



Southern Health  
and Social Care Trust

*Quality Care - for you, with you*

# Direct Payments

## *Staff Guidance Pack*

*Based on  
Final Regionally Agreed Version*

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***This Guidance is intended to assist Health and Social Care staff to implement the Direct Payments Scheme. This document represents a working guide to staff and will be subject to review as and when changes occur.***

Note about terms and roles:

1. **“Direct Payments Recipient”** is the person receiving Direct Payments.
2. **“Direct Payment Administrator”** is the person who provides assistance or support with the administration of a Direct Payment.
3. **“Care Manager/Named Worker/Key Worker”** is the professional who assesses the eligibility of individuals for entry onto the Scheme.
4. **“Personal Assistants/Care Workers”** are persons employed by a Recipient to provide personal care and support.
5. **“Service User”** or **“User”** is someone in receipt of a social care service
6. **“Authorised Person”** is the person/s appointed by the Office of Care and Protection to receive a Direct Payment on behalf of an eligible person who is deemed unable to give consent
7. **“CIL”** means the Centre for Independent Living
8. **“DoH”** means Department of Health
9. **“HMRC”** means HM Revenue and Customs

## SECTION 1: INTRODUCTION TO DIRECT PAYMENTS

### 1.1 Introduction

The principles underpinning Direct Payments are choice, independence and flexibility. They allow individuals to take more control of their own lives by empowering them to make decisions as to whom they wish to provide the services at times that are convenient to them.

In Northern Ireland people aged 18 – 65 years have had access to Direct Payments since 1997 in accordance with The Personal Social Services (Direct Payments) (N.I.) Order 1996. Direct Payments were extended to people over 65 years old by means of The Personal Social Services (Direct Payments) (Amendment Regulations) (NI) 2000.

The Carers and Direct Payments Act (NI) 2002 further extends the provision of Direct Payments to include: disabled 16 & 17 year olds; parents of disabled children; disabled parents and carers. These provisions came into effect on the 19 April 2004. Regulations made under this Act, also effective from the 19 April 2004, place a duty on the Trust to offer Direct Payments to those people whom it has assessed and agreed to provide services to. These are the Personal Social Services and Children's Services (Direct Payments) Regulations (Northern Ireland) 2004.

There has been an increase in the numbers of Carers and Service Users choosing Direct Payments within the Trust. Service Users and Carers who have used Direct Payments successfully have found the system beneficial in that it gives them more control and flexibility.

### 1.2 What are Direct Payments?

*A Direct Payment is a sum of money paid to an individual in lieu of social services that would otherwise have been arranged by the Trust.*

If a Service User or Carer has been assessed as needing social services/care, it may be possible to get Direct Payments instead of services provided by the Trust. Direct Payments is a payment made by the Health and Social Care Trust to enable individuals to arrange their support in a way that suits them best.

A Direct Payment is a payment made to an individual as an alternative to services which would have been directly provided, or purchased, by the Trust. Direct Payments allow Recipients to arrange their own support by employing a Personal Assistant or purchase personal assistance from a care agency.

Direct Payments can be used as an alternative to some or all of the services which would have been directly provided, or purchased, by the Trust. Direct Payments should not be offered to a service user if they do not meet the access threshold for a service.

If an individual wishes to receive Direct Payments they will not be treated any more or less favourably than people for whom the Trust arranges the direct provision of services.

## **Direct Payments is not a benefit**

### **1.3 Eligibility**

To be eligible for receiving Direct Payments, the Service User must meet the following criteria:

- Be assessed by the Trust as needing a personal social service.
- Be willing to receive and able to consent to Direct Payments. The Service User must agree to and understand what receiving a Direct Payment will mean and the conditions attached. This is the person with parental responsibilities in the case of children. In addition under DHSSPS Circular HSC (ECCU) 01/2012 a legally authorised person can act on behalf of an individual who is unable to consent to Direct Payments (see 2.1).
- Be able to manage Direct Payments with as much help as they need.

