

# **self directed support policy and procedures**

*Revised 2013 – awaiting further revision following  
implementation of self directed support legislation*

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# SELF DIRECTED SUPPORT

## POLICY AND PROCEDURES

### **1. Part 1: Introduction**

#### **1.1 Background**

- 1.1.1 Direct payments are a different way of fulfilling existing community care responsibilities. They can be perceived as a major step forward for community care, and present an opportunity to bring about improvements in the quality of life of people who would like to manage their own services.
- 1.1.2 Direct Payments were introduced by the Community Care (Direct Payments) Act 1996 in April 1997, and enabled people with a disability to receive money from local authorities to buy their own services. Local authorities had the power but not a duty to make direct payments.
- 1.1.3 The Community Care and Health (Scotland) Act 2002 will make a number of changes to legislation on direct payments in Scotland. Section 7 of the Act outlines the proposals on direct payments. These proposals will come into effect when the Scottish Executive has issued the appropriate regulations. The current projected implementation timescales for each of these is contained in Annex H.

1.1.4

#### **1.2 Purpose**

- 1.2.1 North Lanarkshire Council is committed to ensuring that people with disabilities are supported to take their full and rightful place at the heart of our communities. In order to make this goal achievable North Lanarkshire Council has to offer an alternative to the kinds of conventional services that have, in the past, shaped the lives of people with a disability. People must have the option of shaping their own lives and determining what types of services they receive. For this reason North Lanarkshire Council has developed Self-Directed Services.
- 1.2.2 The term Self Directed Services has been introduced to describe all arrangements for individualised services. It encapsulates a philosophy that very much promotes the full inclusion and full participation of each person in the communities in which they live. It brings to the fore the importance of choice and control before money. Often people's lives can be enhanced considerably with good quality person centred planning, facilitating good connections to friends, families and communities.
- 1.2.3 As with direct payments, Self-Directed Services are services that are directly controlled by the individual or by an appropriate representative. Rather than North Lanarkshire Council arranging the services and support it has assessed the person as requiring, it makes a payment which enables the person to secure for himself or herself the relevant service and support they require to meet their assessed needs. So long as North Lanarkshire Council is satisfied that the person's assessed needs will be met through the arrangements he or she makes, using the direct payment, the Council is relieved of its responsibility to arrange those services for that person.

### **1.3 Aim**

1.3.1 In line with the Social Work Mission Statement, the development of Self Directed Services demonstrates the Department's commitment to promoting social welfare and social justice as well as working with people to promote dignity, empowerment and choice. These key issues are intrinsically embedded within the development of Self Directed Services.

1.3.2 The overall aim of Self Directed Services is to increase disabled people's independence by giving them more choice and control over the way the community care services they require are delivered.

1.3.3 The advantage of Self-Directed Services are that they:

- Respect the rights and dignity of disabled people
- Enable the individual to be at the centre of decision-making
- Improve the level of quality-control that the individual has over services
- Increase the ways in which real value for money can be realised

## **2. Part 2: Scope of Current Legislation.** [Sections 12B and C of the Social Work (Scotland) Act 1968]

From 1 June 2003, a provision in the Community Care and Health (Scotland) Act 2002 ("the 2002 Act") will make it a duty for the authority to offer all eligible people direct payments as an alternative to arranging the services for them. From 1 April 2004 the scope will be widened beyond disabled people to include all community care client groups and children. (Annex H gives further details.)

### **2.1 What services can direct payments be used to purchase?**

- 2.1.1 Section 12B of the 1968 Act enables the local authority to make direct payments, but only in lieu of community care services, as defined by section 5A(4) of the 1968 Act.
- 2.1.2 Section 70 of the Regulation of Care (Scotland) Act 2001 amends the definition of community care services, for the purposes of direct payments, to include children's services available under section 22(1) of the Children (Scotland) Act 1995. As a result, since 20 December 2001, direct payments could be used by disabled young people aged 16 and 17, to purchase children's services. This amendment also allowed disabled parents to purchase children's services to assist them with their parenting role.
- 2.1.3 Direct payments may only be offered to people who have been assessed, under section 12A of the 1968 Act, as needing community care services or to 16 and 17 year olds and disabled parents for children's services available under section 22(1) of the 1995 Act. This means that the local authority will not offer direct payments to people who do not meet the usual eligibility criteria for community care or children's services.

### **Children's Services**

- 2.1.4 Section 22(1) of the 1995 Act relates to the provision of services for children in need. The definition of a child in need is, however, very broad and not only includes children who are disabled, but also those who are adversely affected by the disability of any other person in the family. Whilst the Act imposes certain duties on the local authority to safeguard and promote the welfare of children and to provide a range and level of services appropriate to children's needs it does not stipulate the type or range of services which should be provided. Section 22(3)(b) of the Act allows the local authority to make cash payments in lieu of children's services.
- 2.1.5 Whether arranging services or making a direct payment, the local authority will ensure that children who are not defined as being in need, as detailed in paragraph 2.1.4, neither receive services or a direct payment.

### **Equipment**

- 2.1.6 The 1968 Act allows direct payments to be made to enable people to purchase for themselves equipment to meet their assessed needs, which come within the legal definition of community care services and so would otherwise be provided by the local authority. This includes disability equipment and those items relating to a sensory impairment.
- 2.1.7 The need for equipment can relate to people of all ages and will usually involve a single/one off payment, unless aftercare or maintenance services are required, for example, a stair lift. The use of a direct payment to purchase equipment will only be agreed by North Lanarkshire Council if it has been identified that this is the most cost-effective way of securing the assessed for and required piece of equipment.

- 2.1.8 North Lanarkshire Council may agree to fund a one-off direct payment for a specific piece of equipment, as agreed and detailed in the individual's support plan. Recipients can, however, also contribute their own personal finances to pay for a piece of equipment with a higher specification to that being offered by the department or select an alternative option as long as it meets their assessed needs. Where agreement for this has been given, procedures set out in Annex M must be followed.
- 2.1.8 The request for a direct payment for equipment will not supersede any existing priority system that North Lanarkshire Council has in place for such services.

## **2.2 What services can direct payments not be used to purchase?**

- 2.2.1 The 1968 Act does not authorise any other body, such as a health board or a local authority housing department, to make direct payments; nor does it enable direct payments to be used to purchase health or housing services. Direct payments may, however, be made by the local authority in place of the social care element of jointly commissioned services, but they cannot be made by health boards, or used to purchase the health element of jointly commissioned services.
- 2.2.2 Direct payments cannot be used as a substitute for Home Improvement Grants for adaptations for disabled people or for any adaptation that would normally be provided by a landlord.

### **Local authority services**

- 2.2.3 From 1 June 2003 local authorities will, if they wish, be able to sell their services to direct payments recipients. North Lanarkshire Council has, however, decided to not pursue this option as this would lead to double administrative costs. (See Annex H.)

### **Long term residential care**

- 2.2.4 Direct payments may not be used to purchase long term residential care. They may however, be made to enable disabled adults to purchase for themselves short stays subject to the maximum period specified by regulations made under section 12B(4) of the 1968 Act. Again, a check against the latest Regulations should be carried out, but currently the Regulations specify that where two periods of residential respite care are less than 4 weeks apart, they should be added together to make a cumulative total. If the two periods are more than 4 weeks apart they are not added together. The cumulative total, calculated in this way, cannot be more than 4 weeks in any twelve-month period.
- 2.2.5 For example, someone might have one week of residential respite care every 6 weeks. Because each week in residential respite care is more than 4 weeks apart, they are not added together. The cumulative total is only one week and the 4-week limit is never reached. Another person might have three weeks in residential respite care, 2 weeks at home, and then another week in residential respite care. The 2 episodes of residential respite care are added together to make 4 weeks, so the person cannot use their direct payments to purchase any more residential respite care within a 12-month period.
- 2.2.6 People can receive additional residential respite care once they have reached the 4-week maximum. They cannot purchase the residential respite care using their direct payments, but if the assessment worker considers that further residential respite care is needed, the authority can still arrange and fund residential respite care for the person in the normal way. There is no restriction on the length of time for which the authority may arrange residential respite care for someone.

## **Employing Close Relatives Living in the same Household**

- 2.2.7 Regulations made under new Section 12B(3) of the 1968 Act prevent people using direct payments to secure services from their spouse, their partner (i.e. the other member of a married or unmarried couple) or a close relative living in the same household. A close relative in this context is a parent, parent-in-law, aunt, uncle, grandparent, son, daughter, son-in-law, daughter-in-law, stepson or daughter, brother, sister or the spouse or partner of any of the foregoing. In addition, local authorities can not apply an exception to this regulation, even if it is satisfied that such employment would be the most appropriate way of securing the relevant services. This restriction is not intended to prevent people using their direct payments to employ a live-in personal assistant (provided that that person is not someone who would be excluded automatically by the regulations). The restriction applies where the relationship between the two people is primarily personal rather than contractual; e.g. if the people concerned would be living together regardless of any employment relationship.

## **Employing Close Relatives: - Living in a different Household**

- 2.2.8 The regulation against using direct payments to employ and secure services from the people mentioned in 2.2.7 does not extend to these same people if they live in a different household from the person receiving the direct payment.

## **Employing Spouse:**

- 2.2.8 2.2.9 The spouse of the person receiving the direct payment can not be employed to provide services to the person irrespective of where they live..

## **2.3 Who can receive direct payments?**

- 2.3.1 Not everyone who is eligible for community care services will be eligible for direct payments. The Community Care (Direct Payments) (Scotland) Regulations 1997 ("the 1997 Regulations"), as amended by the Amendment Regulations 2000 and 2001 (made under Section 12B(1)(b) of the 1968 Act) specify which groups of people are eligible to receive direct payments. The eligible group is defined as certain persons aged 16 or over, in need, who are capable of managing direct payments, with or without assistance. In addition, with effect from 1 April 2005, local authorities have had a duty to extend eligibility to include older people aged 65 and over who are assessed as needing community care services due to infirmity of old age. This is by virtue of Community Care (Direct Payments) (Scotland) Amendment Regulations 2005 (SS1 2005/114)
- 2.3.2 The Regulations define a "person in need" by reference to the definition in Section 94(1)(b) of the 1968 Act. This includes people with any kind of disability for example, those with physical, including sensory disabilities, learning disabilities and people who are disabled by illness, for example, those affected by mental illness, arthritis or by HIV/AIDS.
- 2.3.3 Everyone to whom direct payments are made must give their consent (see paragraphs 2.5.1 to 2.5.5) to receiving direct payments. They must also be able to manage them alone or with assistance (see paragraphs 2.6.1 to 2.6.8). Within the eligible groups, North Lanarkshire Council will not discriminate or exclude whole groups of people from being deemed competent to consent to direct payments when considering their suitability.

## **2.4 Who cannot receive direct payments?**

- 2.4.1 The regulations in force also specify that direct payments may not be offered to certain people whose liberty to arrange services is restricted by certain mental health or criminal justice legislation as follows:
- (a) patients subject to after-care under a community care order under the mental health legislation;

- (b) patients detained under mental health legislation who are on leave of absence from hospital;
- (c) restricted patients conditionally discharged under mental health or criminal justice legislation;
- (d) offenders serving a probation order subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency;
- (e) offenders released on licence subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency; or
- (f) people subject to equivalent mental health or criminal justice legislation applicable in England, Wales or Northern Ireland.

2.4.2 People in these groups are required to receive specific community care services. Offering them direct payments in lieu of those services would not give a sufficient guarantee that the person would receive the services required. Further details of restrictions are given in section 2(2) of the 1997 Regulations.

## **2.5 Giving consent**

2.5.1 Sections 12(b) and C of the 1968 Act place a duty on local authorities to make direct payments available to eligible adults and children who wish to receive them. The legislation requires local authorities to make direct payments to people who have been assessed as needing services, who give their consent (or in certain circumstances, consent is given on their behalf), who are able to manage them (with as much assistance as necessary, see paragraphs 2.6.1 to 2.6.8) and who do not come within the list of persons excluded by regulations. (See paragraph 2.4.1)

2.5.2 There are three main considerations inter-linked with the issue of consent. Firstly does the person wish to receive a direct payment, secondly, is the person able to give their consent and thirdly is the person able to manage the direct payment. In most instances the answers to these points will be straightforward and easily determined.

2.5.3 In all instances the person must want to receive a direct payment. For some people who use non traditional methods of communicating this will need to be evidenced specifically. In such instances the person must receive access to ongoing supported decision-making mechanism before any judgement can be made. (See Annex O)

2.5.4 In instances where it has been established that a person is unable to give consent or is under the age of 16, others, namely attorneys, guardians or parents, who have been given the power to accept direct payments on the person behalf, can give consent. In these circumstances North Lanarkshire Council will satisfy itself that there is proof that powers to accept the direct payment are in place. Powers to accept direct payments on the person's behalf refer to Power of Attorney, Intervention Order and Guardianship Order. (See Annex N)

2.5.5. Where there is doubt about a person's capacity to give consent, North Lanarkshire Council will start from the premise that each person has the capacity to consent, although they may require support. This could take the form of a User Controlled Trust<sup>1</sup>, a 'Circle of Support'<sup>2</sup>, or advocacy (see paragraphs 3.4.3. to 3.5.1). It will ensure that under the Adults With Incapacity (Scotland) Act 2000 when deciding whether or not someone is able to give their consent to direct payments, no account will be taken of their ability to give any other kind of consent. Only once such support is known to be unavailable and reasonable doubts can be shown to remain, would North Lanarkshire Council refuse to make the direct payment.

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<sup>1</sup> A User Controlled Trust or Independent Living Trust is an obligation binding a trustee to deal with property or money in a particular way, for the benefit of one or more beneficiaries. The Trust is witnessed, and registered with the Inland Revenue.

<sup>2</sup> A Circle of Support is a group of supporters who help an individual achieve their goals. It is not a professional entity; its members are people who have a strong commitment to that individual.

- 2.5.6 The third point about the person being able to manage the direct payment is addressed in paragraphs 2.6.1.to 2.6.5.
- 2.5.7 Direct payments give people greater control and independence, but this increased freedom is inevitably accompanied by increased responsibilities. When individuals consent to direct payments, or where consent is given on their behalf, they take on the responsibility for arranging and purchasing the services to which the payments relate. As well as this they take on legal responsibilities such as becoming an employer, or by contracting with an agency (see paragraphs 3.3.1 to 3.3.4). These responsibilities may involve a substantial commitment in terms of time and energy, and should not be underestimated. (See Annex A)
- 2.5.8 North Lanarkshire Council will not give direct payments to a person unless they are satisfied that he or she appreciates and accepts the aforementioned responsibilities involved. However, North Lanarkshire Council does accept that an individual may receive as much assistance as he or she requires for understanding and giving consent to direct payments.
- 2.5.9 North Lanarkshire Council will explain what is involved as fully as they can to people who wish to consider managing their own services and receiving direct payments. They will not expect people to commit themselves to accepting direct payments before full information is available; for example before the person has been informed how much money they would receive or what information they would be expected to record for monitoring purposes. (See paragraphs 4.11.1 to 4.11. 7 and Annex A).
- 2.5.10 In particular, North Lanarkshire Council will draw people's attention to the fact that any contract they make for the provision of services will involve legal responsibilities, and that if the person contracts directly with an individual they will be regarded as an employer. North Lanarkshire Council will make clear to each person that it is his or her own responsibility to ensure that he or she is aware of, and complies with, any legal responsibilities. (See Annex A)
- 2.5.11 Having offered someone a direct payment North Lanarkshire Council will, through the assessment/support planning process, make sure that the person understands that he or she is under no obligation to accept it. It will make clear that the person has the option, at any time, of withdrawing his or her consent to receive direct payments. North Lanarkshire Council will also discuss with the person who is to receive direct payments what they should do if they no longer wish to receive direct payments and that in such circumstances services to meet their needs would be arranged in the usual manner. (See Annex A)
- 2.5.12 Situations may arise where an individual will refuse to accept the direct payment because they object to a specific aspect of the terms on which the payments are offered for example, the amount. In such instances, North Lanarkshire Council will endeavour to resolve such matters at an early stage through discussion between the care manager/social worker and the person themselves. If the matter remains unresolved this should be referred to the care manager's line manager for action. North Lanarkshire Council will of course advise people, in this situation, of their right to use the Complaints Procedure. (See Annex I)

## **2.6 Managing payments**

- 2.6.1 North Lanarkshire Council will only offer direct payments to people whom they consider will be able to manage them, either alone or with assistance. It is important to note, however, that there is no limit to the amount of help an individual can receive. Also, people who require help on a permanent or indefinite basis still come within the eligible group of people to whom the local authority may offer direct payments too.
- 2.6.2 North Lanarkshire Council will not make blanket assumptions that whole groups of people will necessarily be unable to manage - this also includes people, who due to a fluctuating condition may from time to time experience difficulties. The judgement as to whether someone is able to manage will be made on an individual basis, taking

into account the views of the individual. As with all assessments, professionals from other fields may be involved where appropriate.

- 2.6.3 If a local authority has any doubts about a person's ability to:
- express their personal choices and preferences (with assistance to communicate their views or preferences, if necessary) between different types of service;
  - (with assistance) be able to keep the necessary records;
  - (with assistance) appreciate and cope with the legal responsibilities that may arise if he or she becomes an employer;
  - ensure that he or she receives services he or she has paid for; or
  - to manage direct payments on an ongoing basis (as opposed to having a fluctuating or deteriorating condition, which may affect his or her ability to manage) however, see paragraph 2.6.5 for guidance.

then they should consider what assistance would enable the person to manage that aspect.

- 2.6.4 Given that direct payments are intended to facilitate independent living, not switch from dependence on the local authority to dependence on an agent, unless and until North Lanarkshire Council is satisfied about the nature of the relationship between the disabled person and their agent, direct payments will not be allowed to begin. (See Annex A)

- 2.6.5 People can ask carers or family members to be their agent (See Annex A). However, the restrictions on paying relatives described in paragraphs 2.2.7 and 2.2.8 will apply. Other options to assist in the management of the payments could include for example, setting up a Circle of Support, User Controlled Trust, a Living Will or a back-up system controlled by the local authority and triggered during periods when the person is unable to manage. These options can realistically assist a person with a fluctuating or declining ability to manage and thereby prevent an individual from reverting back to local authority provision. Irrespective of which, if any option for assistance is selected it is absolutely crucial that the person remains central to the process.

- 2.6.6 North Lanarkshire Council will offer access to training, to assist direct payment recipients to manage, through a Support Service or Centre for Independent Living. This will ensure that North Lanarkshire Council has no responsibility for the day to day management of the direct payment, service provision, or for any employment issues.

- 2.6.7 In order to ensure that the individual is satisfied with the way in which the direct payments are being used, North Lanarkshire Council will periodically check and, if necessary, require action to be taken so that the monitoring and review procedures will involve direct contact with the individual for whom the payments are made. (See Annex C).

- 2.6.8 North Lanarkshire Council will ensure that they handle sensitively discussions about a person's ability to manage direct payments, and to include their carer, family and supporters wherever necessary. This is particularly important where the authority decides not to offer someone a direct payment because it does not consider that, even with assistance, the individual will be able to manage them. In such instances, North Lanarkshire Council will make the individual aware that they can use the Complaints Procedure to challenge the decision. (See Annex I)

## **2.7 Emergency Assistance**

- 2.7.1 Making direct payments, rather than arranging actual services, does not affect a local authority's function of providing emergency assistance under Section 12 of the 1968 Act or Section 22 of the 1995 Act. If the authority considers the circumstances to be

so exceptional as to require such assistance, they may provide it in respect of the services to which the direct payments relate (see Section 12C (3) of the 1968 Act).

### **3. Part 3: Consultation, information and support**

#### **3.1 Consultation**

3.1.1 North Lanarkshire Council actively seeks the views of representatives of people who use community care and children's services when preparing the Community Care and Children's Services Plans. In the future this will also include representatives of people who receive or are likely to receive direct payments, their carers and others with an interest, including local support organisations and service providers. During this process particular care should be taken to include the views of people with different types of disabilities, people from different ethnic backgrounds and people of different ages. Whatever form the consultation takes, those consulted will receive feedback about what has happened, and how their views will be taken into account.

#### **3.2 Information**

3.2.1 As with all local authority services, North Lanarkshire Council will ensure that information about direct payments is readily available and in a variety of formats that are accessible to people with different forms of disability and to people whose first language is not English.

3.2.2 North Lanarkshire Council will seek to work in partnership with local user-led support groups and other interested parties to establish a support service for people wishing to manage their own services. People considering whether to manage their own services will be able to receive information, advice and support on a range of subjects associated with direct payments. Information about other supports available to people locally and nationally will also be made available.

3.2.3 North Lanarkshire Council acknowledges that the majority of people with learning difficulties have little real knowledge about their current services, how they operate, who pays for the services or who controls the spending. Information about direct payments may therefore be meaningless if people do not understand the system that they are replacing. In addition, people with learning difficulties may have little control over their current services and may not even be aware that they have real choices. To be effective therefore, information about direct payments needs to include enough information about service provision for people to realise the choices on offer.

#### **3.3 Support**

3.3.1 Research<sup>3</sup> shows that developing a support system is a prerequisite of a successful direct payment scheme. Research also shows that the existence of a local support organisation reduces the work of the local authority. It is therefore important that North Lanarkshire Council arrange for people to have access to this type of support, for example through some form of a support service such as, a Centre for Independent Living.

3.3.2 As acknowledged in paragraphs 2.6.5 to 2.6.6 some people who choose to manage their own services may need particular support when they first take on this range of responsibility.

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<sup>3</sup> Direct Payments: the impact on choice and control for disabled people - Witcher et al - Scottish Executive (2000)

3.3.3 North Lanarkshire's support service will provide people with the following services:

- information and advice on becoming an employer
- access to a payroll service, which will assist individuals with tax, National Insurance or other related matters
- it will hold a list of local agencies
- it will provide practical help for individuals who wish to contract with agencies
- it will provide practical support to help people to draft advertisements, job descriptions and contracts
- it will provide assistance with interviewing, or act as an address for responses to advertisements
- it will arrange training, for example in budgeting or assertiveness skills
- it will provide carers with advice and support, particularly if they are assisting their friend or relative with managing their own services
- it will also provide employees of people receiving direct payments access to training or support

3.3.4 People who manage their own services and receive direct payments may also find it helpful to have access to advocacy support. The support service may be able to represent the views of users as a group or in individual cases, but other advocacy services exist locally.

## **3.4 Supported Decision Making**

3.4.1 The Adults with Incapacity (Scotland) Act 2000 ("the 2000 Act") starts from the premise that everyone has the capacity to consent until proved otherwise. Under the 2000 Act, a person cannot be deemed incompetent to consent to direct payments purely on the basis that they have, or are suspected of having a learning or similar difficulty. Similarly, an individual cannot be deemed incompetent to make a decision about one aspect of their life, simply because they have been deemed incompetent in another area.

3.4.2 Each decision relating to capacity can only relate to that particular decision making area. North Lanarkshire Council will be clear about what choices and decisions are involved in consenting to direct payments. For example, is the person consenting to stay in their own home, or to be able to choose their own support worker, or to go on a college course one day a week instead of to the day centre? The assessment about capacity to consent needs to be clear about an individual's ability to express preferences about all areas of their life in order for a judgement to be made about the choice and control an individual has over the decision to have direct payments and what this will mean for them.

3.4.3 Research<sup>4</sup> has shown that people with learning difficulties, when given the right support, can exercise control over their own services enabling them to achieve a better quality of life. If a service is right for an individual and works successfully, the consent issue is unlikely to be challenged. It is important to put in place appropriate safeguards (i.e. supported decision making in the form of a Trust, 'Circle of Support', or advocate) so that people who might be regarded as being vulnerable are not exposed to risk from abuse. (See AnnexO)

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<sup>1</sup> Making Decisions – Values Into Action (2001) and Funding Freedom 2000 - Values Into Action (1999).

3.4.4 Supported decision making is the best way to try to ensure an individual is able to consent to and exercise appropriate choice and control over their services. This approach emphasises the right of people to whatever assistance they need in order to be self-determining. It also highlights the process of making decisions. Further information on this is available in Values Into Action publications<sup>5</sup>.

### **3.5 Independent Advocacy**

- 3.5.1 The role that independent advocacy will play in the successful operation of self directed services will not be under-estimated by North Lanarkshire Council. In general, independent advocacy can help to:
- promote respect for the rights, freedoms and dignity of vulnerable people, both individually and collectively
  - ensure people receive the care or services to which they are entitled, and which they wish to receive
  - enhance people's autonomy
  - assist people to live as independently as possible and in the least restrictive environment, and
  - help protect disadvantaged people from abuse and exploitation.

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<sup>1</sup> (1) Trusting Independence: A Practical Guide to Independent Living Trusts; (2) Making Decisions: best practice and new ideas for supporting people with high support needs to make decisions, and (3) Funding Freedom: People with Learning difficulties Using Direct Payments.

