**Appendix 1:**



**DIRECT PAYMENT AGREEMENT BETWEEN:**

**BURY COUNCIL**

**AND**

**The PERSON (AS NAMED BELOW)**

***OR***

**THE ASSIGNED PERSON MANAGING THE DIRECT PAYMENT (AS NAMED BELOW)**

|  |  |
| --- | --- |
| **Name:**   |   |
|  **Address including Postcode:**  |      |
| **Name of person  managing the Direct Payment: (if applicable)**    |   |
| **Address of person managing the Direct Payment: (if applicable)**  |      |

**Note** that this is a legally binding agreement therefore you should read it carefully and seek legal advice should you be unclear regarding any of the terms.

This Agreement outlines your responsibilities and the Council’s responsibilities when using your Direct Payment. No payments can begin without this agreement having been signed and received by the Council.

**YOUR DIRECT PAYMENT**

To receive a Direct Payment, you will have been assessed under the Care Act 2014 and have eligible needs.

* You will have completed an assessment form and had an assessment by a Council representative.
* The Council will have prepared a Support Plan showing how your assessed support needs will be met.
* You have agreed that the support described in the Support Plan is to be provided wholly or partly through a Direct Payment.

**NOMINATING AN APPROPRIATE AUTHORISED PERSON**

If you are unable to manage the Direct Payment yourself then you can nominate an Appropriate Person to receive the Direct Payment on your behalf.

The Authorised Person must sign this Agreement on your behalf and agree to take on the legal responsibility of managing the Direct Payment.

Should you lack capacity, an Authorised Person can be appointed to act on your behalf.

**HOW WILL YOUR DIRECT PAYMENT BE PAID**

Your Direct Payment will be paid into your Direct Payment Account.

Your Direct Payment can only be used for the items listed/support services set out and agreed as per your Support Plan. This account must not be used for any purpose other than for receiving the Direct Payments and making payments for your assessed support needs/support needs under your Support Plan. If you wish to use your Direct Payment for an alternative service that meets your needs, you must get agreement from the social care team (contact 0161 253 5151).

You must not make any cash or ATM withdrawals from this account.

You must not make any transfers to your own bank account. Please note***there will be no reimbursement of funds if you pay for services/goods with your own money rather than using the Direct Payment Account Prepayment Card.***

**GENERAL RULES ABOUT HOW TO USE THE DIRECT PAYMENT MONEY**

* Your Direct Payment is to enable you to buy the support required to meet the outcomes as detailed and agreed in your Support Plan.
* You must notify Bury Council if you wish to change anything in your Support Plan and obtain approval in writing from Bury Council prior to purchase.
* You must inform Bury Council at the earliest opportunity of any material changes in circumstances which would affect your assessed needs or entitlement to Direct Payments. This will include any changes in capacity to manage Direct Payments or in the event of the death of the person in receipt of the Direct Payment
* You cannot use your Direct Payment to buy anything other than goods/services which meet your outcomes as agreed in your Support Plan. Although not an exhaustive list, you **cannot** spend your Direct Payments on the following items:
	+ Anything that is illegal
	+ Anything that will harm your health, safety or wellbeing
	+ Alcohol, tobacco, vape, drugs or gambling
	+ Items relating to regular day to day living expenditure (e.g. food and drink)
	+ Rent, mortgage payments or household bills (e.g. gas, electricity, TV, Broadband)
	+ Payments for subscriptions e.g. mobile phone contracts
	+ Purchase of long term residential or nursing care
	+ Payment of a close relative/partner/friend that lives with you
	+ Payment for any health care needs that should be provided by the NHS
	+ Payment for any other charges owed to Bury Council.
	+ Services, equipment or minor adaptations that are the responsibility of other public bodies.
	+ For spend incurred outside of the UK unless authorised by Assistant Director/SLT member within Bury Council.
	+ Expenses covered by PIP, e.g. travel
	+ You agree to plan and make contingency arrangements if your support arrangements break down due to unforeseen or planned absences.
	+ If you have a planned or unplanned stay in hospital you must inform Bury Council as soon as possible.
	+ Following an increase or decrease in your Direct Payment, you must manage any changes with agencies, organisations or employees from which you obtain services.

**SUSPENSION OR TERMINATION OF THE DIRECT PAYMENT**

* Bury Council has the right to suspend or terminate the Direct Payment where the need for service is temporarily not required or for any reason in line with the Council’s Direct Payments Policy.  Bury 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.
* You may suspend or terminate your Direct Payment on 4 weeks’ notice to Bury Council, for any reason as outlined in the Council’s Direct Payments Policy.