### **1.4 Scope of Direct Payments**

The Carers and Direct Payments Act (NI) 2002 gives the Trust the power to make a Direct Payment available to:

- Disabled people, to whom Section 1(1) of the Chronically Sick and Disabled Persons (NI) Act 1978 applies, aged 16 or over.
- Those assessed as needing services under the Health and Personal Social Services (NI) Order 1972.
- Parents of disabled children
- Disabled parents
- Carers – in order to provide respite.

- 16 and 17 year old Carers assessed for services under the Children (NI) Order 1995.
- 16 & 17 year old young people with disabilities

### **1.5 What are the Advantages of Direct Payments?**

Greater choice and control in everyday life.

Control the money to employ a personal assistant/purchase support to enable agreed outcomes of the assessed need to be met.

Choose who works, when they work and what they do.

Allow individuals to access more creative alternatives to traditional services.

### **1.6 What are the Responsibilities of the Person managing the Direct Payment?**

It will be necessary for the Person managing the Direct Payment to hold a separate bank account to use for Direct Payments only and keep records so the Direct Payment money can be accounted for. The Person managing the Direct Payment will need to know their duties as an employer, HM Revenue and Customs and Regional Independent Information, Advice and Advocacy Service (currently provided by the Centre for Independent Living NI) can provide help with this free of charge.

The Trust will monitor arrangements for Direct Payments to ensure that the individual's needs are being met and the money is spent appropriately. The Person managing the Direct Payment will be required to keep receipts and annotated bank records, which can be inspected by the Trust. Also, the Person managing the Direct Payment will need to keep records for HM Revenue and Customs.

As an employer of a Personal Assistant, the Person managing the Direct Payment is responsible for meeting all statutory requirements in respect of Income Tax and National Insurance contributions that may be applicable. The Departmental Guidance states that many people may wish to take on their own personal assistants as direct employees or they may choose to contract with self-employed individuals or with independent agencies. Thus the possible relationships are: employer – employee, contracting with an Independent Agency, or engaging the services of a self-employed person.

The position in respect of legal responsibilities and insurance may have different potential scenarios depending on the circumstances and services purchased by the Person managing the Direct Payment.

## **Employed versus Self Employed**

In basic employment law terms it is very much substance over form when identifying the status of the potential employee who will provide the care and support. To work out their status the Person managing the Direct Payment needs to look at things like who controls the potential employee, who pays their tax and NI, who gives them the equipment to do their job and they must work within agreed hours etc. Where employment is routine or longer term' Personal Assistants are more likely to meet the criteria to be employed under pay as you earn. Where any doubt exists, the HMRC website provide a 'Check Employment Status for Tax' (CEST) tool to help determine if a worker should be classed as employed or self-employed for tax purposes, or advice can be taken from the Centre for Independent Living (CIL). Any advice should be sought in writing and the response retained.

Generally it is appropriate for the Person managing the Direct Payment to pay Personal Assistants via a payroll and CIL, or other payroll providers, can be approached to provide this function.

If the Person managing the Direct Payment employs someone to provide a service they will be required to:

- Operate a payroll;
- **As all payments must be traceable, cash payments must not be used.** The Trust requires the use of a chequebook facility or online banking;
- Make all tax, national insurance and pension payments as required;
- Have Employer's and Public Liability insurance (incorporating at least £10million employer's liability, £5million public liability cover which is the industry standard to include redundancy cover). The cost of the Employer's and Public Liability insurance is included in the regional minimum rate.

Employed PAs may be (depending on their contract) entitled to holiday pay, sick pay and redundancy etc. from the Person managing the Direct Payment.