## **4. Part 4: Self Directed Services in Practice**

### **4.1 Assessment**

- 4.1.1 Assessment is a crucial process. Getting the assessment right is the key to making self directed services work. The needs assessment process will be the same regardless of whether the person being assessed is likely to receive services or use a direct payment. There is no difference in the assessment of needs; the difference is in the delivery of the services required.
- 4.1.2 It is important that the needs-led focus of the assessment is retained and that the individual and, with his or her agreement, any informal carer should be involved throughout the assessment process. The greater involvement the individual has in the assessment process and in the decisions reached about self directed services, including the use of direct payments, the more likely it is that it will be a success. The assessment of needs and decisions about how these needs should be met should be part of one process.
- 4.1.3 In taking forward one of the recommendations contained within the Joint Future Group Report, to improve results for people using community care services, work to develop and introduce single shared assessments is required. (Circular CCD 8/2001:Guidance on Single, Shared Assessment of Community Care Needs<sup>1</sup>)
- 4.1.4 The assessment can be carried out by a social worker, care manager, occupational therapist or any other individual to whom North Lanarkshire gives the appropriate authority and will clearly identify what the individuals needs are and will involve the following practical tasks:
- completing a Community Care Assessment (D11) form for the individual and assessing whether the individual is entitled to community care services.
  - checking that the individual is claiming all the benefits to which they are entitled. If they are not then providing practical support to claim appropriate benefits or referring the individual to an appropriate benefits expert.

### **4.2 Defining the care/support plan**

- 4.2.1 Based on the outcome of the person's assessment, if the individual is entitled to community care services then it will be necessary to develop a care/support plan; the outcome of which will result with an appropriate package of care being identified.
- 4.2.2 As it is the aim of North Lanarkshire Council to see each individual using Self-Directed Services take the maximum possible control over the development of their own service/s. It is essential that:
- the planning for services should be carried out in a way that ensures that the individual is kept at the centre of the planning and
  - the individual is supported to plan in the way that is most appropriate for them as an individual

<sup>1</sup> See Website at <http://www.show.scot.nhs.uk/sehd/publications/DC20011129CCD8single.pdf>

- 4.2.3 Once the care/support plan has been identified and has resulted in an appropriate care package being identified, various service delivery options need to be explored along with the individual to determine the service and support option/s most appropriate to their identified needs. Those options include:
- to use a service that is provided by North Lanarkshire Council
  - to use a service that is funded by North Lanarkshire Council
  - to receive a direct payment and, if required, receive support to manage that funding as previously highlighted
  - to receive a mix of services via a direct payment and services provided or funded by North Lanarkshire Council
- 4.2.4 In considering whether the persons proposed plan would be adequate, North Lanarkshire Council will not be constrained by existing patterns of service provision. By exploring innovative and creative options, it may be possible to identify alternatives that cost less and/or meet the individual's needs more effectively. Where the individual's needs fluctuate over time, it will be important to discuss in advance how the direct payments will be used to secure a package of assistance which varies according to need. (See paragraph 2.6.5)
- 4.2.5 Support, assistance and guidance in these areas can come from a number of different sources: North Lanarkshire Council employee, e.g. a Care Manager, Social Worker, ILS Advisor, local support group or,
- an independent advocate or advocacy agency
  - informal contacts, e.g. friends or family
  - a Circle of support
  - a Trust

### **4.3 Assessment for direct payments**

- 4.3.1 Direct payments can only be offered to someone who has been assessed as needing either community care or children's services (or in the case of disabled parents where their children have been assessed as in need of services). The decision to offer direct payments therefore follows the assessment of an individual's needs and capacity (see paragraphs 3.4.1 to 3.4.4)
- 4.3.2 In addition to the assessment of the person's needs, if North Lanarkshire Council is considering offering the person direct payments, to manage their own services, then the process will need to include an assessment of whether direct payments are appropriate. In particular, it will need to assess whether the person is able to manage them (see paragraph 2.6.1). The person will also need time and possibly support (see paragraphs 3.3.1 to 3.3.4) to think through the implications of managing their own services and to consider whether this is what he or she wants. Time for this to take place therefore requires to be built into the assessment process. North Lanarkshire Council will also, at this stage, advise the person about the supports and services local support groups and the support service can provide.

#### **4.4 Carers and assessments**

- 4.4.1 It is already good practice to ensure that wherever appropriate, carers are involved in the assessment of the person they care for. There should be discussion with the person being assessed and, with the individual's agreement, the carer about how the assessment should be carried out, and how the carer might be involved. Carers should be involved in the assessment of the cared-for person irrespective of whether the person being assessed is likely to wish to manage their own services or accept services after the assessment.
- 4.4.2 The 2002 Act will formally require North Lanarkshire Council to take account of the contribution and views of carers who provide (or intend to provide) "a substantial amount of care on a regular basis" and the people they care for before deciding on the services/supports to be provided to the cared-for person. The 2002 Act does not however, give these or any other carers an entitlement to receive services or direct payments in their own right. The Executive will issue guidance in relation to the new rights afforded to carers, by this Act, later this year.
- 4.4.3 From September 2002, the 2002 Act has entitled carers to have a separate assessment of their ability to care at any time. Also, since September 2002 the 2002 Act has given the local authority a duty to inform eligible carers that they may be entitled to such an assessment.

#### **4.5 Agree responsibilities**

- 4.5.1 If the individual chooses to only use a service/s provided by North Lanarkshire Council then the responsibility for managing this currently lies with North Lanarkshire Council or with any of the organisations that North Lanarkshire contracts to provide those services. All such services are, of course, obliged to consult with the individual to ensure that to every extent possible their services meet the individual's needs. However, such services will not count as Self Directed Services for the purposes of these procedures; and the policies and procedures that govern those services will not be considered here.
- 4.5.2 In everything that follows it is assumed that the individual, or somebody who North Lanarkshire Council accepts as speaking on the individual's behalf, has expressed a willingness to use Self-Directed Services. (See paragraphs 2.5.1 to 2.5.3)
- 4.5.3 For a Self-Directed Service there needs to be one person or legal body that can take responsibility for managing the service. That person can be the person who receives the Self-Directed Service or it can be an agent. (See paragraphs 2.6.5 and 2.6.6 and Annex D)

#### **4.6 Agree the care/support plan**

- 4.6.1 Care/support plans in relation to self directed services that may include a direct payment would need to cover all the areas discussed between the authority and the individual and set out clearly what has been decided. The plan will make clear to the individual what the money may or may not be spent on and how much flexibility he or she has in the way in which the money is spent. It should also include any type of variations to the package of services which the authority would expect to be asked to approve in advance, the information the individual will be expected to provide for audit purposes and any other conditions which North Lanarkshire Council has set. Annex B to this guidance contains a checklist of points, which should be completed prior to the direct payment commencement. North Lanarkshire Council has produced a guide on How To Write Your own Support Plan and strongly recommends that this planning approach be used. (Annex E)

- 4.6.2 Once a plan has been received then it is the responsibility of North Lanarkshire Council to either:
- approve the care/support plan and to seek to agree a contract based upon the care/support plan
  - to refuse to approve the care/support plan giving clear guidance as to why the plan was not approved
- 4.6.3 As with current practice arrangements it will, in most instances, be the Senior Social Worker, responsible for the relevant client group who will either approve or reject the care/support plan. Their decision will be based on the criteria set out below for approving plans.
- 4.6.4 The criteria for approving the plan are as follows:

Personal Profile	The plan must demonstrate an understanding of the person and enable the reader to understand why the individual should be supported in the way proposed.
Outcomes	The plan must set out what the individual wants to achieve in some measurable way that can be reviewed at agreed intervals.
Maintaining Health & Well being	The plan must demonstrate how any significant risks of harm to the individual or others have been considered and what steps have been taken to minimise such risks.
Support Service	The plan must explain how the service will be provided to achieve the outcomes set out while keeping people safe from harm.
Decision-making	The plan must show that people have considered how the service will maximise the individual's control over their own life.
Management	The plan must explain how the Direct Payment will be managed and how any supporters will be employed or contracted.
Costs	The plan, from within existing financial resources, must clearly identify the relevant budget/s from where the Direct Payment will be financed plus any other relevant funding. Funding projections will also be required for the following two years. The plan must also set out how the individual intends to use the Direct Payment.

- 4.6.5 In some instances it may be that although the care/support plan is not approved, a direct payment is nevertheless still appropriate. In such instances it is appropriate for North Lanarkshire Council to suggest changes to the care/support plan to meet the needs of the individual concerned. Thereafter, the care/support plan can be re-submitted for reconsideration and possible approval.
- 4.6.6 Where there continues to be doubts/concerns about the appropriateness of the care/support plan the assessor should refer this to the appropriate Area Service Manager for consideration. Where such difficulties cannot be resolved through discussion, the individual should be advised that he or she might pursue the matter through the Council's complaint procedure. (See Annex 1))

## **4.7 Best Value**

- 4.7.1 The Council, in light of the needs of the disabled person, will assess the provision of services having due regard to their quality and to their costs. North Lanarkshire Council can make direct payments at a greater cost than the cost of arranging the equivalent service. However, the authority would need to be satisfied that this is still best value, i.e. that the increased cost is justified by the greater effectiveness arising from enabling the person to manage his or her own services and live independently. In such instances, approval must be sought from the Area Service Manager.

## **4.8 Determining the cost of the direct payment**

- 4.8.1 The amount of the direct payment allocated to the person to enable them to manage their own service/s will be based on a number of factors including which of the persons assessed needs, as identified in their care/support plan will be met by a direct payment. The 1968 Act requires local authorities to make direct payments at a rate which, taken with any financial contribution from the person concerned (see paragraphs 4.9.1 to 4.9.5), is equal to the authority's estimate of the reasonable cost of his or her securing the provision of the service concerned. This means that direct payments must be sufficient to enable the recipient legally to secure a service of a standard that North Lanarkshire Council considers adequate to fulfil the needs for which the payment is made. Recipients of direct payments can, if they wish to do so, also use their own resources to purchase additional or more expensive services to those identified in their care/support plan.
- 4.8.2 North Lanarkshire Council will discuss with the individual the arrangements that he or she is planning to make and the costs that may be associated with this (e.g. National Insurance, sick pay, maternity pay, employers' liability insurance, public liability insurance, VAT). Although North Lanarkshire Council is not obliged to fund particular costs which are incurred by the individual on a discretionary basis, which are not therefore essential in order to secure the service it does have the discretion to do so. (see Annex K)
- 4.8.3 As a general rule, where the cost of the direct payment exceeds £15,000 per year this will require approval from the Area Service Manager.

## **Identifying additional income entitlements**

### **4.8.4 Supporting People**

From April 2003 Supporting People Grants will be available to eligible individuals and will fund specific support services. North Lanarkshire Council's Charging Policy will apply.

## **Independent Living Fund**

**Under Construction**

**Please Speak to Lynn Cruickshank for further advice in the interim**

### **Other sources of income**

Where individuals have accessed other forms of income for support then this should be identified and taken into consideration.

## **4.9 Assessing a service user contribution**

- 4.9.1 From 1 July 2002, disabled people aged 65 and over, have been able to request direct payments to cover the element of personal care (at home) which will be provided free of charge.
- 4.9.2 The 1968 Act enables North Lanarkshire Council to require the individual to make a financial contribution to the cost of the community care services he or she requires,

by making direct payments of less than its estimate of the reasonable cost of securing the provision of the service concerned. Direct payments can therefore be made net of the contribution which the individual is expected to make. This is equivalent to the local authorities' power to levy a charge for services that they arrange under Section 87 of the 1968 Act. In considering whether, and if so how, to ask individuals to make a financial contribution, North Lanarkshire Council will not treat people who receive direct payments any differently than if those people were receiving the equivalent in services.

- 4.9.3 In seeking to apply charging policies fairly and equivalently to people who receive services and people who receive direct payments, North Lanarkshire Council will refer to the Executive's circular No: SWSG I/97: Charging for Adult Non-residential Sector Care. (See Annex J)
- 4.9.4 North Lanarkshire Council's existing charging policy will be applied.
- 4.9.5 Under section 22(4) of the Children (Scotland) Act, North Lanarkshire Council has discretionary powers to charge contributions for children's services where the means of the family are sufficient.

#### **4.10 Funding Levels**

- 4.10.1 The funding levels North Lanarkshire Council has set are detailed in Annex L.

#### **4.11 Concluding contract/making payments**

- 4.11.1 Once the care/support plan has been agreed and the amount of the direct payment has been agreed the recipient or their agent and the Senior Social Worker will be required to sign the Scheme Contract. (See Annex A)
- 4.11.2 When this has been carried out payment mechanism will be initiated to transfer the approved level of funding to a specified bank account. This bank account must only be used for the purpose of administering the funds for the direct payment. Payments will be made into the bank account at intervals agreed with the recipient or their agent.

#### **4.12 Monitoring arrangements**

- 4.12.1 Consenting to receive direct payments means taking on the responsibility for securing services to a standard which both the individual and North Lanarkshire Council consider is adequate. North Lanarkshire Council is relieved of its responsibility to arrange services for that person, so long as it is satisfied that the needs to which the payments relate will be met through the arrangements he or she makes with the payments. If it is not satisfied that those arrangements will be adequate, its responsibilities towards the person are the same as if no payments had been made. North Lanarkshire Council will set up monitoring arrangements so as to satisfy itself that people's arrangements are meeting their needs whilst keeping in touch with the aim of the policy - to increase choice and independence.
- 4.12.2 Monitoring arrangements need to focus on whether the person's needs are being met, rather than on the service being delivered in a certain way.
- 4.12.3 When the service first begins the relevant named officer of the Department e.g. Care Manager will review the service with the individual and any significant others after 4 weeks. (See Annex C)
- 4.12.4 The care manager or other appointed person from the Department will visit the individual and those involved in the planning process:

- at least every six months if there are likely to be changes in the individuals' care/support requirements, which, as a consequence, could necessitate changes to the amount of the payment.
- at least every year if the direct payment is likely to remain unchanged into the next year.

4.12.5 The primary focus of monitoring will be to ensure that:

- the individual is making reasonable progress towards their agreed outcomes, as recorded in their care/support plan, that they want to achieve
- the contract for Self-Directed Services are being followed
- there continues to be a relevant and positive plan in place
- there is no abuse and nobody is at any unnecessary risk
- To ensure that 4 weekly returns are completed and checked in line with the support plan
- There is minimised risk of misuse or fraudulent use of monies
- There is quick identification of any incidents of fraudulent use of funds

4.12.6 If the aforementioned points are satisfactory then the care/support plan does not need to be altered. However, if there are difficulties in any of these areas then the service will need to be reviewed as soon as practicable.

4.12.7 Annex C also takes into account the need for financial monitoring to take place to ensure that the local authority fulfils its responsibility to ensure that public funds are being spent on the intended services.

### **4.13 Reviews and reassessments**

4.13.1 One of the aims of the review process is to establish whether the outcomes described in the care/support plan are being met. To focus in on this, at the end of the year, each individual or their Agent will:

- provide a short annual report that describes outcomes achieved and how all the funding, including any additional income, as detailed in the agreed support plan, was used.

4.13.2 There are a number of reasons why a care manager or other appointed person from the Department may feel that the service may need to be revised including for example:

- the individual is consistently failing to meet reasonable goals
- the individual or others are subject to abuse of any kind
- the individual or others are at undue risk of harm
- the individual or their Agent is acting in breach of the agreed contract
- the ability of the individual to control their life has changed

### **4.14 When difficulties arise**

4.14.1 Difficulties can be minimised by good assessments, clarity (e.g. about what the money can be used for), monitoring, effective support arrangements (where these are necessary) and by discussing potential areas of difficulty, and how they will be handled with the individual before they start to manage their own service/s.

- 4.14.2 The care manager or other appointed person from the Department will discuss with the person what arrangements he or she will make for emergencies. There needs to be some sort of back up arrangement in place which can be accessed to ensure that the person receives the services he or she needs if their usual arrangements break down, e.g. through sickness of one of the person's personal assistants. It is reasonable for North Lanarkshire Council to expect the person to have contingency plans. Examples of such contingency plans might include making arrangements with independent agencies for emergency cover, or recruiting personal assistants that are prepared to work additional shifts at short notice when necessary.
- 4.14.3 It remains possible, however, that difficulties will arise which have not been anticipated and which cannot be covered by the arrangements the individual has made. In these circumstances, it will be helpful if the recipient knows they can contact a named individual in the local authority or support service that they can ask for help.
- 4.14.4 Ultimately, if the care manager or other appointed person from the Department becomes aware that someone is unable to secure services in such emergency circumstances as previously described, to meet his or her needs, then the department has a responsibility to arrange the appropriate services for that person.

#### **4.15 Seeking repayment**

- 4.15.1 The 1968 Act enables the local authority to require some or all of the money they have paid out to be repaid if they are not satisfied that it has been used to secure the provision of the service to which it relates. They may also require repayment if the person has not met any condition, which North Lanarkshire Council has properly imposed and those imposed by the regulations. If North Lanarkshire Council decides to seek repayment by someone who they know is also receiving payments from the Independent Living Funds (ILF) they will be required to inform the ILF as soon as possible. Also, they should seek to agree, if possible, a common approach if the ILF are also seeking recovery.
- 4.15.2 It is up to North Lanarkshire Council to decide when it is appropriate to seek recovery. However, the authority will need to bear in mind that this power is intended to enable them to recover money which has been diverted from the purpose for which it was intended, or which has simply not been spent at all. It should not be used to penalise honest mistakes.

#### **4.16 Discontinuing/Changing direct payments**

- 4.16.1 North Lanarkshire Council will not automatically assume that when problems arise that the solution is to discontinue the person's payment. However, if North Lanarkshire Council did decide to withdraw payments then it would be required to arrange the relevant services instead, unless the withdrawal was following a reassessment after which it concluded that the services were no longer needed.
- 4.16.2 The following are examples as to why a direct payment could be discontinued
- the person no longer wishes to manage their own services
  - the person's needs have changed
  - the person no longer requires a service
  - the local authority has had cause to seek repayment of funds and has reason to fear that further payments may be misspent, or
  - they are no longer the best value option (see paragraph 4.7.1).
- 4.16.3 There are also a number of steps that can be taken in order to change a direct payment or end a contract that has been previously accepted:

- seek to amend the contract
- suspend the direct payment
- seek arbitration

**Please see Social Work Resource library for flow charts and letters**

## **ANNEX C - SELF DIRECTED SERVICE - MONITORING PROCESSES**

Monitoring is the process we use to check and ensure that what we think is happening is happening. The overall aim and underpinning principal of monitoring is to ensure that the quality of the services that are being provided are of an agreed and acceptable standard to both the recipient and the Department.

Quality is about expectations – you may need different quality markers for different people and this should be clearly reflected in the person's support plan – having set clear and measurable outcomes with the person will assist in this.

Monitoring will also cover financial arrangements. Financial monitoring must include checking that the individual or Agent is keeping financial records of their direct payment [self directed service] – Refer to Financial Monitoring Checklist and 4 weekly return sheets.

The frequency of monitoring visits may well vary. This will be dependent upon each individual's circumstances. However, as a rule of thumb, the following time-frames are the expected, minimum norms. **Four weeks 3 Months , Six months, Initial Visit & Purpose**

This will take place four weeks after the self directed service has commenced. You will visit the individual to assess, evaluate and ensure that the support plan has commenced and deal with any "teething" problems arising.  
3 monthly

The purpose of this visit is to give you an opportunity to determine and evaluate a number of factors including; a) whether the individual is making reasonable progress towards their agreed outcomes as detailed in their support plan, b) that the contract for Self Directed Services are being followed, c) that there continues to be a relevant and positive plan in place and d) there is no abuse and nobody is at any unnecessary risk.

You will also be required to address any financial issues/concerns arising from the outcome of the Financial Monitoring Checklist.

### **6 monthly Visit**

As part of standard care management practice you will hold an annual review. However, prior to the annual review, you will request that the recipient or Agent provide you with a) a short report that describes outcomes achieved and b) how all the funding, including any additional income, as detailed in the support plan, was used. [copies of financial records]

As part of the review you will evaluate the use of the Self Directed Service,- this will include you making an assessment as to whether the support plan has been effective in meeting the individual's needs.

You will also identify any issues/concerns and make recommendations as necessary.

<b>At the beginning &amp; then at the 4 week visit</b>		<b>Print Name and Signature</b>	<b>Date</b>
<b>1</b>	Check that the bank account details for the direct payment to be paid into are correct.		
<b>2</b>	Check that no other monies are being or will be deposited into this account.		
<b>3</b>	Check that start up payment has been arranged and received.		
<b>At the three monthly (or earlier as need dictates)</b>			
<b>4</b>	Check that the direct payment recipient is keeping financial records and receipts of expenditure.		
<b>5</b>	<p>Check that the recipient is keeping financial records and receipts of all expenditure. This should include for example:</p> <ul style="list-style-type: none"> <li>• All direct payments made to date appear as income on the bank statements and financial records and amounts are correct</li> <li>• Expenditure entries are being made regularly in the financial records/the records are being kept up to date</li> <li>• Expenditure items are supported by receipts and the amounts agree to receipts</li> <li>• All expenditure items contribute towards meeting the individual's needs, as set out in the support plan</li> <li>• No expenditure has been incurred on any of the items that are not allowed, as per contract/ support plan.</li> </ul>		
<b>6</b>	Ensure that the direct payment recipient has sufficient monitoring paperwork for the 4 weekly completion and return		
<b>7</b>	Ensure that the direct payment recipient is clear how and where to return the completed monitoring forms to.		
<b>8</b>	Any unaccounted for significant under or overspends noted require to be immediately brought to the attention of your line manager.		
<b>9</b>	Check whether the recipient is making reasonable progress towards their agreed outcomes as detailed in their support plan.		
<b>10</b>	Check that the recipient is behaving in accordance with their contract		
<b>11</b>	Check that the outcomes identified in the support plan are still relevant.		
<b>Prior to and then during the annual visit/ review</b>			
<b>12</b>	Ensure that you give sufficient notice of when the recipient's annual feedback/ review is due		
<b>13</b>	Get a copy of the financial records prior to the recipient's annual feedback/ review taking place and check them for accuracy. If in doubt seek advice from local finance section.		
<b>14</b>	Ensure that the above points, i.e. No 2 and then No's 4 to 11 are checked again at the annual review.		
<b>15</b>	Make recommendations and action them as appropriate		

**ANNEX C - SELF DIRECTED SERVICE - REVIEW AND FINANCIAL MONITORING CHECK LIST**

North Lanarkshire Council - Housing Social Work Services

Self Directed Support

Direct Payments - Record of Income & Expenditure		From _____	To _____
Name _____	Address _____	_____	_____
		_____	_____
		_____	_____

<u>For Use By NLC Staff Only</u>	
Date Received	_____
Bank Statement Checked	YES / NO
Receipts Checked	YES / NO
Reconciled By	_____
Designation	_____
Comments	Date _____
_____	
_____	
_____	
_____	



## **ANNEX D Guide on using an Agent (third party)**

In these documents, the person referred too as an “Agent” is the representative of the disabled person. It is emphasised that anyone acting as such a representative does not have any legal authority to act as an "agent" for anyone for any purpose whatsoever.

### **Role of Agent**

Although the Agent cannot be paid to provide support to the individual the role of the Agent is a responsible position with a number of critical duties including:

- to arrange, and where necessary, re-arrange the services provided via the direct payment
- to monitor the expenditure on the direct payment
- to maintain all aspects of the financial records associated with the direct payment
- to prepare and present an annual review to North Lanarkshire Council on the use of the direct payment as related to the care/support plan.

The Agent must seek to understand the interests of the recipient and to pursue the interests of the recipient in partnership with North Lanarkshire Council. As such the Agent can not be :

an employee of the recipient

paid to provide support to the individual

North Lanarkshire Council has a responsibility to ensure that proposed Agents are:

- not an employee paid to serve the individual
- a fit person (*see criteria for Fit Person*)
- not be using their position to abuse the individual in any way
- continually seek to understand the interests of the individual and to pursue those interests in partnership with North Lanarkshire Council

### ***Fit Person Criteria***

The Agent must also not be:

- a schedule one offender [if so then they would automatically not be deemed a “fit person” for the purposes of acting as an Agent]
- have been convicted of defalcation
- have been convicted of embezzlement
- If any proposed Agent does not meet the above criteria North Lanarkshire Council will not accept them as the Agent. In such circumstances an alternative Agent will be sought.

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# ANNEX E

## How to write your support plan

# Contents

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## Introduction

This Guide on *Planning Your Support* has been written to help people who receive support to think and plan so that they can use that support in the best way possible.

