

PERSONAL BUDGET (DIRECT PAYMENT) AGREEMENT

PARTIES

This Agreement is made between:

- (1) The London Borough of Southwark, Department of Health and Social Care of 160 Tooley Street, London SE1 2TZ (the "Council"); and
- (2) [*Insert full name and address of the service user receiving the Personal Budget*] (the "Service User").

PURPOSE OF THIS AGREEMENT

- (A) An assessment of the Service User's needs for community care services has been carried out and has confirmed that the Service User is eligible to receive those services that are identified in his/her support plan (the "Services").
- (B) The Service User wishes to assume responsibility for procuring all or part of the Services, so as to have more choice and control over his/her own care.

1. PAYMENT OF PERSONAL BUDGET

- 1.1 Subject to the Service User fulfilling his/her obligations under this Agreement, the Council agrees to pay the Personal Budget specified in the Service User's support plan to the Service User
- 1.2 The Service User must spend his/her Personal Budget in accordance with this Agreement and in fulfillment of his/her care needs as set out in his/her support plan.
- 1.3 The Service User must promptly notify the Council of any changes to his/her circumstances which may affect his/her Personal Budget funding, or of any other relevant changes.
- 1.4 The Council may review and re-assess the Service User's Personal Budget from time to time
- 1.5 The Council may at any time(s) monitor and/or audit the Service User's use of his/her Personal Budget to ensure that it is being spent in accordance with this Agreement and in fulfillment of the Service User's support plan.
- 1.6 If the Service User has been assessed to make a contribution to the cost of their Personal Budget (the "Client Contribution"), this will be deducted by the Council from his/her Personal Budget.

- 1.7 The Service User may choose to engage a 3rd Party to manage his/her Personal Budget. In such circumstances, the Service User agrees to pay to the 3rd Party the relevant Client Contribution.

2. USE OF PERSONAL BUDGET

- 2.1 The Service User agrees to use his/her Personal Budget to purchase any lawful goods or services which reasonably meet his/her care needs as identified in his/her support plan.
- 2.2 The Service User may top up his/her Personal Budget funding to purchase additional or enhanced goods or services at his/her own expense.

3. FINANCIAL MANAGEMENT

- 3.1 The Service User may use his/her Personal Budget to procure assistance to manage his/her Personal Budget.
- 3.2 The Service User shall maintain a separately designated bank account at a reputable clearing bank or building society solely for the purpose of holding and managing Individual Budget payments received by the Service User, details of which account are set out in Schedule 1 (the "PB Bank Account") If the Service User engages a 3rd Party to manage his/her Personal Budget then they may operate a separate bank account in accordance with the provisions of Schedule 3. All Personal Budget payments will be paid into the PB Bank Account. The Council may agree to a request from the Service User to use an existing account where the circumstances are acceptable or as a temporary measure to prevent the delay of the start of payment of the personal budget. The Council may at a later date insist on the use of a separate account in the future.
- 3.3 The Service User shall maintain records that show how their Personal Budget has been spent.
- 3.4 The Service User shall wherever possible ensure that all expenditure that is funded by his/her Personal Budget shall be made from the PB Bank Account.
- 3.5 The Council may require the Service User to pay back to the Council any Personal Budget funding, which is more than a four (4) week surplus and which is not needed for a specific purpose.

4. EMPLOYMENT OF STAFF

- 4.1 The Service User shall ensure that he/she complies with all relevant legal and regulatory requirements in relation to any persons that he/she employs using his/her Personal Budget.

- 4.2 The Service User shall ensure that there is an adequate employer's liability insurance policy in place at all times whilst he/she is employing staff using his/her Personal Budget.

5. COMPLIANCE AND COMPLAINTS

- 5.1 If the Council finds or suspects any irregularities in connection with the Service User's Personal Budget, or if there is any allegation of fraud in respect of or misuse of his/her Personal Budget, the Council may undertake an investigation of the Service User's records and his/her use of his/her PB Bank Account.
- 5.2 Wherever possible, the Service User should attempt to resolve a dispute or complaint in respect of his or her Personal Budget by contacting his or her social worker or other relevant contact at the Council.
- 5.3 Where the dispute or complaint cannot be resolved, the Service User has the right to complain about any aspect of the Council's administration of his/her Personal Budget through the Southwark Health and Social Care complaints procedure.
- 5.4 A copy of Southwark Health and Social Care's complaints procedure, policy and complaints form will be provided to the Service User with this Agreement.

6. TERMINATION AND SUSPENSION

- 6.1 Except as is set out in Clauses 6.1 and 6.2, the Council will endeavour to notify the Service User in writing at least four (4) weeks in advance of any change to the Service User's Personal Budget.
- 6.2 The Council may, without prejudice to any other rights or remedies it may have, terminate this Agreement by giving the Service User five (5) days written notice:
- (a) if the Council decides in its sole discretion that either the Service User no longer needs community care or that the termination of this Agreement is in the best interests of the Service User;
 - (b) if there are regulatory or legal changes that necessitate the termination of this Agreement; or
 - (c) if the Service User fails to remedy a material breach of the terms of this Agreement within five (5) days of being given written notice thereof by the Council.
- 6.3 The Council may, without prejudice to any other rights or remedies it may have, suspend Personal Budget payments and/or immediately

terminate this Agreement (without the need to give the Service User notice) in the following circumstances:

- (a) the Service User is admitted to hospital or other care institution;
- (b) the Service User dies;
- (c) the Service User requests the termination of this Agreement;
- (d) there is evidence that the Service User or a person purporting to act on behalf of the Service User has committed fraud or deliberately misused Personal Budget funding; or
- (e) in the reasonable view of the Council, the 3rd Party arrangements that the Service User has put in place are placing or may place the Service User's interests at risk.