If the Person managing the Direct Payment engages someone to provide a service who is 'Self Employed' the Personal Assistant should provide them with proof of self-employment status via:

- A copy of the Self Employed Individual's Public liability Insurance;
- Evidence of their self-employment status via information from HMRC (e.g. the individual's Unique Tax Reference Number, Certificate of Self Employment, Tax returns, Real Time Information reports etc.):
  - Contact should be made by the Person managing the Direct Payment with HMRC to clarify that the information provided is correct;
  - Use of the HMRC 'Check Employment Status for Tax' (CEST) tool may help determine self-employment status.
- A contract for service delivery;
- Retained copies of invoices and receipts (monthly/4 weekly for the care and support provided).
- The Person managing the Direct Payment must have the same Employer's and Public Liability insurance when using a self-employed or employed personal assistant. The cost of the Employers and Public Liability insurance is included in the regional minimum rate. Alongside this, those Personal Assistants who are self-employed are required to have current individual Self Employed Public Liability Insurance. The Person managing the Direct Payment should request and retain evidence of this insurance (a copy must be provided to the Key Worker initially and on renewal).

It is the responsibility of a self-employed PA to declare their own TAX and National Insurance to HMRC. Self-employed PA's are not entitled to any holiday pay, sick pay or redundancy etc. from the Person managing the Direct Payment.

Where the Trust does not believe the correct employment status has been correctly applied it is entitled to seek evidence for the status used. The Trust may require the Person managing the Direct Payment to set up a payroll where self-employed status is not felt to be appropriate by the Trust.

The Person managing the Direct Payment can seek advice from the Trust Direct Payments Team in determining employment status.

## 1.7 Who can I Employ?

- Anyone who is eligible to work in Northern Ireland
- Direct Payments are not intended to replace existing support networks within families and communities. For this reason, only in exceptional circumstances, with the prior approval of the Trust, can you use Direct Payments to buy a service from:

*-Your spouse or partner;*

*- Anyone who lives in the same household as you and has a close relationship to you, as set out in the regulations (unless that person is someone you have specifically recruited to be a live-in employee).*

The Person managing the Direct Payment should discuss their situation with the Trust if they think that any person they would like to employ, or buy services from, might fall into one of these categories.

- The Person managing the Direct Payment (employer) **cannot** employ themselves as a Personal Assistant. The Employer's and Public Liability Insurance does not cover the employer to also be an employee. It is illegal to employ a person without having current Employer's and Public Liability Insurance in place.

[https://www.health-ni.gov.uk/sites/default/files/publications/health/dp-guide\\_0.pdf](https://www.health-ni.gov.uk/sites/default/files/publications/health/dp-guide_0.pdf)

Direct Payment User Guide.

## SECTION 2: CONSENTING TO AND MANAGING A DIRECT PAYMENT

### 2.1 Consenting to a Direct Payment

Where the Individual indicates that they want a Direct Payment the Care Manager/Key Worker must satisfy themselves that the Individual can consent to a Direct Payment and are able to manage a Direct Payment (with as little or as much help as is required).

Direct Payments may only be made with the consent of the Recipient. The Care Manager/Key Worker will need to make sure that the Individual understands and accepts the responsibilities involved. These responsibilities are significant and can include: the legal responsibilities of being an employer; the need to account for how the Direct Payment is spent; and ensuring that the needs identified in the agreed Care & Support Plan are being appropriately met.

It is important to recognise that there is no automatic assumption that an individual does not have the capacity to consent simply because they belong to a particular service user group, unless the individual has been assessed otherwise. The decision about someone's ability to consent should not be made on the basis of the person's capacity to give consent in other areas of his or her life.

Where the person requiring a service is unable to consent to a Direct Payment and there is an existing legally authorised person they may be able to consent on the person's behalf. The Care Manager/Key Worker may check with the Office of Care and Protection whether the Individual has an authorised person in place.

Where there is no authorised person an application to the Office of Care and Protection under Circular HSC (ECCU) 01/2012 will be required. This documentation outlines the interim arrangements to facilitate authorisation of another individual to receive and manage Direct Payments on behalf of a person who lacks capacity in line with the Carers and Direct Payments Act (NI) 2002. This Circular and suite of documents forms is available on the Direct Payment Tile on the Southern Health and Social Care Trust Self Directed Support SharePoint Site.

The management of a Direct Payment on behalf of an Individual is usually by means of:

- A parent in respect of a minor;

- A legal representative appointed through the Office of Care and Protection;
- Enduring Power of Attorney;
- A Short Procedure Order; or
- (when an individual has assets in excess of £20k) a full Controllership Order.