The Guide is addressed to you the person who receives support because it is important that you are at the centre of the important decisions that effect your lives. However, this Guide is also for anyone who has to think about your life and particularly anybody who has the job of supporting you to plan for your own life.

For some people who receive support it is even difficult to know how to easily express what you want with words. But this does not mean you cannot be involved and be at the centre of decisions about your lives. Ideas on how to help people plan who do not express themselves in verbal or written language are set out in another guide: the *Guide on how to be in control*.

This Guide has been designed particularly to help individuals and families who are using *North Lanarkshire's Self-Directed Services*. These are services that you or your representative arranges, using funds received from North Lanarkshire Council. However you may also find some of the thinking in the Guide useful even if you do not wish to use *Self-Directed Services*.

# 1 Why is planning important?

## ***Why do we need to plan?***

There are lots of reasons why it is good to plan. Here are just a few:

### **Planning helps you change things**

We can all get stuck in a rut; sometimes we don't even know we're stuck in a rut. This is especially likely when you need help from other people for things in your everyday life, because often you have to fit your life around what is easy or convenient for others.

*To get out a rut you need to work out what you would like to do instead.*

### **Planning helps you feel more confident**

When we don't know what we want or how to get it we can feel worried or frustrated. Sometimes we can even get angry if things are not how we would like them to be. Planning can help you work out what you can change and can give you a way of making change happen.

*It feels good to have a plan.*

### **Planning helps you work with others**

Not only is it important for you to have a plan but it is also important that other people know the plan too: so they can change what they do and be more helpful. Most people want to help and do the right thing but often they don't know what that is and they can carry on doing the same old thing just because they are not sure what else to do.

*Plans help everyone act differently.*

### **Planning makes things real**

Sometimes we have hopes or dreams that we may not even talk about to others. But if we start to plan to achieve our goals then we have to work out how we can make things happen. Sometimes it is easy to make changes, sometimes it is very hard. But easy or hard, we can only make our dreams come true if we work out what to do, and do it.

*Plans help us work out how to get what we want.*

## ***Why does North Lanarkshire Council need a plan?***

North Lanarkshire Council wants people who receive services and or support to be able to have as much control over their services/support as possible. For this reason it will now give the money to the person receiving support, so that they can arrange their own support service. The name of this kind of service is a *Self-Directed Service*.

Sometimes North Lanarkshire Council will give the money directly to you and sometimes it will give the money to a person who it thinks can properly represent you. [agent]

This money is not a gift. This money is given for a good reason and North Lanarkshire Council expects that this money will be spent in a way which will meet your assessed needs. So in order to agree how the money is to be spent it is important that there is a plan about what you are going to do with the funding you receive. The name for this plan is the *Support Plan*.

*North Lanarkshire Council will only agree to give funding for Self-Directed Services when there is a good plan in place that says what will happen to the money.*

## **2 What is a Support Plan?**

Support Plans can be written in different ways. They can be short or they can be long. They can use pictures and they can use words. You can write the plan yourself or you can get someone else to write the plan for you. Sometimes plans can take time to write. Sometimes they are quick and easy to write. Whatever, there are seven questions that must be answered in any plan that North Lanarkshire Council will agree to fund:

### **1 Who are you?**

The plan must be about you, the real you. Somebody who loves you or cares about you would be able to recognize that this plan was about you.

*The plan will not be agreed if your real personality, interests and lifestyle are ignored and you are treated as a stereotype.*

### **2 What are your plans for the future?**

The plan must set out real and measurable things that will happen in the future so that it is possible to see whether the plan is working or not.

*The plan will not be agreed if you just said that you wanted to be happy or that you wanted your needs met but you didn't explain what that meant.*

### **3 What support will you need to do what you plan?**

The plan must say what kind of support you are going to use to do what you want to do.

*The plan will not be agreed if you have no idea how you are going to use your funds to get support.*

### **4 How will you stay healthy and safe?**

The plan must say how you will make sure that you are not going to be in any great risk of coming to harm and also how you will keep other people safe from harm. [c/r to "keeping healthy & safe" document]

*The plan will not be agreed if you or others are at great risk of harm but you've done nothing about it?*

### **5 How will you stay in control of your own life?**

The plan must say how you will stay in control of your own life. This means looking at what decisions you will make and where other people make decisions for you how they make sure that you are involved and that you would agree to them.

*The plan will not be agreed if it looks like others are making decisions for you if you could reasonably make those decisions yourself.*

### **6 How will your support be managed?**

The plan must explain how any support you pay for is going to be organized. This means saying who is going to manage it and how you will sort out the payment of salaries or other necessary practical arrangements.

*The plan will not be agreed if it is unclear who is responsible for what and that you are not doing everything that you must do by law.*

### **7 What will your support cost?**

The plan must set out what cost of your plan, for a year, will be and what money will be needed for the following two years. This must be within an amount agreed by North Lanarkshire Council.

*The plan will not be agreed if the plan does not say how much the service will cost or if the service costs more than the amount than has been agreed.*

### 3 Who can help you make a plan?

#### ***Can you get help to plan?***

You don't need to have somebody help you plan, but it's much easier if you do.

For this reason North Lanarkshire Council will strongly encourage you to get help to write your own plan and will work with you to identify how you will get that support.

Some people need more help than others. For instance it is harder to plan when:

- Direct communication is difficult
- There is very little helpful information about you available
- There are few family or friends to help you plan
- Lots of people disagree about what is the best thing to do
- You have been forced to live in an institution

So a social worker from North Lanarkshire Council will decide how hard it will be to develop a good Support Plan

#### ***Who can help you plan?***

North Lanarkshire Council will work with you to ensure that you get support to plan. There are a number of different people who might help you plan:

#### **Your care manager or social worker**

North Lanarkshire Council employs people to assess your needs and to check that you are okay and getting a good service. These people are sometimes called Care Managers. If you have a good relationship with this person then they might be a good person to help you plan.

#### **Friends and family**

If you have friends and family then often they are good people to involve in planning. One of your friends or family might be an excellent person to help you write your support plan.

In fact you can organise the people around you into a *Circle of Support*, a group of people who will meet with you every now and again to help you work out what you want and help you get it.

It may also be useful to think about having a *Trust* set up to help you make decisions for you in the future. This is particularly helpful if you have real problems letting people know what you think and you need people to sometimes make decisions on your behalf.

#### **An independent organisation**

There are also some people who specialise in helping people plan and think about their future and who are independent of North Lanarkshire Council and service providers. For instance there are:

- Service Brokers
- Independent advocates
- Support advisors
- Centres for Independent Living
- Person-Centred Planners
- Consultants

It would be a really good idea to use one of these people if you wanted a fresh person to help you think about your life, somebody who has not been involved in your life before.

#### **Essential Lifestyle Planning**

One particular kind of planning is called Essential Lifestyle Planning. This kind of planning is very detailed and helps you think about what is important in your life and how you might get a

lifestyle that suits you better. This is a particularly good kind of planning if you feel that you have a very unsatisfactory life and that the people who support you need much more detailed guidance on how to support you well.

For some people North Lanarkshire Council may even insist that an Essential Lifestyle Plan be completed. Especially if:

- There are significant problems with communication that have not been dealt within existing plans, like the communication passport that some people use
- The support required is complex and detailed guidance is required to make it work
- There is a significant life change planned
- You have very few people in your life
  
- There is a lot of conflict about what is right for you

North Lanarkshire Council employs some people who are trained in facilitating Essential Lifestyle Plans and there are also independent people who have the same training.

## 4 How do you plan?

How you want to plan is up to you and the people you want to help you plan. Here are some of the questions you need to think about:

### ***Who do you want to involve in your plan?***

It's good to involve all the important people in your life when you plan both so you can get their ideas and so you can involve them in anything you decide to do. People you might involve might include:

- Family
- Friends
- Your supporters
- Professionals who know you well like your social worker

It is not good to involve people who won't help you develop your plan. Some of the people who you shouldn't involve might include:

- People you don't like
- People you don't trust
- People who hardly know you
- People who don't understand you well

If there is anybody like this who thinks that they should help you plan then get help to make sure they do not get involved in your plan.

Sometimes there are also people, like doctors, who might not be good people to plan with but who have useful information that's needed for your plan. Make sure you or your supporters get the information from these people without involving them in your plans too much.

### ***When do you plan?***

Planning is something that we often do without even thinking about it. For example if we are planning to catch a bus we need to get ready by knowing what bus we want and having the right change for our journey.

But planning for our life is a much bigger thing that we don't do often if at all. However it can be very useful, when the time is right. These are some of the times it's good to plan:

- When you've got to make big decisions, like what support you want
- When you feel very stuck about your life
- When you are unhappy about your life
- When you need new challenges or things to achieve

Sometimes are not so good for planning and you may not want to plan or you may want some other people to plan for you for a while until you are ready. These are some of the times it's not so good to plan:

- When you've got too many other things on your mind or you feel in crisis
- When you've got some practical problems that must be sorted first before you can plan

It's okay to let other people plan for you sometimes, but it's best if this is just for a short period and that everybody tries as hard as possible to make sure you can be involved in the future.

*It's your life and nobody else's.*

### ***What else do you need to plan?***

Once you are ready to plan and you've thought about whom you want to help you plan there are some other things you can do to plan.

## **Find a good place to plan**

Think about where you'd like to sit, talk and think. All of us are different. Here are some of the different places people choose to plan:

- In their home
- In an office
  
- In the pub
- In a hotel
- In the car

*Where is right for you?*

Some places are not so good for planning. So don't pick places where:

- You will feel uncomfortable or inhibited
- You might bump into people you don't like
- You might have no privacy if you need it

## **Use the right equipment**

It can be really helpful to use some special equipment or stationery to plan. For example some of these things might be useful:

- Pictures or photographs
- Coloured pens
- Flip-chart paper or other large bits of paper attached to walls with masking tape
- Computer equipment, including scanners and clip-art

## **Setting some rules**

It is often really handy to set out some rules for planning. What these rules are can vary but if everybody agrees to them at the beginning it can make everything go much easier. Here are some rules that you might want to set:

- Remember that this planning is about me, don't get distracted and talk about things that are not relevant to my life
- Be honest but also positive, don't run anybody down
- Don't try and solve problems too early, everybody should listen to the whole story first before making suggestions about what to do
- Keep any confidential information private and don't share it with others without my permission
- Don't talk about me as if I'm not there
- Talk to me, not to each other
- Everyone has a positive contribution to make
- Use respectful language at all times; if I'm an adult don't talk about me as if I'm a child
- Use language that everyone can understand

## ***What are Person-Centred Planning Tools?***

Sometimes you even need a plan to plan. That is, sometimes you need to think about things in the right order and in the right way in order to get a good plan.

One name for these plans for planning is a Person-Centred Planning Tool. There are a number of these structured processes that you can use to help yourself to plan.

These are some of the most commonly used today and more information about these tools is available from a number of sources. Four of the most commonly used approaches are set out below along with a description of what they are good for.

### **PATH: Planning Alternative Tomorrows with Hope**

PATH was developed by John O'Brien, Marsha Forest and Jack Pearpoint. It is a graphical model for planning that helps people find direction and build strength. It is a really good thing to do when:

- You are stuck and have nothing to look forward to
- You have people who care but they don't know how to help
- You have a sense of a better future but need help to say what it is
- You like the idea of a planning event for you and your friends and family

### **MAPS: Map Action Planning System**

MAPS was developed by John O'Brien, Marsha Forest, Jack Pearpoint, Judith Snow and David Hasbury. It asks a series of questions which individuals can use to develop a plan of action to head towards their dream and away from their nightmare. It is really good thing to do when:

- You need to see where you've been in the past to think about what's next
- You want people to think about your gifts and strengths
- You want people to look at your fears

### **PFP: Personal Futures Planning**

Personal Futures Planning was developed by Beth Mount. It is a flexible set of questions and graphical maps that can be used to build up a sense of the individual's strengths and gifts and how they could be better utilised. It is a really good thing to use when:

- You want to get more involved in your local community
- You want to improve your network of friends and family
- You want to gather more information about what is possible

### **ELP: Essential Lifestyle Planning**

Essential Lifestyle Planning was developed by Michael Smull and Susan Harrison. It is a powerful means of gathering information about what is and is not working in your life now. It is really good thing to use when:

1. You feel poorly supported at the moment
2. You don't feel others understand your preferences
3. You have special routines or rituals that you want others to know so they can support you better
4. Its difficult to let people know what is important to you by speech alone

### **Making your own plan for planning**

These different Person-Centred Planning Tools are excellent. But you may find that there are better ways of asking the questions you want to ask yourself or involving others. Some people have used their own special ways of getting a plan. Here are just a few examples:

- Planning and playing bowls at the same time
- Turning the plan into play-acting
- Making a game out of the plan
- Interviewing people instead of having meetings

There are no rules about what process to use. Just think about what you want to find out and then ask yourself what might be a good way of finding the answer.

### ***Turning hopes and dreams into reality***

Planning always has two parts:

a) First we must know what we want. This means understanding our own dreams, goals hope or needs.

*Often its best to do this without worrying how you will achieve those goals, because that can put you off from thinking about what you want.*

b) Second we must know how to turn those ideas into reality. This means we must understand how things actually work.

*This is when you do need to think through what can be achieved.*

Often people can achieve much more than they realise but it doesn't happen by just thinking about it. To make things happen it is important to:

- Recognise the realities of your present situation: How are things now?
- Recognise the things that are fixed at the moment: What money is available now? What skills do people have now? Who is around? Who can help now?
- Identify opportunities: Is there new funding available? Do you share an interest with a friend? What local resources are available?
- Prioritise - decide what's most important to you today. Don't try to do everything do the most important and urgent things first.
- Assess risks - be clear what frightens you. Work out plans that enable you to overcome your fears or reduce the risks.

### ***How do you make things actually happen?***

The purpose of planning is action. But sometimes we can make plans but still nothing happens. Here are some things to do to make sure a plan leads to action.

#### **Who will do it**

Make sure everybody is clear *who* is responsible for making something happen.

- If something is everybody's job usually nobody does it.
- If someone needs help to do it then also agree who will give them some help.

#### **What to do**

Make sure everybody understands *what* must be done as the next step to make the plan happen.

Sometimes it is easy to see what needs to be done to make a plan happen. Other times it is difficult. When it is difficult it can be useful to:

- Work out all the steps you need to get you where you want
- Get more information
- Talk to somebody who has done it before
- Make sure that you at least do the next step towards your plan

Often you find you need to talk more about how something is going to be achieved before you can decide what is going to be done.

#### **When will it be done**

It is also important to agree with the person *when* the next step will be done. Remember that it is up to the person who is going to do it to say when it can be done. There is no point asking people to do things that they cannot get done when you need them done.

#### **When will we review it**

The most important part of any planning is to make sure that you know how you will check out what has been done. Often it's a really good idea to plan a meeting where everybody can get back together and discuss what has happened.

It is also important to ask yourself and your friends how you find the planning going. May be you will need to change *how* you plan.

## 5 Thinking about yourself

### ***Good questions to ask***

If your plan is really going to be your plan then it needs to be a plan that is based upon the unique individual that you are. There are many different ways of thinking about ourselves and there are lots of good questions you can ask to think about who you are. Here are just a few:

- What works for me? What doesn't work for me?
- What are my everyday positive rituals and routines? For instance, how do I like to get up in the morning? How do I like to spend my Saturdays?
- What would my ideal holiday be?
- What are my dreams and hopes for the future?
- What are my nightmares and fears?
- What does a good day for me look like? What does a bad day look like?
- What are my gifts and skills?
- What makes me feel safe?
- What are my strengths and needs?
- What would I do if I won the Lottery?
- What do people like about me?
- What do people respect about me?
- What do I want to achieve in the next 5 years?
- What would an ideal week look like for me?
- What is my life story so far?

### ***Writing about yourself***

Using questions like these you can start to write your Support Plan by describing yourself. What you decide to include is up to you but it will be important to remember the following things:

- Don't miss out important things that explain why you have chosen to do something described later in the plan. If your Support Plan says you are going to paint then this should be based on the fact that painting is something you really want to do.
- If something is really important to you make sure it is described and make sure there is something in the plan about how you are going to achieve it. If having a job is really important to you then make sure your Support Plan says so and make sure it describes how you are going to try and achieve that goal.
- Find language, pictures or photographs that help explain your plan. Make it clear and easy to read.

### ***Tests for a good plan***

For North Lanarkshire Council these are things that people will be looking at to make sure the plan is okay and can be agreed:

#### **Is the plan accurate?**

It is important that the plan tells the true story about who you are at the moment. You don't need to have your whole life story written down if you don't want to. But you must look at everything that is important and true about yourself and you must certainly include anything that will effect the support you will receive.

*Important details should not be left out.*

**Is the plan respectful?**

Whether you write the plan or whether you get somebody else to write the plan it must talk about you in a respectful way, as a unique individual, with your own life to lead.

*The plan must not be patronising or disrespectful.*

**Does the plan help reveal the real you?**

If someone reads the plan they should get a good sense of the real you. They shouldn't be thinking just about labels they should get an understanding of your personality, interests and hopes for the future.

*A good plan does not rely on stereotypes.*

## 6 Setting your own goals

The point of the Support Plan is to better enable you to take control of your own life and to achieve any goals that are important to you.

By understanding who you are you should be able to think about things in your life that you either want to change or things that you want to keep the same. These things are your goals.

It is not the job of North Lanarkshire Council to say what your goals should be. However if you do not have clear goals it becomes very difficult to plan because nobody knows what they should be doing and if things are working well or not.

So the Support Plan must set out your goals for the future, and these must include at least some goals for the year ahead.

### ***Important kinds of goals***

Nobody can tell you what goals to have. But there are some kinds which people do think are tend to be very important and they are set out in the following list:

- To make everyday choices
- To have people treat me with respect
- To take part in everyday activities
- To have friendships and relationships
- To be part of my local community
- To get the chance to work
- To take part in important decisions about my life
- To have people listen to my family's views
- To be safe from harassment and abuse
- To get help to stay healthy

This list is meant to help you think about the kinds of things that are important in life. It cannot tell you what is important to you.

### ***Setting your own goals***

Although it may be important to achieve the kinds of goals set out in the list above it is not helpful to state those goals for yourself in that way. Instead be as specific and as realistic as possible about what you want to achieve.

In the following table the general goal has been made more specific by thinking about something that an individual really wants to achieve:

<b>General goal</b>	<b>Examples of specific goals</b>
To make everyday choices	I will decide what meals I am going to have in my own home. I will choose how to spend my own money I will choose what clothes to wear
To have people treat me with respect	People will learn how to communicate with me I will get personal care in private I will get the chance to become more independent

To take part in everyday activities	I will do my own housework I will pursue my own hobbies at home I will have interesting activities to participate in
To have friendships and relationships	I will have friends that I see often I will spend regular time with my family I will get married to my boyfriend/girlfriend
To be part of my local community	I will get to know my neighbours I attend the local college I help out in my local community
To get the chance to work	I will get a paid job I will do voluntary work I will make friends with my work colleagues
To take part in important decisions about my life	I will decide where I live I will decide who supports me I will decide how I live
To have people listen to my family's views	My family will be involved in important decisions My family will know how to stick up for my rights My family will get information about services
To be safe from harassment and abuse	I will not be bullied or insulted I will not be hurt or abused My property will be safe
To get help to stay healthy	I will keep fit I will get good health checks I will have a local doctor that I trust

### ***Tests for a good plan***

For North Lanarkshire Council these are the things that people will be looking at to make sure the plan is okay and can be agreed:

#### **Do your goals make sense?**

Your goals should reflect the real you. They should be your goals and it should be easy to understand why your goals follow from what you have said about the real you.

*Your goals must be genuine things you want to achieve.*

#### **Are your goals measurable?**

Your goals must be things you can actually tell whether you've achieved so that you, your family and friends and the Social Work Department can tell when you have achieved something.

*Goals must not be vague or intangible.*

#### **Are your goals clear and understandable?**

Your goals must be clear and understandable so that you and your supporters know what it they are trying to achieve.

*Goals must not be confusing.*

**Are your goals achievable?**

You should only set goals you think you can achieve. This means that if you have big ambitions you should also include as goals the achievable first steps towards those ambitions. You should also only include as many goals as you can reasonably achieve.

*You should not set yourself impossible targets.*

## 7 Getting support to achieve your goals

There are many ways of getting the support you need to achieve your goals and to ensure that you can lead your own life.

In *The Guide to Support Services* we set out some of the different ways you can:

- Get the help you need
- Find the right kind of housing
- Plan for your own life
- Manage your support
- Use the available funding

In this section we will just set down the basic principles you should use in working out how to get the support you need.

### ***Support that fits your goals***

The most important thing to do when thinking about *how* you want to be supported is *why* you want to be supported. Support is not normally something we want for its own sake. Instead it is support to do something.

If you have set your goals by thinking about who you are and what you want to achieve then you might be thinking things like:

- I want a job in a flower shop
- I want to go fishing with a friend
- I want to relax at home most evenings
- I want to become an actor

Whatever your goals, dreams or hopes for the future it is important that you do not give them up. However hard they may be to achieve. Instead you need to think about how you might try to achieve these goals.

### **Prioritising and compromising**

Sometimes you will need to decide what is the most important goal to try and achieve; then you can concentrate on that goal.

Sometimes our goals can conflict with each other and then you will need to work out a compromise between different goals.

### ***Where is your goal achieved***

If you know what you want to do it is often fairly easy to think of the different places where that goal can be achieved.

<b>What you want to achieve:</b>	<b>Places where that goal is achieved:</b>
A job in a flower shop	Florists, supermarkets, garden centres
Fishing with a friend	Fishing clubs, on fishing holidays
Relaxing at home	In your own home
Being an actor	Drama classes, drama companies

### **Understanding your community**

The communities in which we live are full of different places, buildings, churches, clubs, businesses, groups, centres, festivals and routines that enable us to fulfil our goals.

The first thing to do is think of all the possible places that might be available to help you do what you want to do.

Sometimes people call this 'mapping your community' this means listing all the things that you, your family and friends know about where it might be possible to achieve your goals.

There are often many more places available that you might think. For example there are:

- Spiritual places: churches, clubs, Sunday schools
- Leisure places: swimming pools, sports centres, sports clubs
- Work places: employers, voluntary work places, work training places
- Associations: clubs, knitting circles, voluntary groups, political causes

In any geographical community there will be hundreds of such places. Not all of them will be of interest to you, but if you think about your goals you will probably find some places that are the right places for you.

### **Disability-based resources**

There are also places that have been developed around the idea of serving or supporting people with disabilities. For example:

- Self-advocacy groups
- Support groups
- Day centres
- Sheltered workshops

These may or may not be right for you. Some disabled people like the opportunity to meet with others who share the experiences of disability. Some gain strength through meeting together, particularly as with self-advocacy groups when it is a group led by disabled people. However it is important to make sure that you do not just look at these specialised resources alone, for while they can be helpful they are only a small fraction of what any community has to offer.

### ***Joining in***

The reality for any of us when joining something new is that it is difficult and potentially embarrassing. Good things to think about when trying to join things are:

- Going along with someone who is already known there
- Making sure people know you are really interested in joining
- Introducing yourself to other people appropriately
- Helping people understand how you communicate
- Not going with someone who does not share your interests
- Helping people understand exactly what support, if any, you will need to play your part

If you can become a full member of the church, the work place, the sports club or the voluntary group or whatever then, over time, you may get the chance to make real friendships.

### ***The support you need to achieve your goals***

If you understand where you need to be to achieve your goals then you will also be able to think about the best ways of getting support. It is important to think about this because this will open up different options for getting support. Here are just a few:

- Employ someone to support you, but try and employ someone who shares the same interest as you and who will fit in with things you want to do.
- Get support as a natural part of doing what you are doing, if you are at work a colleague may be the best person to support you, within a church you might want to get help from your fellow church-goers.
- Subsidise an employer to give you some extra support if you need it, or suggest they explore other government subsidies for supporting disabled people at work.

- Pay someone some expenses. If you want to go on a fishing holiday may be you could pay for the holiday and get a friend to go with you rather than pay a support worker who wasn't interested in fishing. If you want to get support to go to the football you could buy two season tickets and offer the second to a friend who will support you to go with him.
- Rent a room in your home to someone on the understanding that they will offer you some support.

These are just a few examples of what you could do to get the support you need to achieve your goals.

### ***Tests for a good plan***

For North Lanarkshire Council these are things that people will be looking at to make sure the plan is okay and can be agreed:

#### **Does your support make sense?**

The support you receive should make sense in the light of your goals. If you want to live in your own home then it doesn't make sense to be looking for support in a registered home. If you want a job in a florist it doesn't make sense to just join a day centre. If you want a fishing holiday it doesn't make sense to attend residential respite services.

*Your support should be support to achieve your goals.*

#### **Have you been imaginative?**

You do not need to just do things in the same way others do things. Try to think imaginatively about how to achieve your goals.

