.1. In return for the Service User fulfilling the duties set out in paragraph 3, the Support Finance Broker will during the term of this agreement:
 - (a) receive assessed Direct Payments on behalf of the Service User and pay these into a direct payment bank account held in the Council’s name, and such bank account shall clearly identify funds that are ascribed to the Service User;
 - (b) perform any necessary and appropriate transactions using the direct payment bank account as instructed by, and on the behalf of, the Service User;
 - (c) provide the Service User on a monthly basis with statements outlining direct payment income, expenditure and balance;
 - (d) assist the Service User with developing the Service User’s initial and subsequent use of the Direct Payment Scheme and with making any changes to that scheme;
 - (e) other than providing the Service User with monthly statements, keep monthly contact with the Service User for the first three months from implementation of the Direct Payment Independent Living Agreement and after that initial three month period the Support Finance Broker will keep contact on a quarterly basis;
 - (f) respond to the Service User’s reasonable requests for advice on payment methods for Relevant Services;

- (g) maintain and review expenditure reports from the Council's financial management system to ensure that the Service User is receiving appropriate Relevant Services (and support) under the Direct Payment Scheme;
- (h) provide a link between the Service User and essential internal/external stakeholders in order that the Service User may obtain guidance relating to employment issues, advertising for third parties to provide Relevant Services, and related payroll matters (for example, tax and NI contributions etc); and
- (i) keep and maintain written records on the Council's IT system relating to the Support Finance Broker's provision of the above services. Such records will include details of every contact the Support Finance Broker has with the Service User, information as to the extent that receipt of the Direct Payments has addressed the Service User's needs, and the level of satisfaction of the Service User with the Support Finance Broker's provision of the above services.

1.2. The Service User should note, the Support Finance Broker will not provide any Relevant Service to the Service User and nor will the Service Finance Broker work for an individual or entity that is providing such Relevant Services to the Service User.

2. Status of the Support Finance Broker and the Council

- 2.1. The Service User agrees that the Support Finance Broker and/or the Council, in providing the services under paragraph 1 above, do not act as the Service User's guardian, conservator trustee, attorney for financial matters, or representative payee.
- 2.2. The Support Finance Broker remains within the remit of Section 151 of the Local Government Act 1972 and agrees to adhere with all requirements therein.

3. Service User's duties

The Service User agrees that he/she will remain bound to his/her commitment under the Direct Payment Independent Living Agreement and the responsibilities and regulations specified in the 'Direct Payments – Rights and Responsibilities' document (a copy of which the Council has provided to the Service User).

4. Length of this agreement and ending It

- 4.1. This agreement will begin when it is signed and dated by both the Support Finance Broker and the Service User and will continue (unless ended earlier under paragraph 4.2) until either the Support Finance Broker or the Service User gives one month's written notice to the other to end it and, in which case, the agreement will come to an end on the last day of that one month notice period.
- 4.2. The Support Finance Broker may end this agreement without liability to the Service User immediately (or following such notice period as it sees fit), by giving notice to the Service User if the Service User:
 - (a) is considered either unable to pay their debts or as having no reasonable prospect of so doing, in either case, within the meaning of the Insolvency Act 1986; or
 - (b) the Service User breaches his/her obligations under this agreement or the Direct Payment Independent Living Agreement

5. Effect of ending this agreement

- 5.1. When this agreement comes to an end, subject to there being a balance in the Service User's favour, the Service Finance Broker shall apply that balance to pay any outstanding bills due to be paid by the Service User or on the Service User's behalf. Should the balance be insufficient to meet the outstanding bills, the Service User shall make good the shortfall.

- 5.2. In the event that a balance still remains after the Service Finance Broker has paid the outstanding bills under paragraph 5.1, the Service Finance Broker shall remit that balance to the Council.
- 5.3. Within twenty eight days of this agreement coming to an end, the Support Finance Broker will provide the Service User with:
- (a) a closing statement which shall show:
 - i. direct payment funds ascribed to the Service User;
 - ii. the balance at the date the agreement ended;
 - iii. payment of outstanding bills; and
 - iv. any shortfall to be made good by the Service User.
 - (b) written confirmation that the Support Finance Broker has reimbursed any surplus funds to the Council.
- 5.4. If, when this agreement comes to an end, the Service User still has a requirement for Direct Payments, the Support Finance Broker will offer all reasonable assistance to effect a smooth transition to the new recipient of such Direct Payments.

6. **General**

- 6.1. This agreement and the Direct Payment Living Agreement comprise the whole agreement between Service User and Support Finance Broker and replaces all previous agreements between them relating to Direct Payments. Both the Service User and the Support Finance Broker agree that, in entering into this agreement, neither has not relied on, and will have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement. Nothing in this paragraph will limit or exclude any liability for fraud.
- 6.2. If there is a conflict between any of the provisions of this agreement and the provisions of the Direct Payment Independent Living Agreement, the provisions of this agreement will prevail.
- 6.3. If either the Service User or Support Finance Broker need to give any notice under this agreement, the notice should be in writing and be sent to the relevant address set out below:

	Service User	Support Finance Broker
Contact Name:		
Address:		

- 6.4. A person who is not a party to this agreement will not have any rights under or in connection with it.
- 6.5. If there is any dispute (or claim) relating to this agreement the dispute (or claim) and the terms of this agreement will be governed by English law. The English courts have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.

This agreement has been entered into by the Service User and the Support Finance Broker on the later of the two dates shown below.

Name & signature of Service User

Date

Name & signature of Support Finance Broker for
and on behalf the Mayor and Burgesses of the
London Borough of Croydon.

Date

Glossary

Care Regulations: Community Care, Services for Carers and Children's Services (Direct Payment) (England) Regulations 2003.

Direct Payments: payments made under the Direct Payment Scheme to the Service User subject to the terms of the Direct Payment Independent Living Agreement.

Direct Payment Independent Living Agreement: the agreement between the Service User and the Council relating to Direct Payments.

Direct Payment Scheme: a direct payment scheme provided to the Service User under the Care Regulations.

[Fees: the fee paid under a Direct Payment Living Agreement by a Service User who does not reside in Council accommodation or such other fees as the Council may on reasonable notice to Service User introduce for Direct Payment brokerage services.]

Relevant Services: are the services defined in regulation 4 of the Care Regulations and that are provided by parties other than the Council.