When any such arrangement ceases/changes it is essential that the first set of circumstances are closed off and a final account settled. This will prevent any confusion with any subsequent management arrangement.

## **2.2 Managing the Responsibilities of Direct Payments**

With the money to recruit and employ Personal Assistants, come certain responsibilities and opportunities. The aim of these following points is to outline the responsibilities of the Person managing the Direct Payment and highlight the advice and support services available.

Employers need to be aware of their responsibilities, including complying with Employment Law, Tax and National Insurance as well as work practices.

It is important to keep up with employment law and take notice of these changes as they may affect working with employees. The Centre for Independent Living, Labour Relations Agency and Citizens Advice Bureau can provide you with up-to-date information on employment law including fundamental statutory employment rights.

### **2.3.1 Fundamental Statutory Employment Rights**

Employees who have been employed for at least one month have the right to written particulars of employment within two months of starting work. This will incorporate method and timing of pay, holiday/notice/sickness entitlements etc. This document is often referred to as the Contract of Employment, it should be remembered that an individual accepting an offer of employment verbally or otherwise is entering into a legally binding contract.

### **2.3.2 Redundancy**

The payment of redundancy should be covered by the Person managing the Direct Payment's via their insurance which must incorporate at least £10million employer's liability, £5million public liability cover which is the industry standard to include redundancy cover. This level of insurance cover is a requirement of the Trust and is the

only level that will be accepted. Surplus funds can also be used towards redundancy after all other expenses have been paid. If there are individual issues/concerns these must be raised on a case by case basis with the operational line manager.

Both part and full time Personal Assistants/Care Workers have employment rights and certain procedures will have to be followed to dismiss them fairly. An employee maybe entitled to a redundancy payment if declared redundant and they have two or more year's service. This payment is calculated on the basis of pay, length of service and age. Every Personal Assistant is entitled to Pay In Lieu Of Notice (PILON) dependent on length of service (see link below). Advice can be sought in such circumstances from the Regional Independent Information Advice and Advocacy Service. Again the insurance company employment advice line can help with this issue and the Direct Payment recipient must inform their insurance broker of any changes which may have redundancy implications. Further information can be obtained from: <https://www.gov.uk/redundant-your-rights/notice-periods>

### **2.3.3 Hours Worked and Breaks**

A Personal Assistant/Care Worker is under no legal obligation to work more than 48 hours per week. In assessing working hours, an average is taken over a 17 week period.

Personal Assistants/Care Workers are free to offer to work more than 48 hours per week, but this must be agreed in writing. Employees are entitled to a break of 20 minutes if they work for more than 6 hours per day.

The rules that provide these basic rights and protections to employees are known as the Working Time Regulations.

Other rights and protections employees have under the regulations include:

- A right to 11 hours rest a day
- A right to a day off each week or two days off every two weeks

### **2.3.4 Working at Night**

There are specific regulations on working hours at night. Employees working at night can usually only be required to work an average of 8 hours work in 24. The average is usually calculated over 17 weeks. Depending on the individual circumstances, the regulations

may not apply. The Person managing the Direct Payment should check the situation with the Citizen's Advice Bureau, Labour Relations Agency or a similar appropriate authority.

### **2.3.5 Holiday Entitlement**

All employees are legally entitled to 5.6 weeks paid holiday per year. Public holidays may be included in the 5.6 weeks. Nobody is exempt from this rule and it applies to full time staff and part time staff on a pro-rata basis.

### **2.3.6 The National Minimum Wage and Living Wage**

Employers must pay workers a minimum amount for the work they do. The amount is decided by law and is known as the National Minimum Wage and the National Living Wage. The minimum wage a worker should get depends on their age and if they're an apprentice.

The National Minimum Wage is the minimum pay per hour all workers are entitled to. There are three levels of minimum wage relevant to Direct Payments:

- Workers aged 16 -17 years;
- Workers aged 18 - 20; or
- Workers aged 21 - 22 years.

The National Living Wage is higher than the National Minimum Wage - workers get it if they're over 23.