*Don't just do what you've always done - try something different*

#### **Are you using your community?**

The community offers a wide range of options to disabled people and there is no need to rely upon institutional services that keep you out of touch with others.

*Don't rely on segregated services*

#### **Are you getting out and about?**

Your support arrangements must not leave you stuck at home unable to get out and about.

*Make sure you are free to live your own life*

#### **Is your support making you stronger?**

If support is working it should be making you stronger: help you have a home of your own, be more independent, learn new skills, make friends, earn money and own things.

*Your support should improve all aspects of your life.*

## 8 Keeping yourself safe

It is important to think about all aspects of health & safety. This means making sure you reduce the risk of any incident occurring that might lead to harms to you, your supporters or the general public.

There are several kinds of harm you need to think about:

- Damage to your relationships or reputations
- Damage to or loss of property, theft
- Physical, sexual, emotional or financial abuse
- Trauma and mental health problems
- Illness and the abuse of drugs or alcohol
- Physical harm and injury
- Death

North Lanarkshire has issued a more detailed guide, *Keeping Healthy & Safe*, to help anybody who is employing staff to understand what they must and must not do and how to devise good policies.

In this guide we will set out some of the important ideas that you need to understand when you are thinking about to keep yourself *and* other healthy and safe.

### ***The law and health & safety***

The Health & Safety at Work Etc Act 1974 sets out certain duties that employers and their employees must do to avoid breaking the law. In summary those duties are:

*“It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.” In addition the employer has similar duties to the general public and a duty to take care in spaces that do not belong to the employer.*

Certain kinds of situations are not be covered by this act:

- The act does not cover “domestic” employment
- The act does not cover situations where an employer employs less than 5 people

However North Lanarkshire Council is concerned to improve health & safety in all areas. So North Lanarkshire Council expects you to always act in ways that keep the risk of harm to a minimum.

### ***How to manage risk***

When you are writing your support plan you need to think about any possible significant risks. Using the following process you can work out what to do about those risks.

<b>1</b>	<b>IDENTIFY RISKS</b>	Be very specific about anything harmful that you think might feasibly happen. Pay special attention to any problems that have occurred before.
<b>2</b>	<b>IMAGINE RESPONSES</b>	Identify anything you could do to reduce or remove the risk of that event. At this stage it is worth quickly identifying a whole range of possible responses. Be imaginative!

<b>3</b>	<b>EVALUATE OPTIONS</b>	Think through the consequences of any feasible response to check whether it does actually reduce risk and identify the best overall response to the risk.
<b>4</b>	<b>CONSULT</b>	Where possible discuss the matter with all those directly involved and ensure that you listen carefully to everyone's point of view.
<b>5</b>	<b>ACT</b>	Implement the necessary actions while explaining why you are doing this.
<b>6</b>	<b>DOCUMENT</b>	If any issue is likely to be on-going then it is important to document the necessary action in either the Support Plan, or in some other easily available document.
<b>7</b>	<b>REVIEW</b>	It is necessary to regularly review any policies that are in place to ensure that (a) they are necessary and (b) they are effective

Sometimes you or your supporters may have plans and policies for how to reduce the risks that have never been written down. Sometimes you don't even know that you have got a policy, but when you think about it you find that you always do things in a certain way to reduce risk.

In the Support Plan, for any significant risk you must write these things down. This helps you tell other people when you need to and it helps North Lanarkshire Council be sure that you are thinking about risks and that you or others are not being put at too much risk.

### **Who we must think about**

It is unlikely that every risks of harm can be eliminated our lives. For a free and independent life carries with it certain inherent risks.

However we must reduce risks whenever possible. There are three different kinds of people we must always think about when assessing risk:

- You, the person served
- Your supporters, paid or unpaid
- Other members of the general public

All three groups of people are important and we must take seriously risks to any of those groups.

### Identifying and understanding risks

It is important when identifying risks to focus on those risks that are most significant. That means thinking about how likely such an event is likely to occur and how negative are the consequences of that event.

In order to make sure that a risk is significant it is important to be able to give good reasons why the event might be likely and why its consequences will really be negative.

Good questions to ask when identifying significant risks are:

- Has this happened before? If so how often?
- What are the real consequences of this risk?

Sometimes a risk may have been significant in a different place or at a different time, but the risks may be very different in a different context. However if you do think the risks are different now it is important to identify real evidence that explains why these risks are different.

## **Possible responses**

There may be a wide number of different responses that might be effective in reducing a risk of harm and it is important that those responses are not limited to the first thought that you have. It is best to work with others to identify a range of possible responses and then to decide on the best response in the light of those options.

Some of the kinds of response that might be considered may include:

- Changing something in the physical environment or getting better equipment
- Making new choices and doing different things where the same risks do not occur
- Getting your supporters to support you in a different way
- Getting training for you or your supporters
- Trying to understand the risky situation better by doing an investigation

## **Criteria for evaluating responses**

Whatever ideas you come up with to reduce risks can be reviewed against a range of factors:

- Is the idea likely to be effective? Is it going to actually work?
- Will the idea promote your dignity?
- Is the idea a good and effective use of resources?
- Does the idea succeed in not increasing other harmful risks?
- Is the idea the least restricting option available?

It is often necessary to balance a number of these factors when reaching your decision about what best to do. Wherever possible this should be done by more than one person.

If you are in any doubt as to what to do you must discuss the problem with the manager of the support service and if things are still not clear you should discuss things with North Lanarkshire Council.

## **Rights and safety**

One of the most difficult problems is working out what to do when you want to do something that is potentially risky for you or others. There are several principles that are important to bear in mind when considering how to respond to such a situation:

- Everybody has a duty to ensure their own safety
- The people who support you have a special duty, a duty of care towards the individual, which means they have to try and avoid anything bad happening to you.
- You have rights that mean that you can take your own decisions, even when that means taking certain risks
- You have a responsibility not to put other people at risk

It may not always be easy to find the right balance between these different principles; however one thing is certainly true: **if you are ever in doubt then you must talk to someone else and discuss the matter thoroughly.**

## ***Tests for a good plan***

For North Lanarkshire Council these are things that people will be looking at to make sure the plan is okay and can be agreed:

### **Do people have worries that have not been listened to?**

It is important that everybody's concerns have been listened to and an attempt has been made to address any significant worries raised. It is not always possible to get everybody to agree to what you finally propose to do but you should not dismiss other people's worries until you have thought things through.

*The plan must not ignore any significant risks.*

**Are the plans clear and easy to understand?**

Any plans you make to reduce risks must be clear and simple to understand so that there is no confusion about what you want people to do.

*The plan must not be too complicated or muddled?*

**Is it clear who is responsible for what?**

Often it is important make sure that you or somebody who supports you or some manager has a special responsibility to do something or report things if they happen. The plan must state clearly who is responsible for doing what.

*There should be no doubt about who is responsible for things?*

**Is the assessment of risk reasonable?**

There is no easy way to decide whether a risk is significant or not, however the plan must neither lightly dismiss real risks nor must it worry about everything that might possibly go wrong. The key question is whether the assessment of risk is reasonable. The plan should be balanced as risk is inherent to all life and it is impossible to remove risks altogether.

*The plan should not go to silly lengths to remove risks.*

**Are the plans sensible?**

The plan needs to try and come up with good responses to risk that will maintain people's dignity, not waste resources and are effective at reducing the risk and not creating further problems. It sometimes difficult to balance these considerations but it is important that it is clear that people have tried to balance.

*The plans must not be disrespectful, too expensive or dangerous.*

## 9 Staying in control

Just as it is important that you plan sets out what you want to achieve it is also important that you and the people around you are clear how you will stay in control of your own life on an everyday basis.

For this reason your Support Plan should set out:

- a) Decisions you make for yourself
- b) Decisions you can make with support and how that support should be provided
- c) Decisions that other people may take on your behalf, who those people are who can take those decisions and how they will involve you

### ***Making decisions yourself***

It is important to remember that it is your life and that as much as possible you need to control your own life. This is because you have a right to control your life and to make your own decisions but also because you will usually know what is right for you.

### ***Getting support to make decisions***

Even if you need some help to make decisions it is still possible for you to remain in control of your own life. What is important is that your plan helps people understand how you can still make decisions.

This may mean giving people ideas about to help you. For some people the following things can be important:

- Not asking too many questions at once
- Being given pictures to look at
- Talking to someone you trust
- Talking through someone who knows how you communicate
- Using computers or other kinds of technology to communicate your choices
- Being able to have time to think
- Being asked in the right way

Whatever is the right way for you should be clear in the Support Plan.

### **Different ways of communicating**

Some people do not use written or spoken words to communicate their choices and desires. But everybody has some way of letting people know that they are happy or unhappy and often much more.

Usually people who know you well and who care about you will know a lot about how you communicate and it can be very useful to gather that information in the plan. A useful way of gathering that information is provided by the following chart.

<b>(1) When this is happening ...</b>	<b>(2) and Jack does this...</b>	<b>(3) we think it means this...</b>	<b>(4) and we should do this...</b>

If your friends think hard they will be able to identify bits of your behaviour that seem to be telling them something (2) or things that are communicated (3).

By writing these down your friends should be able to think about when you use these ways of communicating (1) and what should be done (4). It is important to remember when you are doing this that we may communicate differently with different people (1) and that different people should possibly respond differently (4).

## **When other people make decisions for you**

Sometimes you may need someone to act as your representative and make a decision on your behalf. If this is ever the case then it is important that this person is clearly identified and that there is a good reason for using that person.

There may not just be one way in which you can get a good person to represent your interests. Some possibilities include:

- Trusted family members or friends
- Independent advocates
- Paid supporters
- Voluntary supporters
- Lawyers
- Legal representatives like a guardian

## **Decision-making and abuse**

When people make decisions on your behalf they potentially have the power to make decisions that run against your best interests and abuse you, either emotionally, financially, physically or sexually. One of the best ways of protecting yourself from abuse is to make sure you only give decisions to people you trust. Good things to think about are:

- Involve people who know you well and care about you.
- Involve different people, not everybody with the same kind of relationship to you.
- Don't give people control over decisions where they could benefit from not acting in your best interests.
- Have a wide network of people around you to look out for your interests, don't just rely on one or two people.

## **Different people for different decisions**

Sometimes you can make some decisions yourself but other people may need to help you with some decisions or decide something on your behalf.

It may be useful to write down who is doing what in a table like this:

<b>Issue</b>	<b>Jack</b>	<b>Jack's Mum</b>	<b>Jack's Team Leader</b>
Purchase of food	Jack decides what to buy at the shops	Jack's mum agrees how much money should be put aside for food.	Jack's team Leader helps jack to get a shopping list before going to the shops.
Jack's Household Budget	Budget is discussed with Stephen	Jack's mum agrees the annual household budget	Weekly decisions made by Team Leader
Jack's Support Funding	Jack agrees to his mum employing his staff.	Jack's mum manages the support funding for Jack.	
Benefits	Jack collects his own benefits.	Jack's mum is involved in helping jack plan what he does with his money.	
Recruitment of new staff	Staff must be recruited in accordance who will get on with Jack.  Jack will be involved in all interviews and nobody will be employed that Jack does not like.	Jack's Mum will attend all interviews and will make the final decision about who to employ.	Jack's team leader will attend all interviews and give his opinion.

This is just an example and you may find you need to detail more or less than this depending on your circumstances.

### ***Tests for a good plan***

For North Lanarkshire Council these are things that people will be looking at to make sure the plan is okay and can be agreed:

#### **Has thought been given to maximise your control?**

The plan should demonstrate that real thinking has been done to properly involve you in small and big decisions about your life. There must be really good reasons why you are not making a decision on your own behalf. If there is any doubt then other people should always presume you have the right to decide yourself.

*The plan must not undermine your right to run your own life.*

#### **Is it clear who will make key decisions on your behalf?**

It is not helpful to be unclear about decisions. This can often lead to unnecessary conflict and confusion. Every effort should be made to make decision-making clear and focused on keeping you at the centre of your own life.

*Having nobody to make decisions on your behalf is much worse than having decisions made on your behalf.*

#### **Do people know how you communicate?**

If you use non-verbal methods of communication as an important part of letting people know how you feel or what you want then a proper analysis should be made of your communication. Consideration should have been given to any formal systems that can make it easier for you to communicate more easily.

*Not to know how someone communicates is a form of abuse.*

#### **Is it clear that the individual is protected from potential abuse?**

Are there a good range of different people involved in your life and are there people involved who have no conflicts of interest with your own interests.

*You should not be reliant upon a very few people whose interest could easily conflict with yours.*

## 10 Managing your own support

Once it is clear what you want to do then it is important that you look at how your actual support service is going to be managed. This problem has two key parts:

- Will you manage the service yourself or will you ask somebody to do it on your behalf?
- Will you buy a service from another organisation or organisations or will you (or your agent) employ some staff yourself?

Once you have decided those two questions then there are a number of other practical things that you will need to do.

### ***Doing it yourself or using an Agent***

Whether you can manage your own service or you need somebody to act on your behalf is something that you need to agree with North Lanarkshire Council.

#### **Doing it yourself**

Ideally you will want to, and be able to, manage your own services yourself. If you want to do this then you can still get support to do this. Good people to get support from include:

- Family
- Friends
- Advocates

If you really want to do without an Agent and yet issues of legal competency persist it may be necessary for you to take further legal advice.

#### **Using an Agent**

If you want somebody to act as the person who will manage your service you need somebody to be your Agent. Sometimes people may even need to work out whether that is what you want and who is the best person to be your Agent.

Your Agent must be someone who can take on the legal responsibility of agreeing to the Self-Directed Service with North Lanarkshire Council.

The position of Agent is not a legal position; instead it is a role defined for the mutual convenience of you and North Lanarkshire Council. As such it is appropriate for North Lanarkshire Council to assure itself that the Agent is appropriate. The Agent must:

- Not be an employee who is also paid to provide you with support
- Be a fit person
- Not use their position to abuse you in any way
- Continually seek to understand your interests and work to do the best thing for you

In other words you and North Lanarkshire Council need to find someone who is:

- Trustworthy
- Close to you and understands you well
- Likely to be around for a good few years

You may want people who care about you to set up a Trust to provide you advice and protect your interests. This Trust could also suggest somebody to be your Agent.

### ***Employing staff or purchasing a service***

Sometime people think that running your own service means you must become an employer. This is not the case if you use self-directed funding then you can either employ staff or buy services from service providers. You can even do a bit of both.

## **Being an employer**

Being an employer of staff is probably the best way of maximising your control over your service as you can pick your own staff and determine how they work without having to involve any additional people or organisations.

Being an employer is also the most responsible option. If you become an employer you will need to make sure you meet all the legal obligations of being an employer. In particular you will need to have a plan about how you:

- Pay salaries and the taxes on salaries
- Pay employers and public liability insurance
- Giving employment contracts
- Get any legal or personnel advice you might need

North Lanarkshire will not offer particular advice about how you meet your obligations but it does want to be sure that you have thought about how you will be do these things and it is possible to use part of your funding allocation to pay for these services.

## **Buying services**

It can also be useful to buy a service from a professional service organisation. These organisations can handle the business of employing staff themselves and may bring special skills. Some may be good at helping you:

- Live safely in your own home
- Find and keep work
- Make new friends
- Learn new skills

North Lanarkshire has a list of services that it has checked called the List of Authorised Providers (LAP) which you can be made available to you, along with any reports. However you do not need to use these services.

## ***Your contract with North Lanarkshire Council***

If North Lanarkshire Council agrees to provide funding for your Self-Directed Service this funding will be given to you as part of an agreement between you and North Lanarkshire Council.

The agreement will have four main parts:

- a) Your Support Plan
- b) The Contract for Self-Directed Services
- c) The Letter of Agreement
- d) Guidance on Self-Directed Services

## **Your Support Plan**

Your Support Plan says what you will do with the money you receive and North Lanarkshire Council need to agree this with you and monitor how well your service helps you in your life.

## **The Contract which explains the rules for Self-Directed Services**

The contract set out what you and North Lanarkshire Council must do. These rules will be made available to you and they include details about:

- What financial records you must keep
- What the money can and cannot be used for
- How the money must be managed
- How to challenge the council's decisions
- How problems can be resolved

## **The Letter of Agreement**

In the letter of agreement North Lanarkshire Council sets out

- When it will pay the money to you and how regularly

- What account it will pay the money into
- What it is expecting to pay in the second and third years

### **Guidance**

In addition, from time to time, North Lanarkshire will issue guidance to help you use your Self-Directed Funding and clarify what is and is not acceptable. The main guides will be:

- The Guide on Keeping Healthy & Safe
- How to Write a Support Plan
- The Guide to Support Services
- An Introduction to Self-Directed Services

### ***Tests for a good plan***

For North Lanarkshire Council these are things that people will be looking at to make sure the plan is okay and can be agreed:

#### **Are you taking on responsibilities you can manage?**

Although it is not the job of North Lanarkshire to make sure the employer of your support staff (which could be you) is acting within the law it is important that nobody is putting himself or herself at risk by failing to comply with the law. So North Lanarkshire Council will expect you to make sure you comply with Health & Safety law, Employment law, Inland revenue rules or any other laws of the land that apply to your situation. So the plan should show that people have thought about these things and have identified appropriate sources of advice where necessary.

#### **Can you show what you have spent your money on?**

It is important that you can show how you have spent the money receive. This means keeping a record of how the money has been spent. You will not need to provide accounts but North Lanarkshire Council can investigate your records and there needs to be a way of showing how you have spent the money you have received.

#### **Is the service going to be well managed?**

It is important that you think through the management of the service and you are clear who is responsible for what.

*When it is not clear who is responsible it is more likely that things will go wrong and problems won't be solved.*

#### **Will your arrangements last?**

If circumstances change you will want your support arrangements to be maintained. So you should think about how you think things will be done both now and in the coming years. Also the plans you develop should be written down so other people can understand what is required even if somebody becomes poorly or moves away.

## **11 Paying for your support plan**

North Lanarkshire Council believes that if you have a significant impairment that means you need support to live your own life then you are entitled to receive that support.

At the moment North Lanarkshire Council provides a number of different services that you may find useful and it also provides Self-Directed Funding which you can control to arrange your own service. In addition there are a number of other important sources of services and funding. In this section we set out what funding or other help you should receive and how you can use that funding.

### ***How much help should you receive?***

At the moment there are no strict rules about how much help you should receive. However as a guideline North Lanarkshire Council has adopted the following approach for people who use Self-Directed Services.

North Lanarkshire Council will allocate funding to individuals that it deems eligible for Self-Directed Services by the following criteria:

The individual must need care, supervision or watching over from another person because of their physical or mental disability.

### **Determining the amount of the direct payment**

Where possible North Lanarkshire Council will evaluate the level of your disability and give you an initial statement of the target level of funding which we think you should receive. This will be based upon the level of your disability and a more detailed understanding of your needs.

There is an element of discretion within the funding allocation to enable care managers to reflect individual circumstances. For instance an individual who has been in long-term institutional care may lack many of the networks that enable someone to flourish in the community and therefore such a person may need a higher entitlement than someone who has had a more positive life history.

North Lanarkshire Council will work with you to identify this funding both from its own limited resources and from other potential sources of funding.

### **Identifying the charge for services**

North Lanarkshire Council is also obliged to ask you to make a contribution for the cost of your service. This charge will be calculated according to fixed rules.

### ***Identifying additional funding entitlements***

There are numerous other potential sources of funding that may apply to your situation. Here are just a few of the main possible sources of funding.

#### **Transitional Housing Benefit**

Individuals who are paying rent and claiming Housing Benefit may be entitled to Transitional Housing Benefit (THB).

#### **Independent Living Fund**

Individuals who are receiving the high care component of DLA are entitled to claim money from the Independent Living Fund to pay for support. Note that the ILF will not fund services that cost in total more than £55,000 per year. However exceptions are made for medical need.

#### **OT Funding**

There are a number of additional funding sources that can be used, usually on a one-off basis to fund equipment or building work.

#### **Home Improvement Grants**

In certain circumstances the Council can provide funding to help you make your home more suitable to your needs.

#### **Home Ownership**

The Council and Scottish Homes co-operate to enable some funding to be available for house purchases. Mortgage interest can be payable by the DSS.

## **NHS Funding**

The NHS provides services, support and equipment free if you have a relevant medical need.

## **Private sources of income**

If you have other forms of income that are specifically provided to you to pay for support it may still be possible for North Lanarkshire to combine its funding with your funding.

## ***Working out your budget***

You will be informed of your direct payment as soon as possible so that you can plan in a realistic way knowing the financial limits.

Of course if proves impossible to provide an appropriate service within the proposed funding level then North Lanarkshire Council will work with you to see whether changes can be made in either the service or the funding to make a service possible.

However if you can work within the initial direct payment proposed it will make it easier for funding to be agreed.

## ***What you can spend your funding on***

Different sources of funding will have different rules attached to them. Funding for Self-Directed Services [direct payment] aims to provide a more flexible funding source, one that can be used for things that the other sources of funding may not be able to cover.

## **What you cannot spend your funding on**

These are the things you cannot do with your Self-Directed Funding [direct payment]:

- a) You cannot spend the money on anything that you have not been assessed as requiring.
- b) You cannot pay your Agent for support
- c) You cannot pay for support provided by an immediate family member (spouse or partner, mother, father, brother, sister or child) if that person also lives with you unless in exceptional or agreed circumstances.
- d) You cannot use the funding for permanent institutional care (e.g. care in a hospital, nursing home or residential care home).
- e) You cannot pay someone whom because of past criminal behaviour or other reasons may place you at risk of harm, abuse or lack of care.

If you are in doubt about whether something is appropriate then talk to North Lanarkshire Council about your concerns.

## **What can you spend your money on**

North Lanarkshire Council will provide more guidance on how funding can be used to provide your support. The following are some examples of some of the possible ways you could use your Self-Directed Funding [direct payment] as long as it met your identified assessed needs, as set out in your support plan.

- Employing support workers
- Purchasing services from a staffing agency
- Paying an allowance to a live-in care worker
- Paying your neighbour to provide support
- Meeting the cost of your support staffs' expenses for travel or living costs (in your home)
- Paying for specialist help such as interpreting service
- Meet the costs of your support person/s when they are supporting you to have a short break or holiday.

## ***What you can do about changing costs***

Things do not always stay the same. It may be helpful to do something only once, but it doesn't need repeating. So it may well be that you need to think about different amounts of money being made available at different times.

There are several ways of planning for changes in costs.

### **Three year planning**

For everybody's sake North Lanarkshire Council has agreed to fund you on a three year rolling basis. That means that we agree the funding you need for this year, next year and the following year (Year One, Year Two and Year Three). At the end of Year One we will review your needs and make sure that your support services are still meeting your needs. Any changes to your plan, including financial, can be discussed at this time, but if your needs were to change quickly you need to let your social worker know so your plan can be reviewed quickly.

### **Planning for contingencies**

Sometimes you might know that your service will need to change in a major way and that this might change how much it costs.(e.g. if you have a degenerating condition) However you might not know when this change might happen. In this case you can still set out in the plan what you will do and what you will need, if that thing happens. These contingency plans can also be agreed by the Council.

### **One-off costs**

You may also identify one-off costs where you just need funding on one occasion only. For instance you might need funding to:

- Get the service up and running, i.e. recruitment, training.
- Buy a piece of vital equipment

### ***Tests for a good plan***

For North Lanarkshire Council these are things that people will be looking at to make sure the plan is okay and can be agreed:

#### **Are you working within the agreed budget?**

If the Support Plan sticks within the agreed direct payment this is good. If the budget exceeds the agreed direct payment then hard questions need to be asked to ensure that there is no way of making the service less expensive.

#### **Is your plan good value for money?**

It is not the job of North Lanarkshire Council to determine the rates of pay of service providers or employees. However the Council must ensure that the plan is good value and that the same benefits could not be achieved in a different way.

#### **Is it clear how you are going to spend the money?**

The plan should be clear about how the money will be spent and there should be enough detail to allow reasonable debate and discussion about how you intend to manage things.

#### **Have alternative sources of income been maximised?**

It is important that every effort is made to maximise all the alternative sources of income before relying on Self-Directed Funding.[direct payment]

## 12 Important questions

### ***Can I change my plan?***

It is your plan and you can change your plans in the same way as anybody. As the funder of your plan North Lanarkshire Council will expect to be advised of any major changes when they occur so that they can agree those changes. However North Lanarkshire Council will be reasonable and would not stop you from making change in normal circumstance.

However if you decide to do something that will increase the risks faced by you or anybody else you must advise North Lanarkshire Council and get their permission before using your funding in any way that might increase the risk of harm to you or others.

### ***What happens if my needs change?***

If your needs change then you will need to ask North Lanarkshire Council to reassess your needs and determine a different funding allocation.