6.4 Where the Council terminates Personal Budget payments, the Council will, if appropriate, make appropriate arrangements for the Service Users care needs to be met.

7. **GENERAL**

7.1 The parties agree that the Council may, in its sole discretion, review, vary or amend any of the terms and conditions of this Agreement at any time. The Council will wherever practicable notify the Service User in writing of any such changes or variations.

7.2 This Agreement constitutes the entire agreement between the Council and the Service User and replaces any previous arrangement between the Council and the Service User whether written or oral relating to Personal Budget.

The parties agree to the terms and conditions of this Agreement.

Signed by the Service User receiving the Personal Budget

Date: _____

Or, signed by the Chosen Decision Maker on behalf of the Service User, confirming that the contents of this Agreement have been explained to the Service User and that the Service User agrees the terms of this Agreement (if a Chosen Decision Maker is signing this Agreement on behalf of the Service User, the Chosen Decision Maker must also agree and sign Schedule 2).

Signed by the Chosen Decision Maker on behalf of the Service User receiving the Personal Budget

Name: _____

Address: _____

Date: _____

Signed on behalf of Southwark Council

Name: _____

Position: _____

Date: _____

**Panel Approved
Date** _____

**Personal Budget
Start Date** _____

There are two copies of this Agreement. Please sign and date both copies and return them to the *Finance & Resources (Personalisation Team)* , *Adult health & Social Care, PO Box 64529, London, SE1P 5LX*. A representative of the Council will sign and date both copies, keep one for the Council's records and return one to you for your records.

SCHEDULE 1
Details of PB Bank Account

The Personal Budget will be paid into the PB Bank Account every four weeks. The first payment will be made on [*insert date*].

The Personal Budget will be paid into the following PB Bank Account:

Name of account holder: [●]

Name and address of bank: [●]

Account number: [●]

Sort code: [●]

Please indicate when this bank account is not a separate account set up for this personal budget. ***This is only permitted if a written request to do this has been agreed by the Council.***

If this is a temporary agreement please indicate here when the separate Bank Account will be available

The new Bank Account will be available by _____
(***Delete if not relevant***)

SCHEDULE 2
Applicable if there is a Chosen Decision Maker

1. The Service User may choose to appoint a person that he/she trusts to assist with the management of his/her Personal Budget (the “Chosen Decision Maker”). In such circumstance, the Chosen Decision Maker agrees to comply with all relevant terms of this Agreement. The Service User should as far as possible maintain control over how any Chosen Decision Maker manages his/her Personal Budget.
2. The Chosen Decision Maker acknowledges that he/she is in a position of trust and agrees to act in the best interests of the Service User at all times.
3. The Service User may at any time cease to use a Chosen Decision Maker or change his/her Chosen Decision Maker, but must promptly notify the Council of any such cessation or change.

The Chosen Decision Maker agrees to the terms and conditions set out in this Schedule.

Signed by the Chosen Decision Maker

Name: _____

Address: _____

Date: _____

SCHEDULE 3
Applicable if there is a Third Party engaged or involved

1. The Service User may choose to engage a person (the “Third Party”) that he/she trusts to assist with the management and meeting the outcomes identified in the support plan of his/her Personal Budget.
2. The services provided by a Third Party may include any or all of the following:
 - (a) managing the funds including paying bills and carrying out other transactions as required by the Service User;
 - (b) provision of payroll services; and/or
 - (c) providing advice to the Service User on his/her responsibilities.
3. The Third Party may also be a direct provider of the services under the Service User’s support plan. In this case, the Third Party will not only be managing funds, but will be required to make the arrangements to pay itself. The Third Party must take special care to ensure the Service User is notified and aware of all payments and charges made from his/her Personal Budget.
4. The Service User is responsible for meeting the cost of the provision of any Third Party services from his/her Personal Budget. The costs should be included in the support plan.
5. The Service User may chose to pay additional amounts to purchase additional services from the Third Party.
6. It is essential that the Third Party has sufficient funds to meet all the supply needs in the support plan. The Service User is therefore required to ensure that his/her assessed Client Contribution is sent to the Third Party in a regular and timely manner. Failure to do this can lead to the cancellation of this Personal Budget Agreement.
7. The Service User hereby authorises the Third Party to supply the Council with any information the Council considers necessary to ensure that the Personal Budget arrangements are working properly.
8. The Third Party is responsible for informing Southwark Council promptly if Client Contributions are not made on time.
9. The Service User shall ensure that he/she has a written agreement with the Third Party that sets out the scope and cost of the services being provided. The Service User agrees to provide a copy of this written agreement to the Council upon receiving a written request to do so.

10. The Service User may at any time cease to use a Third Party but must promptly notify the Council of any such cessation.

- 13 Any funds held by the Third Party on termination of their agreement with the Service User must be used to pay any debts under the support plan and any charges owed to the Third Party by the Service User. Any surplus funds shall be refundable to the Council which will determine how much, if any sums, are still due to the Service User.

Details of Third Party

Full name:	
Full address:	

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Details of Third Party

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