Recipients/Administrators are advised to pay as appealing a wage as affordable, as this may make it easier to attract and keep good personal assistants. Rates are available from CIL or the HMRC website.

### **2.3.7 Statutory Sick Pay and Statutory Maternity Pay**

Employers have a legal responsibility to pay Statutory Sick Pay and Statutory Maternity Pay to any employees who qualify. More information is available from the Centre for Independent Living, HMRC and Labour Relations Agency.

### **2.3.8 Taxation and National Insurance Contributions**

There is a requirement by law that employers inform their local tax office when they take on new employees. Employers are expected to make the necessary National Insurance

Contributions and tax deductions. The Centre for Independent Living can provide guidance through this process as part of their Independent Information Advice and Advocacy Service.

## **2.4 Insurance**

If employing a worker directly the Person managing the Direct Payment must ensure that they have adequate Employer's and Public Liability insurance specific to the requirements of the Personal Assistant (incorporating at least £10million employer's liability, £5million public liability cover which is the industry standard alongside redundancy cover). This is the only insurance the Trust will accept. The Person managing the Direct Payment must provide the Trust with a copy of their insurance certificate on a yearly basis upon renewal. The Trust may liaise with the Person managing the Direct Payment's insurance company as and when required. Failure to provide evidence of existing Employment & Public Liability Insurance (including redundancy cover) will result in the suspension of further payments. If there are individual issues / concerns regarding insurance these must be raised on case by case basis with the operational manager.

There are numerous insurance companies which provide Employer and Public Liability Insurance for Direct Payments. These insurance companies offer different levels of insurance cover, however the Southern Health and Social Care Trust recommend the level of cover detailed above with the cost of the Employer and Public Liability Insurance included in the regional minimum rate. It is the Person managing the Direct Payment's responsibility, together with the Key Worker to ensure there is adequate insurance cover in place depending on the assessed need/tasks agreed within the Direct Payment package.

**It is the Key Worker's responsibility to ensure insurance is renewed annually and ensure a copy of the policy schedule is retained by the Trust. A copy will be kept on the recipient's file.**

## **2.5 Health and Safety**

Employees have the right not be put at risk of injury or infection at work. Employers have a responsibility to ensure a safe working environment. It is necessary to ensure that

Personal Assistants/Care Workers have the appropriate training to carry out such activities as safe moving and handling.

## **2.6 Access NI Checks and Safeguarding**

Access NI was established by a joint programme between the Northern Ireland Office, the Department of Health (DoH), the Department of Education and the Police Service of Northern Ireland.

Access NI enables organisations in Northern Ireland to make more informed recruitment decisions by providing criminal history information about anyone seeking paid or unpaid work in certain defined areas, such as working with children or vulnerable adults.

Enhanced Access NI Checks are compulsory across Learning Disability & Children and Young Peoples Services in the Southern Health and Social Care Trust. The application for the Access NI check is processed by the Trust Named / Key Worker (via the Trust Counter Signatories) and the Trust will cover the fee. **Applications are now completed online (see the Direct Payment Tile on the Southern Health and Social Care Trust Self Directed Support SharePoint Site for further guidance).**

### **Safeguarding**

Although the Trust is not the employer, the Trust has a duty to investigate where a potential Individual is / could be at risk of harm.

The Trust advises that an assessment of risk by the Person managing the Direct Payment is essential in these circumstances.

If the Person managing the Direct Payment is employing a Personal Assistant (PA) via Direct Payment they need to ascertain if:

- They have ever been referred to the Safeguarding Board NI as a result of misconduct involving children and / or adults?
- Are they currently the subject of a police investigation or do they have any prosecutions pending?

If the PA / Employee answers yes to either of these 2 questions then the Person managing the Direct Payment needs to consult with the Key Worker in the Trust who can offer additional guidance and support.

## **2.7 Emergency Arrangements**

Each Person managing the Direct Payment is expected to make contingency plans to meet potential emergencies, for example if their usual care/support arrangements were to breakdown due to sick leave.