North Lanarkshire Council is committed to offering disabled people fair and appropriate levels of funding and will make every effort to readjust funding to ensure that increases in need are reflected in the level of funding provided. However in order to make this possible it is also important that you also let North Lanarkshire Council know when your needs reduce so that funding can be reduced where appropriate and offered to others with increasing needs.

### ***How guaranteed is the funding?***

North Lanarkshire Council presently has the statutory responsibility for assessing and where possible meeting the support needs of disabled people. It will fulfil this responsibility to the best of its ability as long as the national government continues to place this responsibility upon it.

### ***How do I appeal?***

If at any time you are unhappy about something then you should discuss it with your care manager as soon as possible and try to resolve the matter.

You will also have a right of complaint and should receive a copy of the formal Complaints Procedure operated by the Social Work Department.

### ***Do I have to write my plan down?***

You do have to provide North Lanarkshire Council with a written record of your plan.

### ***Can I use pictures?***

You can use pictures, photographs or any other means to communicate meaning in your plan. What is important is that the plan acts as an effective means of communication and that North Lanarkshire Council can understand its meaning.

### ***Will this money effect my personal income***

This funding is for your support services. It is not personal income and you should not declare it for tax or benefit purposes as income. It is not income; it is the funding necessary to purchase the supports you need. It should not effect your income in a negative way.

### ***Managing your funding allocation.***

This money can only be used for the purposes set out and agreed in your support plan. If you have unspent funding at the end of the year this will be returned to North Lanarkshire Council.

### ***How will the Council check that the plan is working?***

Once the plan has been agreed between you and North Lanarkshire Council the Council will monitor how things are going. It will do this by meeting with you at least twice a year, but these meetings may be more regular if you or the Council think it necessary.

The care manager will listen to how you and the people around you think things are going. In addition every year the care manager will ask you to describe what goals you achieved and to update the Support Plan.

The council may, from time to time, check that the money is being spent properly and in accordance with the contract.

### ***When would the Council challenge the plan?***

This guide has described the various tests that the plan must pass to be agreed. However once it has been agreed the Council will also challenge you if it finds that you are not living up to the plan or if it finds that the plan is out of date. This does not mean that you cannot change your mind or make sensible change to your plan as the need arises. However you must agree any major changes to your plan with North Lanarkshire Council.

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# ANNEX F

## Guide on Keeping Healthy and Safe

# **CONTENTS**

## **ACKNOWLEDGEMENTS**

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# Acknowledgements

## Introduction

This Guide on Keeping Healthy & Safe sets out the important principles and, in some areas, the specific details of how to ensure the health and safety of people who receive support in the community, their supporters and the general public.

The most up-to-date version of this Guide will be made available to anyone who needs it.

The Keeping Healthy & Safe Guide covers issues that may arise when any individual receives support. In particular it covers support to:

- Disabled people
- People with mental health problems
- Older people needing support
- Disabled children
- People with learning difficulties

The Keeping Healthy & Safe Guide has been written to provide support and guidance to anyone who is responsible for organising the support people need, which sometimes means the individual themselves.

If you have any concerns about the content of this Guide or would like to suggest changes please contact us directly.

# 1 Responsibility for Health & Safety

As an organisation North Lanarkshire Council has a responsibility to safeguard the health and safety of its employees, the people it contracts with, those it serves and members of the public. It is important that this general responsibility is assigned to individuals so that there can be no confusion about how responsibilities will be met.

## ***Personal responsibility***

Anyone who is involved in supporting people has a duty to:

- Work safely and efficiently
- Use all necessary equipment safely
- Use protective equipment where necessary
- Meet their statutory obligations
- Report any incidents that have lead or may lead to injury or damage
- Adhere to any agreed procedures for safe working
- Assist in the investigation of any accidents so that any future risk of harm can be reduced

## ***Employers Responsibility***

Any person or organisation employing staff has a particular responsibility to ensure that it makes sure that their employees are safe from harm.

## ***Management Responsibility***

Any person who has the job of managing a service to individuals who need support has a responsibility to ensure that the support has been organised to minimise any unnecessary and harmful risk.

## ***Social Work Responsibility***

The Social Work Department will check that:

- Responsibility for health & safety matters has been clearly assigned to a named individual
- Plans have been developed to ensure health & safety

The Social Work Department is committed to improving the health & safety of all those who use its services, all employees and the general public. However it is the employer and any staff designated by the employer who are responsible for putting plans in place and implementing those plans.

## 2 Understanding health & safety

North Lanarkshire Council is concerned about improving all aspects of health & safety. This means we are concerned to reduce the risk of any incident occurring that might lead to any of the following harms for individuals needing support, supporters or the general public:

- Damage to relationships and personal reputations
- Damage to or loss of property, theft
- Physical, sexual, emotional or financial abuse
- Trauma and mental health problems
- Illness and the abuse of drugs or alcohol
- Physical harm and injury, including violence to staff
- Death

This guide will not be able to cover every possible issue of concern. However we hope to deal with all the more significant concerns and to give enough guidance for individuals to use their judgement in more unusual situations.

### ***The law and health & safety***

The Health & Safety At Work Etc Act 1974 sets out certain duties that employers and their employees must do to avoid breaking the law. In summary those duties are:

*“It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.” In addition the employer has similar duties to the general public and a duty to take care in spaces that do not belong to the employer.*

Certain kinds of support that people receive may not be covered by this act. For:

- The act does not cover “domestic” employment
- The act does not cover situations where an employer employs less than 5 people

However North Lanarkshire Council is concerned to improve health & safety in all areas. So this Guide will be issued to anyone where North Lanarkshire makes any contribution to the funding of the individual’s support. North Lanarkshire Council will expect all employers and any one organising or managing a support service to use this Guide when developing plans to reduce risks of harm.

### ***Central principles***

The central principles of any Health & Safety Policy must be to:

<b>1</b>	<b>IDENTIFY RISKS</b>	Be very specific about anything harmful that you think might feasibly happen. Pay special attention to any problems that have occurred before.
<b>2</b>	<b>IMAGINE RESPONSES</b>	Identify anything you could do to reduce or remove the risk of that event. At this stage it is worth quickly identifying a whole range of possible responses. Be imaginative!
<b>3</b>	<b>EVALUATE OPTIONS</b>	Think through the consequences of any feasible response to check whether it does actually reduce risk and identify the best overall response to the risk.

<b>4</b>	<b>CONSULT</b>	Where possible discuss the matter with all those directly involved and ensure that you listen carefully to everyone's point of view.
<b>5</b>	<b>ACT</b>	Implement the necessary actions while explaining why you are doing this.
<b>6</b>	<b>DOCUMENT</b>	If any issue is likely to be on-going then it is important to document the necessary action in either the Support Plan, or in some other easily available document.
<b>7</b>	<b>REVIEW</b>	It is necessary to regularly review any policies that are in place to ensure that (a) they are necessary and (b) they are effective

### **Managing risk**

It is unlikely that all risks of harm can be eliminated from support work. Support work is about enabling individuals to successfully lead their own lives. But a free and independent life carries with it certain inherent risks.

However we are under an obligation to minimise risks where possible. There are three different kinds of people we must always think about when assessing risk:

- The person served
- Their supporters
- Other members of the general public

All three groups of people are important and we must take seriously risks to any of those groups. It is especially important to remember that, even though you may be employed to support someone, you still have a fundamental duty to take care of yourself and to ensure your own safety.

### **Identifying and understanding risks**

It is important when identifying risks to focus on those risks that are most significant. That means thinking about how likely such an event is likely to occur and how negative are the consequences of that event.

In order to make sure that a risk is significant it is important to be able to give good reasons why the event might be likely and why its consequences will really be negative.

Good questions to ask when identifying significant risks are:

- Has this happened before? If so how often?
- What are the actual consequences of this risk for the individual who is being supported and for others?

Sometimes a risk may have been significant in a different place or at a different time, but the risks may be very different in a different context. However if you do think the risks are different now it is important to identify real evidence that explains why these risks are different.

### **Possible responses**

There may be a wide number of different responses that might be effective in reducing a risk of harm and it is important that those responses are not limited to the first thought that you have. It is best to work with others to identify a range of possible responses and then to decide on the best response in the light of those options.

Some of the kinds of response that might be considered may include:

- Changing the physical environment
- Helping the individual make new choices and explore different opportunities
- Supporting the individual in a different way

- Providing training for supporters
- Making an investigation to understand the risky situation better

### **Criteria for evaluating responses**

Possible responses should be reviewed against a range of factors:

- Is the response likely to be effective? Is it likely to actually work?
- Will the response promote the dignity of the individual?
- Is the response a good and effective use of resources?
- Does the response succeed in not increasing other harmful risks?
- Is the response the least restrictive option available?

It is often necessary to balance a number of these factors when reaching your decision about what best to do. Wherever possible this should be done by more than one person and in consultation with the person being supported.

If you are in any doubt as to what to do you must discuss the problem with the manager of the support service.

### **Rights and safety**

One of the most difficult aspects of supporting an individual is working out what to do when someone you support wants to do something that is potentially risky for themselves or others.

There are several principles that are important to bear in mind when considering how to respond to such a situation:

- You have a duty to ensure your own safety
- You have a duty of care towards the individual, which means you should try and avoid anything bad happening to the individual
- The individual has rights that mean that we should enable the individual to take his/her own decisions, even when that means taking certain risks
- You have a general responsibility not to put the public at significant risk

It may not always be easy to find the right balance between these principles; however one thing is certainly true: if you are ever in doubt then you must talk to someone else and discuss the matter thoroughly. Ideally this would be someone who knows the individual and their circumstances well.

### **Policies to improve health & safety**

Organisations or employers will need to define their own policies to promote health and safety.

The purpose of this Guide is to help in the development of those policies.

It is expected that for any individual receiving a significant level of on-going support that there be a Support Plan which describes that support and which outlines any policies to minimise the risk of harm.

Some organisations may also have more general policies that set out general rules that apply to their staff and which may serve to reduce the risk of harm. **[c/r SPAEN]**

Each manager must think through the most appropriate way of documenting their policies in their situation and ensure that those policies are communicated effectively to all those who need to know the relevant information.

### 3 Personal identity, relationships and sexuality

For all human beings our personal identity is vital to our well being. Our identities are complex and our made up of many different elements. Some of the most important elements of our identities are:

**Age:** it matters to us whether we are a baby, a child, an adolescent, an adult or an older person

**Gender:** it matters to us whether we are male or female

**Sexual preference:** it matters to us whether we are heterosexual or homosexual

Of course personal identity does not stop there. We also achieve identity through our relationships with others:

**Family:** it matters that we belong to a particular family

**Love:** it matters that we are in a relationship with someone

**Friendship:** it matters who our friends are

**Community:** it matters where we work, play and live and the relationships we form help define who we are.

We also achieve personal identity by our beliefs, interests and achievements. For example, being passionate about football or having climbed the Munros. These things also define us and give our lives meaning.

Having our own particular personal identity is vitally important to us and not just any identity will do. Our identity must fit who we truly are and must develop with us. For example it can really harm people:

- To be an adult, but to be treated as a child
- To be a grown man, but to not be treated as a grown man
- To be homosexual, but to be treated as if that is wrong
- To have a family, but to be separated from your family
- To be kept away from your partner
- To have no real friends
- To be excluded from ordinary life

For all of us it is vital to ensure that we can express and develop our own personal identity. This is not something that is always easy to do but it is the responsibility of those who support people to ensure that they both promote the development of personal identity and do not damage an individual by denying them their true identity.

In the following sections there is guidance as to some of the key areas where there has been a tendency for support services to fail those they serve and to damage the development of personal identity.

#### ***Personal and sexual identity***

Some people are at particular risk of having their identities dismissed. This is often the case for people with learning difficulties where there is a history of either denying that people have ordinary sexual identities or of seeing those identities as too difficult to think about.

Just as we must respect people with disabilities as full members of the community so we must respect the other varied identities that make up our individual identity.

This does not mean making people act in accordance with our stereotypes. For not only do we act in accordance our identities we also like to act differently, to be eccentric and to not just do what everybody else is doing. What is important, if we are supporting someone is to make sure we allow people to naturally take on their own identity and that we encourage people to explore their identity to its fullest extent if they so wish.

#### **Appearance and identity**

It is important that people get the chance to look appropriate to their gender and age:

- Does a young man have a similar haircut to other young men?

- Does an older woman dress in a way that is suitable for her age group?

But remember that there can be no fixed rules here. While it is oppressive to forbid a young woman from dressing like other young women it would also be oppressive to force someone to dress in a stereotypical way if they really want to dress differently.

You should help people to have control and choice over their appearance in the light of their genuine personal identity. You should think about all the different ways we control our identity:

- Clothes
- Jewellery
- Haircut and facial hair

### **Sexual identity**

Not only do we have an identity that based upon our age and gender we also have an identity based upon our sexuality or sexual preference. Most people are heterosexual but a significant number are homosexual or bisexual. This is a private and personal matter and it is not the business of any paid supporter to try and interfere with someone's sexuality. However when someone's sexuality is important to them then they may want to find opportunities to express their sexuality. We express our sexuality in lots of ways:

- Activities we do
- Friends we have
- Relationships we form

It is important to respect an individual's sexual identity and to allow its expression in the course of everyday life.

### **Cultural or ethnic identity**

Another important aspect of identity is cultural or ethnic identity. We all have a number of cultural or ethnic identities that can be of varying importance to us. However some of those identities are subject to prejudice and stereotyping that can be very hurtful and damaging. It is important that your support does not interfere with someone's identity and that it respects things that are important components of our identity.

Remember that cultural or ethnic identities are not simple they are made up of different elements and they can be combined in different ways:

- The country or countries we live in now or where we have lived in the past
- The religious traditions or customs that are important to us
- The colour of our skin

All of these things can be important to an individual. But sometimes they are not important or what is important is not what think might be important.

Also we can express our ethnic or cultural identities in many different ways:

- Rules we live by
- Clothes we wear
- Religious services we attend
- Food we eat or food we won't eat
- Television shows we watch

If you are supporting someone whose ethnic or cultural identity is very different from your own then it will be very important to make sure you understand and are able to respect that identity

Wherever possible individuals should be able to select supporters so that their supporter will both understand and be able to actively support them in their cultural or ethnic identities.

### **Personal identity and disability**

For many people their own disability is a source of pride and identity. This too should be respected and supported. If people want to meet with other people who share the same disability they should not be discouraged from this. People with disabilities, like everybody else, have the right to mix with who they choose and can get strength and identity from meeting with other people with the same disability.

This does not mean that supporters or organisations should assume that people will get on just because they share a disability. It must be up to individuals themselves what groups they want to join and who they want to mix with. It is intolerable to force people together simply because they share a disability.

Also it is important to remember that others in the community may have prejudices about people with disabilities. These prejudices can be increased by forcing people with disabilities to live in different kinds of housing and to stop people from fully joining in all aspects of community life.

### **Relationships**

Our identity is not just formed by facts of birth, nature or accident. We also decide who we are by the choices we make in life and in particular by the relationships we form. It is by making relationships that we create our place in the community and these relationships also effect how people see us and how people respect us.

Relationships are not only important as part of our identity they are also essential to health and well-being. Amongst the most significant risks faced by people with disabilities are:

- Having no one in your life to love you
- having no family
- Having no friends
- Having no socially respected role to play in your community

Not only are these significantly harmful risks in themselves they are also likely to have further harmful effects, for all those things can lead to:

- Poor health and an early death
- Mental ill health
- Becoming a victim of abuse
- Poverty
- Criminality

It is of the utmost importance that any one who receives support should be enabled to build and sustain relationships. It is particularly important to plan how you will help people develop relationships because the very act of supporting somebody can sometimes act to cut people off from others, particularly where services are provided in segregated settings.

### **Building relationships**

If people have only limited relationships it is critically important to enable them to make new friends. This should be an essential part of any plan for people with only limited network of social relationships. Successful strategies for increasing people's networks of relationships include:

- Working out people's interest, hobbies and hopes and identifying where in the community those can be best fulfilled.
- Working out where people in the community meet who might welcome the individual with a disability because of some shared interest.
- Working out who within the existing networks of supporters and friends might be a good person to introduce the person to.
- Helping the individual to get a job or start voluntary work.
- Identify good sites within the local community for meeting people and making friends.

Helping people build new relationships does entail certain inevitable risks and therefore any plans to help people build relationships should be done in the context of the principles of risk management set out above. However it is particularly risky for individuals to have a highly limited network of relationships and the risks inherent in making new friends should not outweigh the need to have a wide network of friends.

### **Loving relationships**

Friendship can sometimes turn into loving relationships or partnerships. This is a natural and positive part of life.

However if you are supporting people it is important to ensure that your support does not reduce the possibility of such relationships developing. In particular loving relationships often require:

- Privacy
- Spontaneity
- Control of your own home

Supporters should be aware of these issues and always look to support people's dignity and privacy by remembering that you might be getting in the way. Ideally you would try to develop an open and trusting relationship with the person you support where you can discuss these things and plan ahead to the extent that this is possible.

### **Families**

Families are important both because they form the natural starting point for each of us but also because most of us aspire to build our own family, to have children and grand-children. However where people are getting support from services there is a grave risk that the family itself can become damaged by the intrusion of others.

When supporting people with a family life it is important to remember that:

- Families are private and like to control their own routines and schedules.
- Family life is and should be emotional. Family life often provides the natural space for people to express love, anger, joy and fear.
- It is deeply unnerving to feel that others are making judgements about your performance as a husband, wife, mother or father. The home is meant to be a safe place free from such pressures.
- Relationships are complex and can involve many layers of mutual support.

Of course there are also times when family life can become abusive and put people at risk. In these circumstances it is important to act to protect people from abuse. However it is also important not to judge families by impossible standards of perfection. For most people families are the cornerstones of their lives and even if our family lives are complex or difficult at times very few people are better off without their families.

### ***Personal development***

As we develop from children to adults our personal identities are formed. We learn new things and face new choices. As we develop we need each other's support in order to become a full person.

In particular we may need help as we grow into our sexuality in order to understand the rules and nature of love and relationships. For this reason it is essential that people receive an appropriate sex education by which they can understand the changes that they are going through and what is acceptable sexual behaviour and what is not acceptable. The kinds of things people may need to know include:

- What makes somebody a man or woman
- Religious and social rules about sex and sexuality
- What is adolescence, puberty and what to expect
- Menstruation and ejaculation
- Masturbation and norms associated with it
- How to express love and friendship
- How to express the emotions associated with love
- How to manage relationships: starting, maintaining and sometimes finishing them
- How to have safe sex
- How to maintain sexual health and avoid sexually transmitted diseases

It can be very risky to leave people without this vital information for without it people can have great difficulty managing the strong emotions associated with love and sex or can create risks

for themselves or others by acting inappropriately. There are a number of helpful resources and advisors who can help you to explore these issues. For example Ann Craft's workbook *Living Your Life* and Pavilion's *Sex and the Three R's*. Schools and the local health education bodies should be equipped to provide training and guidance in these areas.

### **Living in institutions**

The risks associated with personal development and sexuality are particularly acute for people who have had to spend parts of their lives in institutions. Institutions are things like:

- Hospitals
- Segregated schools
- Residential homes
- Residential schools

Institutions often allow sexual abuse to go unnoticed and encourage both unsafe and abusive practices. There is little room for the development of real relationships and sexuality. Instead sexuality is often highly predatory and demeaning.

If someone is being supported who has spent years in an institution it is vital that it is not taken for granted that they are aware of ordinary social norms. In addition, they may have been a victim of sexual abuse or a past abuser themselves. You must plan to ensure that any risks are minimised.

### **Relationships with supporters**

It is possible for relationships with supporters to be much more than a merely professional relationship. Indeed support seems to often work best when the supporter is a trusted friend or family member.

However matters become more complex when a supporter and the individual they support wish to enter a loving relationship.

Strong emotions are involved in loving relationships and these emotions are even felt by others who are only indirectly involved. For instance people can feel anger, envy, jealousy and suspicion and third parties may feel left out or that they might be treated unfairly. In addition if a relationship ends this can be very difficult to manage effectively while also providing support to someone.

In general it would be inappropriate for somebody to be in a loving partnership with someone and to be also working for them.

### **Planning for transitions**

There are other important transitions in life where lack of planning or inappropriate support may put the individual at risk. In particular it is important that attention is paid to the following transitions:

- Starting a new school
- Adolescence
- Moving home
- Leaving school and starting work
- Retiring
- Relationships beginning and ending

Where someone is going through these changes it is important that they are given reassurance and that planning is done to ensure that the process of change builds as much as possible upon things that work well for the individual and that they can maintain any relationships possible.

### **Risks of abuse**

One of the risks associated with being in a relationship is the risk of abuse. Abuse comes in different forms, but the main forms of abuse are:

- Emotional
- Physical
- Financial
- Sexual

We must always guard against abuse and if someone appears to be a victim of abuse then you must contact an appropriate person to alert them of the possibility of abuse.

The most important thing you can do to reduce the risk of somebody being abused is to give them information about what is or is not appropriate and to ensure that they have the power to say 'no'. In general people feel stronger and more confident if they have a wide range of trusted friends and contacts.

Remember that abuse is most likely to be carried out by somebody already known to the person rather than a stranger.

### **Consent**

If someone is not able to consent because they do not understand the meaning, implications or nature of any proposed sexual activity it is vital both for the sake of them and their potential partner that the matter is properly reviewed. Sex where one party does not consent is wrong and illegal.

If someone's capacity to consent is an issue then other parties, always including the care manager, must be involved to discuss the matter and see whether any means can be provided to provide the person with sufficient information and advice to make an informed choice.

### **Abuse of others**

If there is any significant risk that someone might pose a risk to others as a potential abuser then every effort must be made to plan the service in such a way as that risk is minimised. Other members of the community are entitled to be protected from undue risk just as the individual is similarly entitled.

In general any information about the individual that might damage their reputation should be treated as confidential. This does not mean that nobody should be told. Instead it means that people should only be told if it will be helpful to the promotion of the health and safety of the individual **and** other citizens.

For people who have committed sexual offences see North Lanarkshire's Protocol for Managing Sex Offenders.

### **Safe environments**

To protect people from abuse we need to create safe environments. That is we need to ensure that every effort is made to:

- Promote awareness of the reality of abuse
- Ensure people are listening to each other
- Build a wide-range of community connections for people

It is important to remember that safety from abuse comes not from increased isolation or being supported by only a small number of people. In general we are safer the more people we know and the better, more open and sensitive are our relationships with others.

## 4 Personal care

### Intimate care

Where supporters are responsible for ensuring someone's cleanliness and hygiene there should be a clearly set out plan for how to do this properly. Where an individual needs help with bathing, showering or going to the toilet it is vital that their dignity and self-respect is maintained. Therefore the following practices should be adhered to:

- Close doors wherever possible to provide privacy
- If possible, allow someone time on their own in the bathroom or toilet
- If someone is using the toilet cover their lap with a towel
- Always explain what you are doing clearly and respectfully
- Use respectful language, don't say things like "You're dirty"

One of the most difficult and important issues that should be assessed with regard to intimate care is the differing involvement of men and women supporters with men and women who need help with intimate care. In general the following principles should be adhered to:

- Where people can clearly state a preference then this preference should be fully respected.
- Where people cannot state a preference every effort should be made through Essential Lifestyle Planning or some other means to evaluate the person's preferences, this should include listening to the preferences of family and friends.
- As a general rule, if you do not know whether a woman is happy to receive intimate care from a man then you should assume that she would not be.

A vital aspect of providing high quality care is by trying to find ways by which the person can let you know that they want to use the toilet, have a bath or take a shower:

- It is important to remember that as trust and confidence develops people are very likely to find a way of letting you know even if at first they are unable to.
- Be sensitive to the different signals that someone might use to let you know.

It is also important to build up a pattern or ritual around intimate care based upon what works well for the individual. Thinking about this ritual should also involve thinking about other aspects of intimate care:

- Making someone comfortable and relaxed
- Being thorough and making sure people are really clean in all parts of the body
- What lotions, soaps and towels to use
- Thinking about all aspects of personal hygiene: e.g. nails, hair
- Making sure someone is properly dry

Properly documenting this information in a detailed way is a vital element in ensuring that the individual we serve receives high quality care and it also provides the basis upon which different team members can work in a consistent fashion.

Finally it is vital to remember that people's needs around intimate care may change. Sometimes people will need less help as they grow in confidence and skill. Sometimes as people get older they will need more help.

### Personal hygiene

#### Nail care

It is important to take care when cutting finger nails and toes that you do not harm somebody by breaking their skin.

It is also important to notice the overall state of someone's feet. If you notice that the skin on the foot is damaged or that the nails are changing colour shape then you should support the individual to get help from a doctor. These can be signs of more serious disorders like diabetes.

## **Continence care**

If someone needs help to manage their continence then it is critical that there is a clear plan of action as to how to help the individual and it is usually helpful to have a clearly defined routine agreed with the individual.