**ARRANGING SERVICES**

* It is your responsibility to ensure that you have services to meet your agreed Support Plan.
* You accept that upon receipt of a Direct Payment, the Council has discharged its responsibility to you for the organisation and management of support to meet your assessed needs.
* If the Council withdraws the Direct Payment, it will offer you a service arranged and provided by the Council to meet your eligible support needs.

**EMPLOYING YOUR OWN PERSONAL ASSISTANTS/SUPPORT WORKERS**

* If you choose to directly employ a personal assistant to provide support to you regularly you

will need to ensure you comply with all your legal duties and obligations as an employer in the United Kingdom, including what is required by HM Revenue & Customs and the UK Border Agency.

* You **must** use a payroll provider from the Bury approved list to calculate your PA/support workers' wages and HMRC liabilities
* You will also need to ensure that you have Employer’s Liability Insurance and Third-Party Liability Insurance that provides cover including redundancy pay for all employees (See the Direct Payment Policy for details of requirements).
* As an employer, you agree to take on responsibility for the health and safety of your employees (PA/Support Worker).
* You must not employ your spouse/partner or family member living at the same address unless it has been agreed with the Council. See Direct Payment Policy for full definition.
* It is recommended that you carry out appropriate checks at the Disclosure & Barring Service for all support workers that you employ to reduce any potential risk of harm to you from their employment.
* As an employer, you will also be responsible for any redundancy or dismissal from employment of your employees in line with employment law.

**USING AN AGENCY**

* If you choose to purchase support from a care agency rather than employing a personal assistant directly, it is recommended that you purchase care from a provider who is registered with the Care Quality Commission (CQC). A list of providers is available on the CQC website.
* Should you choose to purchase support from a care agency that charges more than the rate the Council will fund, you will be responsible for funding the difference.

**REVIEWING THE DIRECT PAYMENT**

* If there is a change in your circumstances, you must notify the Council.
* You can request a review of your Support Plan at any time.
* The Council’s responsibility remains to provide a review of your assessed care needs on a regular basis.
* It is also the Council’s responsibility to address any concerns in respect of your safety and welfare should they arise.

**WHAT RECORDS YOU SHOULD KEEP**

* You must keep accurate financial records (and retain these for a period of at least 6 years).
	+ You must keep the following records: -
	+ If you employ someone directly, all wages records. These wages records need to show details of the staff employed, the hours and times worked, the payments you make to the employee as well as payments which you make to the Inland Revenue.
	+ If you use an agency, then you will need to keep copies of all the invoices you have received from the agency and any receipts.
	+ Any other receipts or invoices related to your Support Plan expenditure.
	+ Where applicable, all bank statements for the Direct Payments bank account
* You must submit all documents requested by the Council for audit purposes promptly. Failure to do so may result in the Direct Payment being suspended or the agreement being terminated.
* If the Council decides that you are not keeping proper financial records it will consider terminating this Direct Payment~~s~~ Agreement or decide that someone else should manage the Direct Payment for you.

 **ENDING THE DIRECT PAYMENTS AGREEMENT**

The Council has the right to stop the Direct Payment to you if it decides that your employee or care provider is not suitable.

You can stop your Direct Payment at any time by giving the Council notice.  You will then be required to submit any records requested by the Council and repay any money due back to the Council.

Unless in exceptional circumstances, the Council will give you at least 4 weeks’ notice before it suspends or stops your Direct Payment.  The Council will also give you advice on what you can do to prevent the Direct Payment from stopping or being suspended.

In the event of your death, those dealing with your affairs need to be aware that any Direct Payments money remaining in the Direct Payments account does not form part of your estate and cannot be used to pay for expenses such as funeral costs. This money will need to be returned to the Council subject to a final audit.

If Direct Payments money is used in an inappropriate or fraudulent way, the Council will take appropriate action to recover any money spent in this way.

If an audit identifies there is surplus or unused money left in the Direct Payment account, the Council will arrange for return of surplus money

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If you do not keep to the terms and conditions of this Direct Payment Agreement the Council may stop your Direct Payment and you will be required to return all or part of the money you have received.

The Council may take any necessary legal action it deems appropriate if the terms of this agreement are breached.

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| --- |
| **SIGNATURES**  |
| **Name of person in receipt of Direct Payment:**   |
| Signature   |   | Date  |   |
| Print name:   |   |
| **For recipients unable to sign** **Name of person/company with power of attorney:**  |
| Signature   |   | Date  |   |
| Print Name/relationship to recipient   |
| **Name of person/company managing the Direct Payment on behalf of recipient:**   |
| Signature   |   | Date  |   |
| Print name/Company name   |
| **On behalf of Bury Council**   |
| Signature   |   | Date  |   |
| Designation   |
| **Start date of Direct Payment**   |   |