In the event of the breakdown of a Direct Payment package the Trust will, following an assessment of the situation, endeavour to provide emergency assistance.

## **SECTION 3: SETTING UP A DIRECT PAYMENT**

### **3.1 Plan Care and Provide Information on Receiving a Direct Payment**

Before making a Direct Payment the Trust needs to be satisfied that the following steps have been completed:

- Assessment of need and care/support planning completed and agreed in line with current protocols.
- A Personal Budget has been approved.
- Accessible information about Direct Payments is offered and discussed with Individuals in conjunction with information on other options for care/support provision.
- The Individual's ability to consent to and manage a Direct Payment is considered.
- The Scheme Agreement is signed by the relevant parties and all parties retain a copy.
- A separate bank account is set up by the prospective Person managing the Direct Payment i.e. the individual/s who have signed the Direct Payments Scheme Agreement.
- Commissioning and banking forms are completed and forwarded in line with Trust procedure. Confirmation of Bank details is required from the bank e.g. bank letter, email or bank statement showing bank details.

### **3.2 Responsibilities of Trust Social Services Staff in Respect of Finance Issues for Direct Payments**

Having explained the Direct Payments responsibilities and processes to the Person managing the Direct Payment, the Key Workers/Care Managers should ensure their

understanding of the implications of signing the Scheme Agreement. The following finance related matters should be explicitly covered by the Key Worker/Care Manager with the Person managing the Direct Payment:-

- The Person managing the Direct Payment's responsibility to manage Direct Payments through a separate bank account, which must be available for inspection.
- The Person managing the Direct Payment's responsibility to meet all statutory requirements in respect of income tax and National Insurance Contributions (NIC) including all employees must receive a payslip.
- The Person managing the Direct Payment's responsibility to submit and prepare quarterly receipts and payments records to the finance Department, detailing use of Direct Payments. This includes a copy of the annotated bank statements for the relevant period.
- The Person managing the Direct Payment's responsibility to retain statutory records for the prescribed HMRC time periods (current year plus 6 historic years) and to retain other finance records for at least two years.
- The Person managing the Direct Payment's responsibility to contribute towards the cost of short term residential care based on an assessment of the service user's resources.
- Amount, frequency and duration of Direct Payments (i.e. one-off or longer term regular payments).
- Payment is in advance and the method of payment by the Trust to the recipient i.e. a 1 four-weekly period, in advance, paid by BACS.
- Arrangements for the review of and increase/ decrease in Direct Payment rates, including inflationary increases.
- Repayment arrangements for recovery of surplus funds.
- The right of access by Trust staff and or Internal/ external auditors to inspect the Direct Payments records.
- The Direct Payment agreement should be signed by the individual / the Person managing the Direct Payment i.e. identified third party who are willing to receive and able to consent to Direct Payments. Otherwise the signatories may be a parent, in the case of a child/ young person or a legally appointed representative in instances where an individual is unable to consent. Where an individual does not have capacity to consent nor do they have an enduring power of attorney and has not appointed someone to act on their behalf through the Office of Care and

Protection then a Short Procedure order **must** be progressed before a Direct Payment can commence.

<https://www.nidirect.gov.uk/contacts/contacts-az/office-care-and-protection>

### **3.3 Notification of Commencement/ Changes to Direct Payments Arrangements**

- Key Worker/Care Manager should supply appropriate notification to the Finance Department of new Direct Payment arrangements in order that payments may be made accurately and on a timely basis. Changes to existing arrangements must also be notified to the Finance Department on a timely basis.
- Requests for new Direct Payment or changes to Direct Payments should be appropriately authorised in line with established authority levels (e.g. Social Worker sign and Team Leader / HOS counter-sign commissioning & / or amended forms).