Any supporter would need appropriate training in the following techniques and be deemed competent before attempting to carry them out:

- Administering an enema or giving suppositories
- Performing bladder irrigation
- Taping catheters
- Testing urine for acetone

If you observe any of the following things you should help the individual seek medical advice as soon as possible:

- Skin changes in perineum
- Blood in urine or stool,
- Pain when emptying bladder or bowel
- Reducing fluid output
- Unexplained changes in bowel or bladder movements

## **Shaving and hair care**

If you are supporting someone to shave then it is always best to use an electric razor rather than an open razor. In general it is best to encourage people to use professional barbers and hairdressers wherever possible.

## **Skin care and wound management**

If you are supporting someone who needs dressings applied to open wounds (e.g. bedsores, open ulcers or weeping wounds) then you must get training from an appropriate person, such as a Direct Nurse.

If you observe any of the following things you should help the individual seek medical advice as soon as possible:

- Rashes
- Changes to moles or lesions

## **Eye and ear care**

Sometimes people are described as being blind or deaf but no proper diagnosis has been made. This is particularly likely if somebody has spent a considerable amount of time in institutional care.

If people have any eye or ear problems then their plan should set out how they will receive regular checks to ensure treatment is appropriate, to avoid the development of problems like cataracts and to ensure any appropriate aids have been offered.

Take care if you are supporting the individual to apply any external preparations such as nose drops, eye baths, creams, and inhalers. Care must be taken to avoid cross-contamination and appropriate medical advice should be sought.

## **Dental care**

See a dentist or doctor if the person you are supporting has dental or other mouth problems. Don't recommend or assist in the application of non-prescribed mouth care medication.

## **Moving and assisting**

If someone's physical disability is such that they need to be moved by a supporter then it is vital that the individual and the supporters receive training in how best to move and assist the individual in order to avoid injury to both the individual and the supporter. The following principles are to be applied:

- Do not try to lift someone by hand who cannot bear any of their own weight without the assistance of somebody else.
- Do not try to use any equipment to lift an individual unless you have been shown how to do so.

- Do not try to help somebody move when two people are required.

A certified specialist should provide individually tailored training on moving and assisting. There are various sources of expertise in moving and assisting

All those who may support someone to move must be trained.

A written plan must be in place detailing any relevant techniques and issues regarding the use of equipment and the plan must be included in the Support Plan.

Advice must be sought from a physiotherapist or occupational therapist about any equipment that will make moving and assisting easier. See the section on Safety Equipment below.

### **Accidents and spills**

If there is an accident and blood, urine, vomit or faeces are split then it is essential that cleaning takes place as soon as possible and with the minimum of fuss and embarrassment to the individual.

- Reassure the individual
- Wear protective clothing and gloves
- Mop up any pools of fluid with paper towels or absorbent cloth
- Use a cloth or sponge soaked in hand hot water to clean the area of spillage
- Rinse and dab dry the area of spillage
- Dispose of paper towels carefully
- Wash any cloths or sponges for reuse
- Wash hands thoroughly

## 5 Person-specific risks

Some individuals have risks associated with their individual character, history or method of communication. In this section some of those risks are described and appropriate policies set out.

In order to evaluate whether someone poses a significant risk to themselves or others it is vital that a full history of the individual is identified. If there is any concern that a full history cannot be identified then the manager must contact the care manager as soon as possible to discuss how further information can be gathered.

**Also refer to North Lanarkshire Council Social Work Department policy on “Management of Behaviours that Challenge Services”**

Some people can sometimes act in ways that might cause a significant risk to others. The reasons for such behaviour are often complex and can take time to understand. Some possible reasons may include:

- Ill health or a response to physical pain
- Mental ill health or a psychiatric disorder
- A way of dealing with certain situations
- A way of communicating something
- A way of expressing emotions or frustrations

Some behaviour may well be linked to an environment. So if you can work out where someone will be happier the behaviour reduces. However this also means that difficult behaviour which did not work in one environment (e.g. a hospital) may be rediscovered in a new environment

### Individual planning

Developing appropriate responses for this kind of behaviour is vital. When thinking about how to deal with difficult behaviour the following principles are important:

- Think about the individual and their whole life
- Take time and don't jump to conclusions
- Examine what is going on properly
- Ask for help
- Remember that change may take time
- Be firm but flexible in your response
- Re-evaluate and amend

A key part of any decent planning will be to ensure that, where possible, the individual is achieving those aspects of their lifestyle, which are essential to their individual well-being. This might mean doing detailed person-centred planning with the individual. For example it might be useful to carry out an Essential Lifestyle Plan to examine what is important to an individual.

If there is any known behaviour that presents a significant risk to the person or to others there should be specific plans worked out in detail to cover the difficult behaviour.

In general it is easier to manage difficult behaviour when life is good and you have every opportunity to individualise the support for an individual. This means individualised support in the community that enables the individual to meet their needs safely.

It is also important to carefully review *any* significant changes that may be about to happen in an individual's life. For change is always traumatic and change involves boundaries and patterns may change, and this can be frightening. Examples of significant change would include:

- Moving home
- Leaving school
- Death of a loved one
- Leaving hospital

## **Information and resources**

One of the most important aspects of coping with difficult behaviour is to identify others who have or are experiencing similar difficulties and share experiences and strategies for coping. Further information on dealing with difficult behaviour is available from a number of sources.

## **Control and restraint training**

Training may well be essential in de-escalation, breakaway techniques and in some exceptional cases restraint. An accredited person or organisation must provide the relevant training. The level and type of training must be appropriate to the individual situation of the team and their needs.

## **Liability**

All supporters are responsible for following any policies that are in place. Policies that are in place to safeguard the individual and others are of the utmost importance and breaching such policies should be a disciplinary matter.

## ***Self-injurious behaviour***

The reasons that someone might hurt themselves are similar to those that make someone hurt others, although self-injurious behaviour also shows that the person doesn't like themselves in some way. Therefore self-injurious behaviour should be examined in the same detailed way as behaviour which is harmful to others.

For specific individuals who are at risk of harming themselves there needs to be specific planning as part of their Support Plan. It will be important to think about:

- How is medication stored
- Where are knives kept

One of the most important principle if someone talks about suicide on a regular basis is to ensure that one does not become complacent. Danger signs include:

- Sudden changes in behaviour
- A sudden degree of calmness
- Talking about things differently
- Planning for a will or the distribution of one's belongings

If you notice these kinds of changes make sure you do something about it. Talk to people who know the person well and share your concerns. If you are a supporter talk to your manager.

## ***Mental health problems***

Mental health problems are relatively common in the whole population. There are a number of things to think about if one begins to think that someone is having a mental health problem.

- Behaviour that is difficult or difficult to understand is not always the result of a mental health problem. We have an obligation to the person to ensure that we have tried very hard to work out why someone might be unhappy, angry, confused and what we might be able to do about the situation to make it better.
- Sometimes even if a problem is identified as a mental health problem the way to deal with that problem will not be very different to what supporters should be doing anyway.
- Some of the drugs used to help with mental health problems are exactly the same as prescribed for people who were forced to live in an institution.
- Sometimes getting a label for a specific mental illness may help people in the short-run to feel something else is responsible for a certain situation. However the benefits of this may only be immediate and in the long-run acquiring the label of being mentally ill may only make it more difficult to adapt to change or make positive changes in ones own life.

If you feel that there is an undiagnosed mental illness then you should help and encourage the individual to access the appropriate mental health services. In general it is best to avoid using the jargon of mental health unless an appropriate professional has diagnosed a specific mental illness. In general a supporter should only make a referral to a mental health specialist with the agreement of an appropriate manager.

A referral for support will involve either a referral by the GP to the psychiatric services or a referral by a Community Nurse. Referrals may be made for psychiatry, psychology or other services, e.g. counselling.

- Psychiatrists are professionals who can prescribe drugs
- Psychologists are professionals who look at behaviour in the context of the environment someone is living in

As with all medical services, supporters and advocates have a responsibility to investigate, question and challenge the advice offered by any professional. If a specific mental illness is diagnosed then the appropriate response to this diagnosis for supporters should be noted in the Support Plan. Clearly if a program of training, support or advice is necessary for the individual or their supporters this must be developed as soon as possible.

## 6 Lifestyle risks

### Diet

A good balanced diet is important for general health. If someone cannot choose or control what they eat you have a responsibility to ensure that the individual gets:

- food they like and enjoy
- a balanced and healthy diet
- food that is appropriate to their culture or religion

Most people do not eat a very balanced diet and it is much more important to let someone choose and control what they eat, where they can, than ensuring that what they eat is well balanced. The following principles are important:

- Although we might encourage each other to eat well this must not be allowed to become a damaging pattern of nagging.
- It is also very important to pay attention to what food someone really like as the pleasure and sense of well-being that comes from enjoying food we like is a very important aspect of ensuring someone gets a good and secure life.
- It is important that the withholding of food is not used as a punishment for inappropriate behaviour - this is both a disrespectful and usually futile way of helping people develop more appropriate means of communication.
- If people need help to examine or improve their diet or eating habits explore the use of mainstream resources. For example you could use Scottish Slimmers or the generally available information on healthy eating.
- If someone does over-eat it is generally better to explore the reasons why they might be eating more; is it for comfort or out of a sense of worthlessness

Occasionally there are some people whose over-eating is a more significant health risks. For instance where people have diabetes, or Praeder Willi Syndrome. In these cases the support plan should include a clear an agreed strategy for minimising the relevant risk.

### Smoking

Smoking is bad for one's health, but it is a legal and common practice that is enjoyed by many. You should always try to give people the choice of working with people with compatible habits. The following principles should be respected:

5. In general it would not be appropriate to try and discourage someone from smoking unless the health risk was significant and had been identified by a health professional. Try to use appropriate generic resources if someone wishes to give up smoking
6. Continual pressure from another person not to smoke is rarely effective and is often counter-productive.
7. If someone does not smoke themselves it is unlikely that they would be happy for someone to smoke in their own home; therefore in general supporters should not smoke in the house of a non-smoker unless there is a specifically agreed policy in place.
8. If you object to another person smoking this is quite reasonable, and so negotiate with the individual or other supporters your right not to have to suffer a smoking environment e.g. ask "Do you mind if no one smoked during this meeting?" or "Could I open this window?"
9. Find appropriate non-smoking venues

### Use of drugs

Drug use, illicit and prescribed, and drug mis-use, is common, and a feature of today's society (this includes tobacco and alcohol). Individuals may mis-use substances for a variety of reasons, and as such should be encouraged to seek appropriate assistance, should this be creating a difficulty for them.

Where drugs are not prescribed, and obtained illicitly, individuals should be encouraged to consider the potential outcome in terms of legal issues (charges etc.), and damage to

themselves both physically and psychologically, but the individuals right to choose must be considered at all times.

However it is important to remember:

A supporter must not support someone to buy or use illegal drugs. If someone asks you to become involved in an illegal activity then you must insist on not being involved.

If someone who is using drugs and requests assistance then they should be supported to seek out the relevant support. (e.g. support to achieve abstinence if they wish to stop using the drug, or harm reduction where they wish to reduce the risks of using the drug).

## **Drinking**

Similar to illicit drug use and mis-use alcohol plays a large party in modern society and is a drug. There are a number of risks associated with alcohol:

- You must respect anyone who for religious or other reasons does not want to drink alcohol. We must not put anyone under pressure to drink.
- You must encourage anyone who drinks excessively to think about the health implications of excessive drinking.
- You must ensure that anyone who has a severe addiction to alcohol is offered appropriate generic support.
- If you are being paid to offer support to someone then you must agree a rule about whether drinking is allowed or not. Some employers may decide to ban all drinking at work. You must certainly not drink more than the existing drink-driving limit, presently 2 units of alcohol.
- If someone drinks excessively and collapses or passes out they should be placed in the recovery position.
- If someone is prone to drinking alcohol to excess then other risks must be considered; e.g. fire safety
- Clear boundaries can sometimes really help people who cannot cope with alcohol but must only be put in place in the light of a thorough analysis of the significant risks

## 7 Health

### Promoting positive health

It is important that we promote positive health wherever possible. This means thinking about promoting:

- Exercise and fitness
- Diet and nutrition
- Good mental health

If someone gets poorly then they should be supported to use the same generic facilities as anyone else in their community. This means using their GP and the emergency medical services.

It is also particularly important to pay close attention to the well-being and health of anyone who cannot communicate with language as the signs of ill-health are sometimes not obvious.

Everyone should have regular health checks from their GP, dentist and optician.

### Medication

Everybody should be encouraged to manage their own medication. For those people who need support in taking their medication that support should be done in a way that still maximises their control over their own life.

### Self-administration

If someone can administer their own medication then the role of the manager is to encourage the individual to use some system that reduces the risk of errors and possibly agreeing with the individual to keep a check on how self-administration is progressing.

Pharmacists can provide advice on different systems for organising medication. The pharmacist will also organise the system for the individual. There are at least 5 in regular use:

- Dosett
- Medidose
- Mediwheel Tablett Dispenser
- Nomad System
- Liquid Medicine Dispenser

It is the role of any supporter to know the medication and the system and to remind the person to take their medication on the agreed basis.

### No self-administration

Some people will not be able to manage their own medication and some people will only be able to manage their own medication with direct help to ensure that they have taken the correct medication and level of medication.

When someone is not administering their own medication then the manager has a responsibility to ensure that the correct medication is taken at the correct times. In the Support Plan someone, possibly the team leader or a family member must be noted as taking lead responsibility for ensuring that:

- The correct medicine is collected and stored in the house
- That a pharmacist takes responsibility for filling one of the organising systems described above.
- There is a written statement of what medication is to be taken and this needs to be signed and when this has been checked with the GP - Drugs Recording Sheet
- Changes in medication should be noted on the Drugs Recording Sheet, the Dispensing Sheet and in the Diary
- There is a system of recording which notes what medication was given, by who at what time.
- A named individual must check the list against the medicine prescribed to see that the right number of pills is left in the bottle every week.

- The manager must check that proper systems are in place and offer support to put them in place.
- Never recommend or administer non-prescribed medications.
- Specific training must be received before administering rectal, vaginal or intravenous medication or fluids.
- All supporters should be informed of likely side-effects of medication.

### **Medicine not used regularly**

Over-the-counter medicines such as aspirin can be used just as they would be used for any person. However it is important to note in the Support Plan any known allergic reactions etc.

Certain medicine is prescribed to be used when required, such as certain tranquillisers. If this is the case the Support Plan should clearly state the circumstances when it would be reasonable to use the medication.

### **Storage of medication**

There are risks from keeping medicines too long and from having too many unnecessary medicines in the home.

- If the individual is not responsible for the administration of their own medicine then the designated person must ensure that stocks are kept low and safe.
- Medicine should be kept in a separate place out of the reach of children. If there is a significant risk that someone who is not responsible might use the medicines they should be locked. Any medicines that have a 'street-value' should be locked away. You should always avoid having any medicines that have a significant commercial value out of the house.

### **Disposal of medication**

In the event of the following circumstances medication should be returned to the pharmacist:

- The medication has expired
- The course of treatment has been completed
- The course of treatment has been discontinued by the GP
- The labels are missing or illegible
- Medicine has been mixed up or mishandled
- The individual refuses to take the medicine

If someone dies their medicine must be retained for at least 7 days in case it is required for any possible investigation. After this time the medication should be returned to the pharmacist. Also all the records of medication taken must be sent, as soon as possible to X, who will keep them for three years.

### **Review of medication**

Individuals who have left long-stay institutional care often stay on medicines, especially tranquillisers, much longer than is really necessary. It is important that the manager ensures that there is a proper dialogue with health professionals about the use of medication.

- It is vital as part of developing the Support Plan to find out why someone was given particular medication as it may well be that the situation has changed since then.
- It is also important to remember that changes in medication, especially tranquillisers, will have unpredictable consequences and that, in general, it will be best if such changes are made at times of stability.
- It is worthwhile using the BNF, the British National Formulary, to identify any drugs that people are using, what side-effects may follow from the drugs, and what should be avoided if using the drugs. This information should then form part of the Support Plan.
- Pharmacists can also provide useful information on medication, their side-effects and when it safe to take it.

## **Communicable diseases**

If anyone has a disease that is communicable then this should be identified and this information should be shared, on a confidential basis. Communicable diseases include:

- Hepatitis B
- Aids
- MRSA

This information will be confidential. However we must encourage anyone we serve, who is at risk of spreading a disease, to inform any one who might be at risk of the potential risks. In exceptional circumstances you may need to share this information with others without their permission.

A small but significant numbers of people who have lived in long-stay institutions are carriers of the Hepatitis B virus. As this is a known risk anyone supporting someone who has lived in hospital should contact their GP and request the vaccine for Hepatitis B.

Although such information is confidential it is expected that anyone who is themselves carrying a communicable disease discusses the matter with their manager who can assess what risks, if any exist, and how those risks might be best minimised.

If there is a risk of cross infection then everyone necessary should know how to prevent cross-infection and the implications of not carrying out these measures.

## **Disability related health risks**

If an individual suffers from any illness or is particularly likely to suffer from ill health for whatever reason then there should be a plan about that key issues. Particular issues that may occur include the following.

### **Risk of bed sores**

If the individual is not very mobile then your supporters will need a plan to make sure they can move and avoid pressure sores.

### **Tube-feeding**

If an individual use a gastrostomy tube then their supporters will need training in how to carry out tube-feeding.

### **Administering oxygen**

If someone requires oxygen to be administered then their supporters will need appropriate training and the Support plan should reflect any other measures that must be taken.

Remember that no naked flames or smoking should be allowed near oxygen and notify the GP when supplies are low.

### **Injections**

Injections of medicine must only be carried out after suitable training has been provided.

Syringes and needles must be disposed of safely using a biohazard sharps bin that can be provided by District Nursing services.

## **Disability and health**

Also, while it is always important to remember that people are people first before their disability there are certain specific health risks and other problems that are associated with specific disabilities. For example:

If you are someone with Downs Syndrome then you may be at an increased risk of heart disease and you may want your supporters to ensure that you get good medical advice.

There are many different conditions that may cause a learning difficulty. A few of the main ones are set out below:

- Downs Syndrome
- MPS (Mucopolysaccharidosis)
- Fragile X Syndrome
- PKU
- Duchenne Muscular Dystrophy

There are often specialist bodies who can advise on these conditions (eg. the MPS Society). However it is always important to remember that knowing the condition will only tell you a small fraction of what is important about the person, if anything.

Where a specific diagnosis has been made then the details of any risks that flow from that disability, and the appropriate responses, should be noted in the Support Plan.

## **8 Safety in the home**

### **Home security**

Having a door lock which is of insurance standard, a chain and a peephole in the front door could help ensure that access to the home of the individual is restricted to those who are clearly and appropriately invited inside.

If a stranger visits the individual should be encouraged to be satisfied of the person's credentials before allowing entry.

It may also be advisable to contact the Crime Prevention Officer who will do a safety audit and make recommendations about window locks, outside lighting or other appropriate safety devices that would inhibit casual thieves or intruders.

Additional security may be provided by using the Community Alarm System; this is run by North Lanarkshire Council. This will be particularly useful for people who may not always be confident using the phone but who want to spend more time on their own.

Environmental Control Systems or SMART technology can also be used to control things in the home or to alert others. For more information on SMART technology contact your social worker or GP.

### **Fire**

The possibility of a fire presents a significant risk to everyone, whatever their living situation and there must be strategies for minimising risk in place in everyone's home.

Good practices to bear in mind are:

- Electric fires must not be used to dry clothes
- Any cigarettes must be fully extinguished

It is very important that if there is risk that someone may play with fire or set fire to things out of frustration then planning should reflect this. In particular thought needs to be given to purchasing:

- Fire retardant materials
- Fire retardant furniture
- Fire doors

Advice on fire prevention can be obtained from the local fire brigade. The manager should organise this advice.

### **Fire equipment**

The following equipment must be available in the home:

- A working smoke detector
- A small fire extinguisher
- A small fire blanket
- Cream and bandages for minor burns (in the First Aid Box)

There are also a number of things worth considering in more exceptional cases:

- The Community Alarm System
- Fire retardant fittings, materials or curtains
- The nature, design, layout or structure of the home itself
- The likely impact of a fire on neighbours

### **Planning in case of fire**

The Support Plan or some other policy must set out the measures that will be carried out in the event of a fire. The most important things to think about are:

- How to get out
- How to get help

These key details should be set out on a poster that is kept in an appropriate place in the home, e. g. on a kitchen notice board.

This is an essential component of every Support Plan. The Fire Plan should also consider whether there are any specific risks that might follow from somebody's behaviour. In particular it is very important to examine whether the person has ever purposefully set fire to things as a way of expressing anger or frustration.

### **Dangerous substances**

Care must be taken in the handling of any substances that may be poisonous or bad for your health. Basic principles include:

- Keep any potentially poisonous product in a safe and secure place. Such products include: cleaning materials, bleaches, rat poison, garden chemicals, white spirit, glue, medicine, fire-lighters, some soaps and cosmetics, sprays and insecticides.
- Do not decant cleaning material from their original bottle
- Do not mix cleaning materials, even putting two different cleaners together in the toilet can cause dangerous fumes
- Follow instructions carefully
- Ensure adequate ventilation when using solvents
- Where necessary use protective clothing or goggles
- Observe use-by dates and do not use substances that have gone by their use-by-date

If someone is poisoned or harmed by such poisons or substances then:

- Contact emergency services
- Ensure details of any harmful substance go with them to hospital

### **General hygiene**

Poor hygiene, particularly poor food hygiene can lead to food poisoning, serious illness and death.

All supporters who are likely to handle or prepare food should get training and achieve the elementary food hygiene certificate.

We must support people to identify and implement hygienic practices in their own home, particularly in the bathroom and the kitchen.

We must engage in hygienic practices whenever we support someone.

In certain rare circumstances we may even need to directly carry a programme of cleaning for someone who is not motivated to keep things clean and who is putting themselves at risk.

Good hygiene means for everybody:

- Having clean hair, hands, fingernails etc.
- Washing your hands after using the toilet
- Covering cuts with a plaster, and using a blue plaster in the kitchen
- Getting proper advice about any skin rashes
- Storing food properly and for no longer than appropriate
- Regularly cleaning kitchen and bathroom surfaces
- Wearing gloves when in contact with bodily fluids or potential irritants
- Cleaning gloves and cloths thoroughly before reuse
- Not sharing personal hygiene items: toothbrushes, razors, combs, clippers

If someone is suspected of having food poisoning contact the GP or other emergency medical services. Food poisoning may involve:

- Feelings of nausea or vomiting
- The development of a fever

- Diarrhoea
- Abdominal pain

Dispose of waste regularly and hygienically. Don't put broken glass or pottery in bags without wrapping in newspaper.

If someone persistently refuses to follow hygienic practices then it is important to:

- Ensure that risks arising from poor hygiene are examined in detail to see whether there are strategies available to reduce the risk to the person; if there are significant risks the strategies should be documented within the Support Plan
- Remember that untidiness is not the same as dirtiness, and has many fewer risks attached
- Examine the reason why someone does not think their hygiene is important, e.g. is it a question of poor self-worth

### **Food hygiene**

In order to reduce the risk of food poisoning you must:

- Wash hands immediately before preparing food
- Wear waterproof dressings on areas of broken skin
- All food is kept according to manufacturers instructions
- Inform the individual about any stale food that has exceeded 'best by' or 'sell by' dates
- Keep uncooked food separate and on a lower shelf than all cooked food in the fridge
- Ensure all appliances are working correctly
- Read instructions for any appliance with which you are not familiar
- Take care of any sharp instruments, e.g. knives or peelers
- Take care of flames and hot surfaces
- Take care with hot fluids, e.g. boiling water, tea or coffee
- Keep electrical appliances in dry areas
- Ensure that all raw, frozen, pre-cooked and leftover food is heated according to its instructions. In the absence of instructions ensure that reheated food is cooked until it is piping hot and allow to cool before serving.

### **Eating**

If someone needs support to eat their food then ensure that the Support Plan should make it clear:

- If people need help cutting-up particular foods
- If people need to use special utensils or special measures need to be taken to make food easier to eat
- If people are at risk from choking and how to help them if they do choke

If someone begins to suffer excessive weight loss then the individual should be encouraged to contact their GP as soon as possible.

### **Other household risks**

A large percentage of accidents occur in the home. It is therefore important to attend to any of the ordinary risks that might occur. For example:

- faulty wiring
- torn carpets
- protruding nails
- faulty thermostats
- damaged walls and floors

- loose rugs
- electrical appliances near water
- gas leaks
- carbon-monoxide poisoning - see alarm
- old equipment
- windows that open
- use of extensions and adapters

Supporters should advise those they serve to purchase appropriate equipment to KITE mark standards and to make timely repairs.