## SECTION 4: MONITORING AND REVIEW

### 4.1 Review of Financial Arrangements

As part of the review process whereby Care Managers/Key Workers determine if the Individual's assessed needs are being met they should address the following areas in conjunction with the Trust Direct Payments Monitoring Team:-

- Is the Direct Payments personal budget correct and is it being received at the correct time?
- Is the Person managing the Direct Payment completing the statutory returns for the HMRC and making the required payments?
- Has the Person managing the Direct Payment prepared the quarterly receipts and bank statements for the Trust and submitted these to the Finance Department in line with Trust requirements?
- Does the expenditure outlined via the receipts and payments look reasonable and in line with the outcomes of the Individual's care and support plan?
- Has the insurance been renewed and is there a copy in the file.
- Is the balance on the recent bank account statement reasonable and not surplus to requirements?

**If the Key Worker has concerns of the financial management of the Direct Payment these should be escalated through their line management and a Financial Review will be undertaken.**

**If the Person managing the Direct Payment is having difficulty managing the Direct Payment the Key Worker/care manager can advise the Individual / Person managing the Direct Payment to seek support via the regional Information Advice and Advocacy Service (through the Centre for Independent Living NI).**

### 4.2 Cessation of a Direct Payment

There are a number of reasons why a Direct Payment may need to cease, including death of an Individual, admission to a permanent care placement or Individual choice etc.

The Person managing the Direct Payment should:

- Alert their payroll service if applicable to assist the Person managing the Direct Payment to complete final paperwork and calculate final payments to Worker/s.
- Calculate the outstanding payments and inform the Trust Finance Department to cease payments via the Direct Payments Suspension / Cessation Form.
- Submit the final records of the account to the Trust Finance Department demonstrating the remaining balance on the account. This should be accompanied by a cheque for any surplus monies. Alternately the Trust Direct Payments Monitoring Team can be contacted and can arrange to accept payment by bank transfer or card payment etc.

The Trust will ensure the Person managing the Direct Payment has adequate time to tie up the loose ends, (i.e. holiday pay / severance pay owed to the care worker, outstanding HMRC bills etc.). It is the responsibility of the Key Worker to advise the Person managing the Direct Payment of the process, and to secure any additional assistance or support they may need, e.g. from the Regional Independent Information Advice and Advocacy Service, Carer's Coordinator or Trust Finance Team.

A Direct Payment may also be ceased by the Trust if the Person managing the Direct Payment is not compliant with their commitments within this document including the returns they are required to make to the Trust. In the event of non-compliance with the management of the Direct Payment this must be escalated through the Line Manager. Consideration must be given to the alternate means of providing the care paid for under the Direct Payment and Senior Manager Permission is required to cease Direct Payments in all circumstances.

In the event that the Trust moves to cease the Direct Payment the Trust will lead in the closure of the account but will still require the co-operation of the Recipient / Administrator as set out above.

#### **4.2.1 Period of Suspension**

A payment may be suspended for a fixed period of time or for an open ended period to allow the resolution of the issue which caused suspension. The Trust will act to resolve any issues as expediently as possible and suspension may ultimately result in the Direct Payment recommencing, though potentially under different criteria, or in the cessation.

### **4.3 Responsibility of Trust Finance Staff**

The Southern Trust Finance Department have a Direct Payments Monitoring Team to monitor the financial returns on a quarterly basis. The Person managing the Direct Payment will be provided with information at commencement of the Direct Payment, which advises the Individual of when the Trust will require returns. In addition to this, the Trust issue quarterly reminder letters to each recipient with monthly reminders for those who have not responded to the initial quarterly reminder.

#### **4.3.1 Payment Arrangements for Direct Payments**

Finance staff should set up arrangements for the accurate and timely payment of Direct Payments in line with the agreement. Direct Payments are generally paid by BACS, four weeks in advance into the nominated bank account. This payment will generally be made on a four weekly basis. The Finance Department will issue details of the payment to the Person managing the Direct Payment prior to it being processed.

#### **4.3.2 Monitoring Arrangements**

The Person managing the Direct Payment is required to submit annotated bank statements on a quarterly basis to Trust Finance Department. The bank statement must contain notations on payments made e.g. online banking / a cheque written to a Personal Assistant, must state the workers name, "carer" will not suffice.