## **9 Risks outside the home**

### **Travel and transport**

It is important to attend to the risks that may occur with regard to travel and transport.

#### **Support to people to travel independently**

Efforts should be made, where appropriate, to train people to travel independently and to use public transport. If this is done then it may be useful to ensure:

- Adequate structured training is carried out teaching skills over time.
- Ensuring the individual travels with necessary information and telephone numbers and a medical alert, if appropriate
- Developing a knowledge of emergency procedures

#### **Personal safety**

Where individuals or supporters may be at any risk as to their personal safety then it may be necessary to develop an appropriate plan. Things to consider may include:

- Acquiring attack alarms and sirens
- Learning self-defence measures
- Developing a code of practice around talking to strangers and getting help

#### **Safety at work**

Where an individual is working for an employer their safety is the responsibility of the employer and the individual should be supported to meet their own obligations as an employee.

## 10 Financial safety

It is also important that the individuals who receive support should be safe from financial abuse or the mishandling of their money. In order to reduce the risk of financial mismanagement the following measures should be put in place:

- An agreed cash limit should be set for funds held by supporters and this may not be exceeded.
- The individual's money must be kept separate from the supporters
- Receipts must be kept for everything
- There must be a written record of all financial transactions
- Signatories for bank accounts or benefit books must be defined in accordance with the Support Plan
- Supporters should not take an individual's property, keys or money home with them.
- Supporters should not 'hold on to' money or pension books etc. for people.
- Supporters should not accept financial gifts or borrow money from the individual.
- Supporters should make sure that spending decisions are free and are not distorted to advantage of staff

Everyone who is involved in supporting an individual should observe whether there is any:

- Misuse or breaking of agreed rules
- Loss of money
- Abuse of telephones
- Non-payment of bills, rent arrears

If these incidents occur then the manager should be contacted. If there is no adequate investigation or no solution is identified then the Care Manager should be contacted.

## 11 Employment related risks

### Recruiting safely

It is important that care is taken when recruiting supporters to ensure that an inappropriate supporter is not employed. In particular it is unacceptable to employ someone whose record of criminal behaviour would indicate that they have an increased risk of being a danger to the individual.

As part of the recruitment process it is essential that:

- The manager sees the applicant's full employment history
- 2 written references are taken up, one of which must be from their most recent employer
- The applicant must complete a declaration of convictions form

North Lanarkshire Council will make declaration of conviction forms available.

### Communicable diseases

If anyone has a disease that is communicable then this should be identified and this information should be shared, on a confidential basis. Communicable diseases include:

- Hepatitis B
- Aids
- MRSA

Although such information is confidential it is expected that anyone who is themselves carrying a communicable disease discusses the matter with their manager who can assess what risks, if any exist, and how those risks might be best minimised.

### Volunteers, friends, family and other citizens

It is important that people have contacts outside of the people who immediately support them. If there are no such contacts then the individual is more likely to be at risk from abuse and less likely to be able to alert others to any abuse they may be suffering.

If an individual only has paid people in his life then the manager of the service must make every effort to plan with the individual to ensure that they can build new community contacts. This must be a matter of the utmost urgency.

Clearly there are also risks associated with any relationship. However the most dangerous thing is to have too few people in your life.

Where other people are being encouraged to play a more active part in the lives of the individual anyone providing support must apply the common-sense principles that they would apply in other parts of their lives:

- How well do you or others know the person?
- Is the individual likely to be vulnerable to abuse at any time that they spend with the individual?
- Are there any signs that a relationship is becoming abusive?

Sometimes it may be that certain aspects of a relationship may not be, in the view of the manager or a supporter, wholly appropriate. In which case it will be important to discuss with others the potential risks to the individual. However it is important to remember that where a relationship is clearly valued by the individual that the risks must be sufficiently significant to take any action.

It may also be important to think about any risks that the person may be under in their relationship with the individual. Where necessary it may be important to share information to help the person be safe. Again it will be important to balance the need to keep everyone safe with the need to protect the reputation of the individual.

### Confidentiality

Confidentiality is important.

It is vital that all supporters are aware of the need to protect the reputations of those they serve and that they treat confidential information with care and do not share confidential information without good cause and after discussion with the manager.

## **Risks specific to staff**

### **Readiness for work**

All support staff should be checked as to their readiness for work and should complete a health questionnaire before starting work. North Lanarkshire Council will make health questionnaire forms available.

If there are any doubts about an individual's fitness to work then they should receive an Occupational Health Check.

Where staff have any disability the employer must make every effort to accommodate their disability and to ensure that they can do their job successfully.

### **Risks to women who are pregnant**

Special care must be taken to review any potential risks to pregnant women and their unborn child. Areas of particular concern may include:

- Where a person is likely to be knocked or hit
- Heavy lifting & handling work

### **Violence and abuse**

It is important to remind staff that they have rights and that they have a right to protect themselves from violence and abuse. Occasionally support staff feel that they are under a greater obligation than is reasonable. They should be reminded that they have rights and the Support Plan or other policies should ensure that staff are not put at undue risk.

Staff who have been victims of abuse will need the same kind of support that any victim of abuse is entitled to receive.

### **Sexual harassment**

Staff may also be subject to sexual harassment. This must also not be treated lightly and plans and policies should ensure that every effort is made to protect staff from sexual harassment.

If anyone feels that they are being the victim of any kind of inappropriate sexual contact then they should raise the matter with the appropriate person as a matter of urgency.

## 12 Emergencies and communication

### What to do in an emergency

In an emergency:

- Stay calm and control your feelings
- Take a moment to think
- Do not place yourself in danger
- Use your common-sense
- Try and get help

### Sudden illness or accidents

If someone is ill or has fallen down:

- Make the immediate area safe
- Call 999 and request an ambulance or contact the GP, depending upon the severity of the problem
- Provide reassurance

Do not:

- Try and move the individual
- Give food or drink
- Administer medication, unless its part of an agreed Support Plan

### Reporting any accidents, incidents and new risks

Not only is it important to plan and to implement plans that minimise risks it is also important to notice when harmful things have happened or when new risks become apparent. If there is not a system for monitoring and reporting incidents, accidents or potential risks then harmful risks can be unnecessarily increased.

It is essential that supporters note down in a written book or on a sheet the following things:

**All accidents:** if the person served or any supporter is in any accident where they are harmed then this should be written down

**All incidents:** if the person served or any supporter is involved in any incident that does cause or could have caused significant harm then this should be written down

**New risks:** if anyone notices a new risk, about which there is no existing or adequate plan then this risk should be noted.

It is not acceptable for there to be no formal system for noting accidents, incidents and new risks and there is a personal responsibility to ensure that you have notified an appropriate person of anything that suggests that there might be a new or increased risk of harm.

### Monitoring accidents, incidents and new risks

It should always be clear who has the job of reading and monitoring the records of accidents, incidents and risks.

If it is not clear who has this responsibility then it should be treated as the employer's responsibility unless they have clearly designated someone specifically to take that responsibility.

It is up to the manager to put in place a monitoring system. This may include making visits or sending forms to an appropriate person. How this is done is to be determined by the employer. What is essential is that there is a systematic and regular process in place that enables people to notice a situation where risks may be increasing or where existing plans may no longer be adequate.

### Responding to reports

If existing plans are no longer adequate or if existing plans are not being followed the employer must take action to ensure that the risk of harm is minimised. Such actions may include the following:

- Communicating existing plans more clearly

- Gathering more information
- Reviewing and monitoring existing policies and plans
- Developing new plans to reduce risk
- Getting external help to review the risks
- Disciplinary action

### **Reporting to others**

While the main responsibility for managing risk lies with the employer and any manager that they appoint to manage that responsibility there are also situations where other people must be involved.

However, in general, even when other bodies are involved the manager still has a responsibility to manage the relevant risks to minimise the risk of harm and to take any appropriate management action.

### **Social Work Department**

You must contact the Social Work Department in any of the following circumstances:

- When there is a need to consider any significant risks of harm to other community members then the Social Work Department must be involved in agreeing any plans to reduce risk.
- If there is any suspicion of abuse (physical, sexual, emotional or financial) then the Social Work Department must be informed so that it can begin appropriate investigations. In general the Social Work Department would liaise with the Police where appropriate.
- If there is any on-going failure of management to respond to any new or increased risks that have been highlighted then you should contact the Social Work Department.
- If a significant risk is difficult to manage and may require balancing several considerations then the Social Work Department should be involved in the planning and agree the plan.
- If there is a serious incident or event and there is nobody else to inform within the service

### **Police**

If there is a serious incident where someone's actions involve a breach of the law then there is a right to report the matter to the police. This is the case even if it is the person served who breaks the law. However it is also important that the potentially harmful consequences of reporting are considered along with the wider context of the behaviour. In such situations it may be more appropriate to plan with the manager to ensure that such incidents do not reoccur.

Even if it is not appropriate to report an individual to the police it is never appropriate to help or collude with someone who is committing or planning to commit a criminal offence.

### **Health & Safety Executive**

Certain incidents must be reported to the HSE (Health & Safety Executive). The details of how and when to report incidents are contained in a law called RIDDOR '95 (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995). Essentially the relevant guidance is that you must report any accidents that involve:

- Death or major injury
- An injury which leads to over 3 days absence from work
- A reportable disease
- An incident which could have caused one of the above

Reporting is done to the local HSE office. Presently reporting can be done over the phone by ringing 0845-2770277

It is the duty of the manager to contact the HSE as a matter of urgency.

## **Reporting and abuse**

If you suspect any kind of abuse it is essential that:

10. You inform the manager or some other appropriate person as soon as possible
11. The manager or some other appropriate person must investigate the suspicion
12. The manager must contact the Social Work Department who will determine whether the matter should be drawn to the attention of the police
13. While it is important to explain to the possible victim of abuse what you are doing it is not essential to get their consent, because the rights of other people are also at stake if abuse is allowed to continue or an abuser is not caught

While the police may or may not take criminal action it is important to remember that:

- The employer can take disciplinary action
- The individual can take civil action

## **Annex G: Support organisation details/other sources of information**

The following organisations may be able to give you information:

### **Direct Payments Scotland**

#### ***27 Beaverhall Road***

Edinburgh

EH7 4JE

Telephone Helpline: 0131 558 3450; Fax: 0131 558 5201; Minicom: 0131 558 5202

Email: [info@dpscotland.org.uk](mailto:info@dpscotland.org.uk) ; [www.dpscotland.org.uk](http://www.dpscotland.org.uk)

### **National Centre for Independent Living**

#### ***250 Kennington Lane***

London

SE22 5RD

Telephone: 0207 587 1663; Fax: 0207 582 2469

Email: [ncil@ncil.org.uk](mailto:ncil@ncil.org.uk) ; [www.ncil.org.uk](http://www.ncil.org.uk)

#### **Scottish Personal Assistants Employers Network (SPAEN)**

117-127 Brook Street

GLASGOW

G40 3AP

Telephone: 0141 550 4455; Fax: 0141 550 4858 Minicom: 0141 554 6482

### **Values Into Action**

#### ***Oxford House***

Derbyshire Street

London

E2 6HG

Telephone: 0207 729 5436; Fax: 0207 729 7797

Email: [general@viauk.org](mailto:general@viauk.org) ; <http://www.viauk.org>

#### **People First (Scotland)**

34b Haddington Place

Edinburgh

EH7 4AG

Telephone: 0131 478 7707; Fax: 0131 478 7404

Email: [PlstScotland@aol.com](mailto:PlstScotland@aol.com)

#### **Lothian Centre for Integrated Living (LCIL)**

##### ***Norton Park***

57 Albion Road

Edinburgh

EH7 5QY

Telephone: 0131 475 2350; Fax: 0131 475 2392

Email: [lcil@lothiancil.demon.co.uk](mailto:lcil@lothiancil.demon.co.uk); <http://www.lothiancil.org.uk>

**Centre for Independent Living in Glasgow (CILIG)**

117-127 Brook Street

Bridgeton

Glasgow

G40 3AP

Telephone: 0141 550 4455; Fax: 0141 550 4838; Minicom: 0141 554 6482

**UPDATE**

***27 Beaverhall Road***

Edinburgh

EH7 4JE

Telephone: 0131 558 5200; Fax: 0131 558 5201; Minicom: 0131 558 5202

Email: [info@update.org.uk](mailto:info@update.org.uk)

**Advocacy Safeguards Agency**

at Scottish Human Services Trust

1a Washington Court

Washington Lane

Edinburgh

EH11 2HA

Telephone: 0131 538 7717

Email: [general@shstrust.org.uk](mailto:general@shstrust.org.uk)

**Scottish Consortium for Learning Disability**

***Room 16, Adelphi Centre***

Commercial Road

Glasgow G5

Telephone: 0141 418 5420 (fax: 0141 429 1142)

Email: [administrator@sclld.co.uk](mailto:administrator@sclld.co.uk) ; <http://www.sclld.co.uk>

Local authorities may also find the following publications useful sources of additional information:

**Direct Route to Independence: A guide to local authority implementation and management of direct payments** – published by the Policy Studies Institute (2000)

**Five Steps: A guide to local authorities implementing direct payments** – published by Direct Payments Scotland (2002)

**5 Steps: A Good Practice Guide to Implementing Support for People Receiving Direct Payments** – published by Direct Payments Scotland (2002)

**Everything you Need to Know about getting and Receiving direct payments** – published by the National Centre for Independent Living (3<sup>rd</sup> edition 2001)

**A Guide to receiving Direct Payments** – published by the Scottish Executive (2002)

**An easy guide to receiving direct payments** – published by the Department of Health (2000)

**A Rough Guide to managing Personal Assistants** – published by the National Centre for Independent Living

**Direct Payments: The Impact on choice and control for disabled people** – published by the Scottish Executive (2000)

**Direct what? – a study of direct payments to mental health services users** – published by the Scottish Executive (2002)

**Direct Payments for mental health users/survivors: A guide to some key issues** – published by the National Centre for Independent Living

**Making Decisions: Best practice and new ideas for supporting people with high support needs to make decisions** – published by Values Into Action (2001)

**Funding Freedom 2000: People with Learning Difficulties Using Direct Payments** – published by Values Into Action (1999)

**Trusting Independence: A practical guide to independent living trusts** – published by Values Into Action (2001)

**Ways to work – converting day services** – published by SHS Trust

**Your Right to Independent Living** – A guide to Independent Living, Direct Payments, ILF, and being an employer has template forms, guides on self assessment etc. – published by Lothian Centre for Integrated Living, (2<sup>nd</sup> edition 2001, 3<sup>rd</sup> edition summer 2002)

**The same as you?** – published by Scottish Executive (2000) available at <http://www.scotland.gov.uk/ldsr>

**Direct Payments: Frequently asked Questions** – published by Scottish Consortium for Learning Disability (2002) – available from Direct Payments Scotland

**Trusting Independence** – published by Values Into Action

For further details about these publications please contact Direct Payments Scotland.

## **Annex H: The Community Care and Health (Scotland) Act 2002**

Section 7 of the Community Care and Health (Scotland) Act 2002 introduces a number of measures which will make direct payments more widely available and increase up-take.

### **From 1 June 2003:**

- Local authorities will have a duty, rather than a power, to offer all eligible disabled people, aged 16 and over, direct payments instead of arranging services for them. Local authorities will no longer be able to choose whether or not to make direct payments available.
- Local authorities, if they wish to, will be able to sell their services to direct payments recipients. North Lanarkshire Council has decided not to pursue this option as this would lead to double administrative costs.
- Where it is clear that the person requiring the service is unable to give consent, representatives, ie parents, attorneys and guardians, will in certain circumstances be able to give consent on the individual's behalf. (refer to Self Directed Services, Policy and Procedures, section 2.5 paragraphs 2.5.1 to 2.5.8)
- Where payments are made on a 'gross' basis, local authorities will have a power to recover any amount that a person has been assessed as able to contribute. This gives equity of treatment with people who receive local authority arranged services.

### **From 1 April 2004:**

- Direct Payments will be extended beyond disabled people to all community care and children's services client groups (with exception of certain groups of people who will continue to be excluded by regulations). This will make direct payments available to people who need community care services because of frailty as well as people covered by 'Supporting People' initiative.

## **Annex I**

### ***North Lanarkshire Council, Social Work Department - Complaints Procedures***

These are currently being updated. In the interim the original procedures should be used.

## Annex J

### CHARGING FOR ADULT NON-RESIDENTIAL SECTOR CARE

1. This circular provides general guidance, set out at the attached annex, on local authorities' discretionary powers to charge for adult non-residential sector care which they provide or arrange under the Social Work (Scotland) Act 1968 and sections 7 and 8 of the Mental Health (Scotland) Act 1984.

#### Background to the guidance

2. Circular SW11/1991, "Assessment and Care Management" issued in June 1991, gave a specific commitment to provide Scottish Office guidance on (a) the proposed unified charging arrangements for those in the residential sector and (b) local authorities' powers to charge for non-residential sector care. Guidance on the National Assistance (Assessment of Resources) Regulations 1992 outlined in Circular SW13/1992, and subsequent guidance on amendments to the regulations, met the former commitment.
3. Following initial discussion with the Association of Directors of Social Work (ADSW), SWSG consulted with local authorities and other interested organisations in February 1995. Subsequent to this, the guidance was amended to include 2 issues not previously addressed, namely charging for after-care services provided to the mentally ill particularly under the Mental Health (Patients in the Community) Act 1995 (paragraphs 6 to 9) and charging for services provided to terminally ill people in their own home. SWSG carried out a further, limited, consultation with ADSW and COSLA.

#### Status of the guidance

4. The guidance is intended to assist authorities in their charging activities. Given the discretionary nature of the powers to charge under section 87(1A) of the 1968 Act, it should not be regarded as prescriptive. It does not constitute a change in the Government's view on the principles it would expect local authorities to adopt in charging for day and domiciliary services under the community care programme. It is intended to maintain consistency with advice set out in Circular SW6/83 on the implementation of the Health and Social Security Adjudication's Act 1983 which inserted section 87(1A) into the 1968 Act.
5. Authorities should bear in mind that while they have discretion to follow the guidance they may, if challenged (for example by a member of the public or even a court), have to justify a decision not to act on it.

#### Contact Point

6. Enquiries about this circular may be addressed to Mr Trevor Hall, Social Work Services Group, Room 44, James Craig Walk, Edinburgh EH1 3BA (Telephone 0131 244 5455).

## **DISCRETIONARY CHARGES FOR ADULT AND DOMICILIARY SOCIAL WORK SERVICES**

## **DISCRETIONARY CHARGES FOR ADULT DAY AND DOMICILIARY SOCIAL WORK SERVICES**

### **INTRODUCTION**

1. Local authorities are empowered by statute to charge adult users of non-residential services, such as day and domiciliary care, taking account of the individual's ability to pay. These powers are discretionary

### **LEGISLATIVE BACKGROUND**

2. Section 87(1A) of the Social Work (Scotland) Act 1968 (hereafter referred to as the 1968 Act), as inserted by section 18 of the Health and Social Services and Social Security Adjudication's Act 1983 (HASSASSA), and amended by Schedule 9 paragraph 10 (13) to the National Health Service and Community Care Act 1990, provides that:

“(1) Subject to sections 78 and 78A of this Act (contributions in respect of maintainable children) and to the following provisions of this section, a local authority providing a service under this Act or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984 may recover such charge (if any) for it as they consider reasonable.

(1A) If a person –

(a) avails himself of a service provided under this Act or section 7 or 8 of the said Act of 1984; and

(b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would otherwise be obliged to pay for it,

the authority shall not require him to pay more for it than it appears to them that it is reasonably practicable for him to pay”.

3. Local authorities should also note that section 14 of the 1968 Act was amended by Schedule 9 paragraph 10(6) to the NHS and Community Care Act 1990 which replaced the reference to “home help” services with “domiciliary services”. Section 94(1) of the 1968 Act was amended by the NHS and Community Care Act 1990 Schedule 9 paragraph 10(14) in order to provide a definition of “domiciliary services”.

### **SERVICES FOR WHICH CHARGES ARE MADE**

#### **General**

4. Personal social welfare services provided for adults, including those with sensory impairment under the 1968 Act for which charges may be made include:

- day care for elderly people, physically disabled and mentally ill people and people with learning difficulties
  - lunch clubs
  - domiciliary services (including meals on wheels)
  - wardens in sheltered housing
  - community alarms
  - laundry services
  - aids and adaptations for disabled people, including people with sensory impairment
5. The majority of these services would fail to be provided under section 12 of the 1968 Act as part of the duty of local authorities to promote social welfare generally. Domiciliary services and laundry facilities are specifically provided for under section 14 of the 1968 Act.

### **Services for the mentally ill**

6. In addition to their general duty to arrange appropriate non-residential care services for mentally ill people and people with learning difficulties under the 1968 Act, local authorities also have a duty under Sections 7 and 8 of the Mental Health (Scotland) Act 1984 to provide after-care for such persons who are or who have been suffering from a mental disorder whether or not they have previously been in institutional care and including the provision of after-care services for persons subject to a community care order under the 1984 Act, as amended by the Mental Health (Patients in the Community) Act 1995. Schedule 10, paragraph 10(13) to the NHS and Community Care Act 1990 amended section 87(1A) of the 1968 Act to extend the range of local authority services for which charges can be made, to include such after-care services.
7. The 1995 Act amended the 1984 Act with effect from 1 April 1996. Most significantly after-care arrangements for persons subject to a community care order may be necessary for those who have been detained in hospital but are considered to be well enough to be in the community, including those on leave of absence for the new permitted maximum of one year. Previously many such individuals may have been out of hospital on longer term "leave of absence".
8. Although local authorities will continue to have discretion to charge for after-care services provided under Section 8 of the Mental Health (Scotland) Act 1984, the Department considers that former NHS patients with a mental disorder who are subject to supervision and community care orders should not be charged for non-residential social services provided or arranged by a local authority. This is because charging for services might add to the pressures of particularly vulnerable people who would find it difficult to come in the community without the provision of statutory after-care services. It also recognises the fact that clients do not have the option to refuse services provided under a community care or supervision order. Charging should only apply where the community care order has totally ceased to be effect.
9. The Criminal Procedure (Scotland) Act 1995 came into effect on 1 April 1995. New powers contained in the Act now allow that, following a conviction, an acquittal on grounds of insanity or the requisite finding at an

Examination of the Facts, a criminal court may impose a hospital order, a guardianship order or a supervision and treatment order. On a similar basis to the position described at paragraph 8, in the Department's view, such individuals should not be subject to charging for services provided by local authorities where those services are initiated by an order of a criminal court. Charging should only apply where the statutory supervisory arrangements have ceased to have effect.

### **Services for physically disabled people**

10. Local authorities have a duty under Section 2(1) of the Chronically Sick and Disabled Persons Act 1970 (as applied by the Chronically Sick and Disabled Persons (Scotland) Act 1972) to provide practical assistance in the homes of disabled people, including additional facilities intended to ensure greater safety, comfort or convenience. Authorities are also required to provide meals either in the person's home or elsewhere. Functions under the 1970 Act are treated as functions under the 1968 Act.

### **Services for the terminally ill**

11. Where, after a multi-disciplinary assessment, the diagnosis reveals that a person is terminally ill and requires specialist palliative health care, the NHS is responsible for arranging and meeting the full costs of health care provided whether this is in a hospital setting or, where practical or appropriate, in the community. This includes palliative care provided to terminally ill patients in their own homes, again, where this is practical and appropriate. Such persons may also require social welfare services from the local authority social work department. Where authorities are responsible for providing such services under the 1968 Act, the Department would encourage authorities to exempt the client from any charge, depending on the sensitivities of the situation and the financial circumstances of the individual.
12. The broader strategic issue of meeting health care needs and collaboration between Health Boards, local authorities and other agencies was addressed in Circular NHS MEL(1996) 22, NHS Responsibility for Continuing Health Care.

### **SERVICES FOR WHICH CHARGES CANNOT BE MADE**

13. Criminal justice social work services are provided under section 27 of the Social Work (Scotland) Act 1968. The charging provisions of Section 87(1) and (1A) of the 1968 Act do not apply to such services as they are, in effect, services to the courts and the Secretary of State, rather than to an individual.
14. Local authorities are not empowered to charge for providing advice or guidance about the availability of services or for the assessment of community care needs. Nor should they charge for care management, as this is separate from the service delivery function.