Written notes identifying any un-cleared cheques or bills pending e.g. "HMRC" can be added to the bottom of the statement. If the Person managing the Direct Payment wishes to continue using these documents for their financial returns this is acceptable, but not mandatory for simple or low cost Direct Payments. However the Person managing the Direct Payment should be encouraged to maintain time-sheets as a matter of good employment practice and record keeping particularly where there is more than one Personal Assistant.

Finance Staff will first alert Case Manager / Key Worker to a surplus. Any decision to cease payment must be discussed and agreed with the relevant senior manager. The Finance Department will refer any cases of noncompliance regarding not receiving quarterly returns to the Key Worker / Case Manager (and copy to their Line Manager) for investigation and decision. The Case Manager / Key Worker **must contact the Person**

**managing the Direct Payment to clarify the discrepancy and respond to the finance department within five working days.**

Quarterly monitoring by finance will assess the surplus in the account and **recoupment of excess funds will be sought where there is more than three times the four weekly payment** (more than 2 four-weekly surplus and 1 four-weekly payment). A letter is issued by Finance to the Person managing the Direct Payment in the first instance detailing the surplus balance amount and various methods to repay this. Where the Person managing the Direct Payment has a query about the surplus or make Finance aware they feel the surplus is to be used or held for a specific purpose Finance will contact the care manager / key worker to clarify this. Should there be no reason why the surplus has accrued, it must be returned.

Any charges accrued owing to the account being overdrawn or misused will be the responsibility of the direct payment recipient/administrator and will have to be repaid into the account.

#### **4.3.3 Audit**

Direct Payments are subject to independent review as part of the Trust's Internal Audit Plan. The audit is conducted in accordance with the HSC Internal Audit Manual and should review the Trust's systems, procedures and controls in addition to the Person managing the Direct Payment's records.

Direct Payment records are also subject to external audit and both Trust and Direct Payment Recipient records may be subject to review.

The Trust may also audit a Direct Payment arrangement where there is any cause for concern, whether this has been raised internally or externally. The Trust will conduct a Financial Review and will have the right to request any reasonable documentation as evidence of the use of Direct Payment funds for example invoices, receipts, bank statements, payroll and timesheets

#### **4.4 Review and Reassessment of Direct Payments**

As with all care arrangements the Key Worker remains responsible for reviewing the care/support plan and the management of the Direct Payment. The aim is to check that the quality and level of care/support is adequate if not then appropriate adjustment should be made, or carry out a reassessment if necessary.



























When a Direct Payment is first set up a review should take place within 3 months from the commencement of the Direct Payment and thereafter a minimum of yearly reviews should be undertaken in line with regional policy or sooner if required.

## SECTION 5: DIRECT PAYMENT DOCUMENTATION

The most up-to-date versions of all Southern Health and Social Care Trust Direct Payment documentation is available on the Direct Payment Tile on the Southern Health and Social Care Trust Self Directed Support SharePoint Site which can be accessed via:

[direct payments - All Documents](#)

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	00 SDS DP Checklist Guidance for Staff
	00 SDS DP Information pack checklist
	01 SDS Booklet
	02 DP Booklet
	03 guidance_for_receiving_direct_payments_2008__pdf_313_kb_
	04 Brief Guide to DP's
	05 Payroll Service Leaflet
	06 Inland Revenue Information
	07 VELA Microboard leaflet
	08 Fish Insurance Information
	08 Premier Insurance Information
	09 fish-insurance-safety-leaflet
	10 SDS Direct Payment Scheme Agreement
	11 Direct Payments Commissioning Form Guidance
	11 Direct Payments One Off Commissioning Form
	11 Direct Payments On-going Commissioning Form
	12 How to apply for an enhanced check through a registered body
	12 ID Validation Info
	13 Dates for quarterly returns and Finance department details
	14 Optional Monthly Timesheet
	15 Direct Payments Amendment Form Guidance
	15 Direct Payments Amendment Form
	16 Direct Payments Suspension Cessation Form Guidance
	16 Direct Payments Suspension Cessation Form
	17 SHSCT SDS Letter of Offer Template
	Appendix - Guidance for direct payment recipients updated 231118

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