### **SETTING THE LEVEL OF CHARGES**

15. The legislation requires that any charges levied must be reasonable and should not be more than appears to be reasonably practicable for the service recipient to pay, taking account of his or her other financial commitments. It is for the authority to decide what is reasonable in each case. Charging policies, which discourage the take up of services, may not be in the best interests of users, carers or providers. No one who has insufficient means to pay a charge should be denied a service because of his or her inability to contribute towards its cost.
16. In the Government's view, in setting charges (whether flat rate or on a scale), authorities should take account of the full cost of providing the service. In calculating the full cost of providing the service, local authorities should take into account capital, managerial and other overheads directly attributable to service provision, but not costs associated with the purchasing function and not the costs of operating a charging system.
17. Authorities should seek to ensure that charges for similar services are consistent throughout their area. Where, however, the full cost of the service varies within an authority (e.g. because different providers are used for different areas or the difference between service provision in an urban and rural environment) it is for the authority to decide whether the charges to individuals should reflect these cost differences or whether to have one notional average charge for all recipients. Where charges do vary, the authority should be able to explain to the service users the reason for this.
18. When reviewing their charging policies for individual services, authorities should take account not only of the charge for individual services, but also of the total impact in terms of ensuring that the financial effects of their charging policies are consistent with the Government's overall community care policy objectives. This should necessarily entail consideration of the impact of increasing their charges on both potential clients as well as those who are already contributing towards their care costs.
19. In deciding on their detailed charging policy, authorities will also wish to have regard to the costs of administering the arrangements, particularly for assessing means and for collecting the charges. The operating costs of a very complex system of financial assessment may reduce the net benefit of the charges collected. Cumbersome arrangements for assessing ability to pay are not in the interests of local authorities.
20. Authorities are reminded that the basis of the Mental Illness Specific Grant is that the central government contribution of 70% will be matched by a local government contribution of 30%. When income from charges reduces net expenditure on grant supported projects; expenditure must remain in the ratio of 70:30. Where there is income from charging which has not been allowed for in a grant application, that income should be used to reduce both the central government and the local government contribution so that the ratio remains at 70:30; alternatively it may be used to increase the services offered by a grant supported project if the project description remains consistent with the application approved by Ministers.

21. Only local authorities are empowered to set and recover charges for the services arranged by the authority. In practice, local authorities may delegate the collection of charges to a provider contracted by an authority but should seek their own legal advice on the extent to which this may be done. The power to set charges and assess the charge paid by each user cannot be delegated. This means, for example, that providers may not vary or waive a charge which the authority have decided to recover. Wherever, practical, charges should be paid direct to the authority. Where an individual pays the assessed charge to the independent provider, it should be made clear to the user that any collecting of charges is being done on behalf of the local authority and any revenue collected is remitted to that authority. Any charges for additional services provided under private agreement between the provider and service user should be separately identified. See also paragraph 22 below.
22. It is open to a provider contracted by an authority for a particular level of service to offer to provide additional services to individuals among the group as a private arrangement. For all types of services, including non-residential as well as residential accommodation, the contract specification should clearly set out the services to be provided within the contract, and the authority should ensure that it is aware of any other services which the provider is making available to individual users at an additional price. The Authority should make clear to individuals that they have a choice whether to accept the offer to provide additional services. Services provided free by a voluntary organisation or under other arrangements should not be subject to a charge. See also paragraphs 28 and 29 below.

### **JOINT LA/HB SERVICES**

23. There are many different circumstances under which local authorities and Health Boards work together to purchase services for users. Charging for such services is a complicated area, and if charges are made it is clearly desirable that the details be devised having full regard to all the implications. Local authorities may charge for services up to the level that the services cost even where local authorities and health boards arrange jointly for social care services. If a local authority purchases social care and a Health Board purchases health care services from the same provider, then charges to users may only be made for the social care element. Where necessary, authorities should clarify for users the distinction between health and social care both generally and in the context of the charging arrangements.

### **DISCRETION TO REDUCE OR WAIVE A CHARGE**

24. When an individual service user considers that he or she cannot pay the charge that has been set, Section 87(1A) of the 1968 Act gives the user the right to ask the authority to reduce or waive a charge. Under the legislation, before it decides to reduce or waive a charge, the authority must be satisfied that the service recipient's means are insufficient to pay the amount they would otherwise be charged. Any means test must be confined to the means of the service user (see paragraph 28 and 29 below). Further guidance on what means should be taken into account is

given at paragraphs 32 to 35. An authority would be expected to take account of any subsequent change to a user's financial circumstances and review the level of charges accordingly.

25. The Government do not consider that there should be an automatic exemption from charges for people receiving Social Security benefits such as Income Support, Attendance Allowance, Incapacity Benefit, Housing Benefit, Sever Disablement Allowance, Social Fund Payments, Disability Living Allowance (but see paragraph 34) or Disability Working Allowance. However, for them as for other service users, including those who are eligible for DSS benefits but who do not claim them, authorities should have regard to the amount of the charge in relation to the individual's overall financial position (subject to paragraphs 32-36 below). Authorities should, however, seek to ensure that service users are made aware of any Social Security benefits to which they might be entitled.
26. Representations from people receiving welfare benefits and those on very low incomes should, however, be given sympathetic consideration. Authorities may wish to have regard to the distinction between income maintenance and benefits, which relate to meeting an individual's care needs. Authorities will wish to bear in mind when setting a charge that benefits cannot be increased to enable the recipient to meet charges for care. Consideration should also be given to the impact of the charging arrangements on those leaving long-stay institutional care and who depend to a greater or lesser extent on DSS benefits as their principal means of support.
27. As care plans in future may become more complex, involving an increasing number of services which are more responsive to the individual's needs, consideration should be given to the total of the charges for these services so that there is no disincentive to greater creativity in care planning. Local authorities should, wherever possible, avoid burdens falling on individuals because of aggregate of charges for different services.

## **WHO MAY BE CHARGED?**

28. Under section 87(1A) of the 1968 Act authorities may charge only the person receiving the service and should have regard only to that individual's means in assessing his or her ability to pay.
29. In the Department's view, parents and other members of an adult service user's family cannot be required to pay the charges, except to the extent where another member of the family is acting on behalf of the service users and is therefore responsible for paying any charges on his or her behalf. Local Authorities may, in individual cases, wish to consider whether a client has sufficient reliable access to resources, other than his or her own resources, for them also to constitute his or her means for the purposes of Section 87(1A). The most likely instances of this kind will arise in relation to married or unmarried couples. It will be for the authority to consider each case in the light of their own legal advice.
30. The proprietor of a residential care home, nursing home or other residential provision is responsible for providing whatever daytime

activities are specified in the residential care contract with the local authority for each resident. Depending on the terms of the contract agreed with the local authority (see paragraph 22 above), these activities may be provided directly by the proprietor, or the proprietor may arrange them with another provider. If the residential care contract includes such activities, the costs should have been calculated against that contract price. In these circumstances, the resident cannot be charged an extra sum for these activities. If the proprietor arranges for some of the activities specified in the contract to be provided by a third party, this will be a private arrangement between these 2 parties, and again the resident should not be charged an extra sum.

31. There may be instances where a local authority assesses a resident as requiring specialised activities, which are not included in the residential care contract. In these circumstances, if the local authority wishes to recover a charge for the service the authority will need to charge the resident direct, bearing in mind the amount the resident will have remaining after his residential charge has been calculated and his other outgoings have been taken into consideration.

### **INCOME THAT MAY BE TAKEN INTO ACCOUNT**

32. In assessing ability to pay, authorities may take into account all types of income, including income from capital and social security benefits, (see also paragraphs 25 and 26) except the Mobility Component of Disability Living Allowance (DLA) and the War Pensions Mobility Supplement disregard (see paragraph 34). Authorities should, however, have regard to not just the service user's income, but his or her overall financial circumstances. In particular, they should have regard to any extra expenditure that may be incurred because of the service user's disability or frailty.
33. In constructing a package of care services, authorities should consider the extent to which the parts of the service to be provided or arranged by the authority, and for which charges are usually imposed, will contribute to meeting the individual's overall care needs; and to what extent further care needs will have to be met from other sources for which some further expenditure will be necessary. They should ensure that the charges levied do not result in the service user being left without the means to pay for any other necessary personal care.
34. The Mobility Component of DKA may not be taken into account for charging purposes. Section 73(14) of the Social Security Contributions and Benefits Act 1992 requires these payments, or the right to receive them, must be disregarded in any charging schemes which have regard to a person's means. The War Pensions Mobility Supplement should also be disregarded in a similar manner.
35. An authority may levy its usual charges in respect of services it provides to a severely disabled person under the Independent Living (1993) Fund arrangements. However, payments made from the Fund, in addition to local authority service provision, should not be taken into account.

## **PEOPLE WHO REFUSE TO PAY**

36. Once someone has been assessed as requiring a service but the person concerned refuses to pay for it, the service should not be withheld or withdrawn where it is clear that the service is essential to the person's well being. It is, however, open to an authority to pursue the debt while continuing to provide the service. The authority should nevertheless consider the cost-benefit of pursuing the debt.

## **INFORMATION**

37. Authorities should make generally available information about their charging policies and procedures in a style that is readily understood and accessible to users and potential users, including those with sensory impairment, as well as their carers. It should also be made available to those, such as GPs and community nurses, who refer individuals to community care services. When individuals' care needs are assessed, information about charges should be provided in respect of all services that may be potentially relevant to them. Such information should be given to them at the same time that they are given written information about the care assessment process and the available services. Individuals should also be notified of any subsequent change in charging rates or policy before it is imposed.

38. Users should be given an accurate indication in writing of the charges that they will incur as soon as practicable and preferably before they are required to commit themselves to a particular care plan. It is only in exceptional circumstances such as emergency admissions, that local authorities may be able to justify not doing so. Users should also be given a written statement of their financial liability at the earliest opportunity, with access to advice and explanation as required. They should also be given a regular financial statement, e.g. monthly or quarterly, about the payments they have made. Although it would not be feasible to consult individuals on any proposed change to the charging system, existing users should be consulted through representative organisations.

39. Information should be available in the language spoken by users in the area of the local authority or should be available to non-English speaking ethnic groups by some other means, such as translation by family or friends. Information should also be available in a format appropriate to people with visual impairments.

## **COMPLAINTS**

40. Authorities should ensure that all service users and potential users know what arrangements are in operation to enable them to make a complaint under the community care complaints procedures about any charging decision with which they disagree. Users should also be made aware about how to make representations if they find it difficult to pay the charges. The procedures generally were outlined in Circular SW5/1996 "Complaints Procedures" issued in March 1996 and in the Practice

Guidance “A Right to Complain” issued in August 1991. Information about complaints procedures must be readily available and in a form that is easy for users and carers to understand.

## **MONITORING**

41. When charges are introduced for the first time for a service (or services) and when changes are made to an existing charging system, authorities will want to monitor carefully the effect on service take-up and use.

## **ANNEX K Guidance Paper – Statutory and good employment practice costs associated with Direct Payments**

The following guidance states North Lanarkshire Council Social Work Department's position with regard to the setting of funding levels payable to individuals in order for them to manage their own service/s. It is concerned with ensuring that the levels of funding allocated to the individual are sufficient to enable the recipient legally to secure a service, of a standard, that North Lanarkshire Council considers adequate to fulfil the needs for which the payment is made.

North Lanarkshire Council will base the amount of funding on a number of factors including which of the persons assessed needs, as identified in their care/support plan are to be met by a direct payment. In all instances North Lanarkshire Council will determine the amount of the direct payment at a funding level which, taken with any financial contribution from the person concerned, is equal to the authority's estimate of the reasonable cost of his or her securing the provision of the service concerned. Recipients of direct payments are, however, also able to use their own resources to purchase additional, or better quality, services to those in their care/support plan, if they wish to do so.

North Lanarkshire Council will operate three funding levels; details of these are set out in ANNEX L.

Where recipients chose to employ their own personal assistant/s they will have specific responsibilities as an employer. The hourly funding level and the start up payment, paid to the recipient, takes cognisance of these responsibilities.

In all instances, where the recipient chooses to purchase their support through an agency, the agency would be responsible for meeting statutory employment costs.

### **National Insurance, Sick Pay & Payroll,**

Costs associated with the above responsibilities/functions are included in the hourly funding level paid to the recipient.

### **Holiday Pay/Entitlement**

Costs associated with statutory holiday entitlement responsibilities are included in the hourly funding level. Holiday entitlement including public holidays is thirty days, per annum, calculated on a pro-rata basis, for each personal assistant.

### **Public & Employers Liability Insurance**

Costs associated with purchasing the appropriate public and employer's liability insurance cover is included in the start up payment.

### **Start up costs**

The start up costs associated with commencing the direct payment are specific and include, public and employers liability insurance, setting up payroll functions and employment contracts fees. Costs for these are all calculated on an individual basis, as recipients, until the support service is functional, need to secure these services for themselves through independent providers such as accountants.

### **Other Costs**

Costs associated with training and recruitment will all be calculated on an individual basis and are not included in the hourly funding level.

## ANNEX L

## FUNDING LEVELS

*The following three funding levels have been set in recognition that the range of support individuals will require will differ based upon the outcome of their assessed needs. The higher the funding level, the more complex the delivery of the support will be.*

**Funding level 1 = £7.70 (gross cost paid by NLC)**

**Funding level 2 = £8.45 (gross cost paid by NLC)**

**Funding level 3 = £10.25 (gross cost paid by NLC)**

Each of the funding levels has been calculated to ensure that all Statutory Costs associated with being an employer are included in each of the funding levels. Annex L provides details of what is included in the funding levels.

*The criteria for receiving a specific funding level are based on the following examples of support the individual will require. This is intended to provide the care manager/social worker with a bench mark to assist them in determining which funding level should be offered to the recipient to enable them to purchase and manage their own services. It is not intended to be prescriptive; rather it is only a guide and should be used in conjunction with the findings from the assessment.*

In most instances it will not be difficult to determine which funding level the individual will receive, as this should be clearly identified through the assessment process. In large packages a mix of funding levels may be applied.

Where the person decides that they want to purchase their service/s from an agency, the funding level paid for this will not exceed the average preferred provider's hourly rate. The 2003 average provider rate is £10.20. However, where it is agreed that the assessed need is such that it can be best met by a specialist provider commissioned by the Council to undertake services in North Lanarkshire, the rate paid will be the rate approved for that organisation by Committee.

Funding level 1	Funding level 2	Funding level 3
Individual able to manage their direct payment.	Individual able to manage their direct payment with support.	Individual able to manage their direct payment only with full support.
Individual able to independently direct their support, to meet their identified needs.	Individual able, with assistance, to direct their support, to meet their identified needs.	There is a need for the individual to be assisted in supported decision making and planning.
Individual requires practical assistance in or outwith their home.	Individual needs their support co-ordinated to ensure continuity.	The individual's support arrangements require significant co-ordination and close monitoring of

		risks.
Support arrangements require routine monitoring.	Individual will experience anticipated fluctuation in their needs as a result of changes in their physical and or mental health.	There is a recognised risk to staff as a result of unpredictable behaviour.
	Recognised need for interpretation of the individual's actions and changes to their support/care plans.	Recognised need for support staff to be highly skilled in specific, specialised areas outwith the normal day to day support arrangements.
	Support arrangements require frequent monitoring.	As a result of fluctuating needs, day to day changes in the support/care plans will be required.
	Support and care records require to be maintained.	Support and care records will require detailed recording.

## ANNEX M

### ONE- OFF PAYMENT FOR A PIECE OF EQUIPMENT

North Lanarkshire Council (Area Team address)
The recipient - Name Address
Agent – Name Address if different from above
<p>1a) North Lanarkshire Council has carried out an assessment of your needs and has subsequently determined that the specific piece of equipment identified in the attached care package agreement should be provided to you.</p> <p>1b) You have advised North Lanarkshire Council that you want (insert name/style of product) and as such you are willing to contribute your own personal finances to meet the difference in costs.</p> <p>1c) You are required to obtain three separate quotes for (insert name/style of product) and submit these to your care manager/social worker.</p>
<p>2a) North Lanarkshire Council agrees to pay you the sum of £. (direct payment) This will be a one-off payment.</p> <p>2b) You must use the above sum of money to secure for yourself (insert name/style of product). You are required to obtain invoices/receipts as proof of any payments made and upon purchase of (insert name/style of product) and submit these to your care manager/social worker.</p>
<p>3) You may not spend the direct payment on anything other than the item identified in section 2.</p>
<p>4a) You will require to obtain written proof/guarantee that the of (insert name/style of product) has been appropriately and safely installed.</p> <p>4b) You will submit a copy of this evidence to your care manager/social worker.</p> <p>5a) North Lanarkshire Council may require you to repay the direct payment, or any part of it, if it has not been used to secure the provision of the item detailed in section 2 within a period of three months from the date you received the direct payment.</p>

5b) North Lanarkshire Council reserves the right to take action to recover such sums from you.

6) North Lanarkshire Council will be responsible for meeting the costs off all service/maintenance agreements and reasonable repairs to equipment as associated with the item detailed in section 2.

7) North Lanarkshire Council reserves the right to retrieve the item as detailed in section 2 if the need for it no longer exists.

I confirm that I understand and agree and will comply with the conditions contained in this agreement.

Signature of the person receiving the direct payment, or Agent, if applicable.

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Name of the person receiving the direct payment, or Agent, if applicable

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Date of agreement

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Signature of representative from North Lanarkshire Council, Social Work Department

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Name of representative from North Lanarkshire Council, Social Work Department

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## **ANNEX N                      ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 –**

The following guidance provides a broad overview of the background to the Act and the range of powers associated with it. The use of this Act will be required in instances where it has been established that a person is unable to give consent or is under the age of 16.

In such situations, the power to consent to and accept direct payments on the persons behalf can be given by attorneys, guardians or parents.

The Adults with Incapacity (Scotland) Act 2000 starts with the general presumption that all adults are legally capable of making personal decisions for themselves and of managing their own affairs. This presumption is important because many people with learning difficulties find the opposite applied to them - there is an assumption that they cannot consent until they pass some sort of 'test'. Decisions based upon a person's 'condition' or 'diagnosis' are not correct.

- The Adults with Incapacity Act 2000 starts from the premise that everyone has the capacity to consent until proven otherwise
- A person cannot be deemed incompetent to consent to any transaction purely on the basis that they have an intellectual impairment.
- A person cannot be deemed incompetent to consent to a direct payment because they have been deemed incompetent to consent to other transactions (e.g. credit agreements, marriage, tenancy agreements, medical treatment etc.)
- If there are doubts, (in the local authority assessment of a client's capacity to consent to a direct payment), that person should receive as much assistance as is required to evidence any capacity, including the use of independent living trusts or circles of support.
- The capacity to consent should be understood to be also a capacity to remain in ongoing control (with as much assistance as is required to remain in control). The Adults with Incapacity Act allows the possibility of consenting to a direct payment. Guidance points out the opportunity to meet needs in creative ways not previously possible.

### **Attorneys, Guardians and Intervention Orders**

From June 2003 local authorities will be able to make direct payments to attorneys and guardians instead of to the person who needs support. However this should only be used where no capacity to consent can be evidenced.

Attorneys are appointed by the individual whereas guardians are appointed by the sheriff court. There are two kinds of attorney that can be given to someone to help make decisions on an individual's behalf:

- Welfare power of attorney - to decide about things like medical treatment and where someone lives
- Continuing power of attorney - to look after money or possessions

Someone can have both a welfare power of attorney and a continuing power of attorney.

A **Guardianship Order** allows someone to help an individual with decisions in relation to financial or welfare matters. An Intervener can also be appointed by the sheriff court to make one-off decisions on major issues such as selling a house. The areas of assistance are dependant upon the powers granted by the sheriff in the application to Court.

The presence of an attorney, guardian, or intervener is not an automatic indicator of incapacity to consent. The powers given to these individuals depend upon the powers granted to them by the sheriff (in the case of Guardianship or Intervention Orders) or the granter (in the case of Power of Attorney). Before paying a direct payment to an attorney or guardian the extent of that individual's decision making powers should be examined.

## **JUDGEMENTS ABOUT CAPACITY TO CONSENT**

To be able to legally consent demands that you are capable of a good enough understanding of the nature,

implications and consequences of your decisions.

The Adults with Incapacity Act gives “doctors the principle responsibility in deciding whether an adult is incapable of making particular decisions or taking specific actions”. But a doctor should base his or her decision on complete information from all those who know an individual well.

Judgements about capacity to consent have to be time and subject specific; it has to be made for a particular decision, at a particular moment in time, in these particular circumstances. So, for example, the fact that someone was labelled as needing an appointee to manage their benefits five years ago does not tell you whether the person can decide about having a direct payment today.

There are a number of factors to be thought about when considering if someone is able to consent:

- Have they had good information?
- Has information been given in a way they can understand?
- Has support been given to enhance communication in everyway possible?
- Is the person able to consider the information, different choices, and to reason and reach a decision?
- Can they express their views in some other way?
- Are they able to make their own decisions and not follow the wishes of others?
- Is there a consistency in decision making?

It must be made clear that these are only indicators. It is not a check list. Everyone can make decisions rashly and often with incomplete information. It is no different for people with learning difficulties.

## **GENERAL PRINCIPLES TO BE FOLLOWED:**

All decisions made on behalf of an adult with impaired capacity must:

- benefit the adult
- take account of the adult’s wishes and the wishes of the nearest relative or primary carer, and any guardian or attorney
- restrict the adult’s freedom as little as possible while still achieving the desired benefit
- encourage the adult to use existing skills or develop new skills.

Supported decision-making puts the individual at the centre of the decision-making process. It starts from the perspective that all people have the right to make their own choices and to have control over their own lives.

The challenge is how to support someone so that they can exercise that right to choice and control. All people have views and preferences about what they want. They may need help to explore options in order to decide their preferences. They may need support to communicate their preferences and wishes. A supported decisions-making approach recognises that even when it is not clear that individuals can make decisions for themselves, they still have views and preferences that must be taken into account. Decision-making is a process, which is carried out with the help of other people.

The steps towards making a decision include getting information, considering the options, and weighing up their respective value, thinking about the consequences and talking to others. Somebody who has high support needs may well not be able to express directly what they want to do. They may not be able to initiate a decision-making process. That is why relationships are crucial. **People with high support needs still have preferences, needs and personal priorities – the essential elements that go towards eventually making a choice or a decision.** What such individuals do need is the support of other people who know these things about the individual. If they know the person, they will be better able to identify when a decision needs to happen and to ensure that the individual is at the heart of it by having their preferences placed at the centre of the decision-making process.

The following are mechanisms that enable support decision making:

## **Advocacy**

It may be enough for someone to be supported by one independent advocate. A shortage of advocacy can often be a problem. This could, however, be one of the services a direct payment support organisation could provide.

## **Circles of Support**

When people need information, advice and support in finding out about the best arrangements for them, and in exploring the possible alternatives, one option is to use a small 'network' of people around them whom they know well. The people who make up these networks will be different for each individual but often include parents, friends, allies, family friends, acquaintances and professionals (sometimes acting in a particular capacity). Supports should be able to provide a balance that means decisions made are in the best interests of the individual. For example it may be a way of helping to recognise the desires of the individual where these are at odds with those of a parent.

Circles can be particularly productive for people with more complex or greater support needs, those who do not use verbal communication and those who may be communicating through their behaviour. However, many people including those with learning difficulties, dementia and mental health difficulties do not currently have access to a circle. Social workers, care managers and other supporters can actively support direct payments by considering the use of a circle of support where appropriate.

## User Controlled Independent Living Trusts

A trust is a legal structure that sets up the necessary framework of decision-making around an individual with high support needs. Innovative, user-controlled trusts have been developed as a way of enabling people to achieve independent living via individualised funding, with the support of a dedicated network of friends and workers. A trust consists of a number of trustees, chosen by the disabled person. A Trust Deed sets out the rules and regulations about how money should be spent and any other necessary financial arrangements to govern it.

A user-controlled trust will usually offer additional assistance and safeguards to the disabled person. It ensures that they are the centre of decision-making, whatever their ways of communication or their needs for support and, by establishing a trust, a range of people are actively committed to supporting the individual in this.

Thus, an important aspect of user-controlled trusts is the network of people involved. These people can include peer advocates, friends, relatives and citizen advocates, as well as family, friends and local authority workers. The best mix of people is the one that suits the individual.

Trusts are being used by an increasing number of people including those with learning difficulties, dementia and mental health difficulties and are proving particularly helpful when someone has greater support needs.

Benefits include:

- A legal framework to ensure any questions of employment or other liability are met
- A quality framework to ensure the desired support is delivered

Direct payments can be made via a trust. Trustees can be chosen who will carry out the tasks involved in managing the direct payment that the disabled person cannot or does not want to undertake, such as the financial aspects of employment. (More detailed information on setting up trusts can be found in the VIA publication, *Trusting Independence: A practical guide to independent living trusts.*)

## Service Brokerage

The concept of service brokerage is not a mainstream option in the UK, although the best known example, Grampian Service Brokerage, is in Scotland.

A broker is a skilled supporter enabling someone to look at what they want and need. Brokers usually work for a brokerage agency but, although few and far apart, independent brokers have also helped some people to use direct payments. They may offer advocacy in the assessment process and support in implementing assistance packages. These may well include the use of a direct payment. A brokerage agency can act as the named employer of support for an individual if required.