**Personal Budget Direct Payment Agreement**

**For**

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| **Name of the child or young person (the child or the young person)** |       |

**Between**

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| **Local authority and partners (the Council)** |       |
| **Name of department and address**  |       |
| **Signed**       **Date**       |

**And**

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| **Nominee (you)**(Parent, young person, third party to receive the payment. You may nominate a person to act for you in this agreement. By signing this agreement, they agree to support to achieve the outcomes in the support plan and are capable of managing and assisting you with direct payments.)  |       |
| **Address** |       |
| **Signed**       **Date**       |

**(Collectively referred to as ‘the parties’)**

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| 1. **Basis of the agreement**
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| 1.1 | The Council has assessed the education, health and social care needs of the child or young person named in this agreement and developed a support plan with you to achieve its identified outcomes.   |
| 1.2 | You have told us that you would like to arrange some or all of the support the child or young person named in this agreement is eligible for.  |
| 1.3 | You have agreed to arrange all or some of the support without assistance and receive a direct payment from the Council to buy the support required.  |
| 1.4 | Alternatively, you have identified a nominated organisation to arrange all or some of the support and manage a personal budget on your behalf (third party managed budget). |
| 1.5 | The Council has agreed to give you a sum of money to meet of the all of the assessed eligible needs so that the child or young person can do this. |
| 1.6 | This agreement describes the rules about receiving a direct payment or nominating a third party nominated budget holder provided by the Council and/or its partner organisations to meet the individual outcomes of the child or young person.  |
| 1.7 | This agreement is based on the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2009 or the National Health Service (Direct Payment) (Amendment) Regulations 2013 and the Children and Families Act 2014.  |
| 1.8 | This is a legal agreement between the parties. |

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| 1. **Your personal budget and support plan**
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| 2.1 | The child or young person named in this agreement has been assessed as eligible for:* Element 3 (Top Up) Special Educational Needs Funding (delete as required)
* Children and Young People’s Continuing Care (delete as required)
* Social Care Services (delete as required)
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| 2.2 | The agreed outcomes to be achieved by the support plan appended to this agreement are:* xxxxxx
* xxxxxx
* xxxxxx
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| 2.3 | The annual sum of money defined within this agreement is to be used to purchase the following support that will be provided by:* xxxxx (Name of provider)
* xxxxx (Named of provider)
* xxxxx (Named of provider)
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| 2.4 | The annual sum of money we have agreed to give you is £xxxxx. |
| 2.5 | The annual sum of money covers the period from xx/xx/xx to xx/xx/xx. |
| 2.6 | The annual sum of money will be paid to you on a quarterly basis. The amount of money you receive will be based on an average weekly sum for a three month period between the period covered by this agreement in clause 2.5. |
| 2.7 | If you use the direct payment to purchase any equipment identified as necessary in the support plan or to purchase a minor adaptation for equipment that you already own, this will be paid in a one off sum to you. Where you use the direct payment to purchase items that exceed the amount of the direct payment, you will be responsible for making up the difference out of your own money. You will be liable for all legal and contractual responsibilities and consequences that may arise from such a purchase. You are responsible for any insurance, maintenance and servicing of the equipment or adaptations that may be necessary relating to any purchase made using a direct payment unless otherwise stated. In the event that you no longer require the equipment or adaptations purchased under this agreement, you shall be responsible its disposal, as well as the cost of the disposal. The Council may, at its sole discretion, agree to remove any equipment or minor adaptations free of charge. If the Council chooses to do this, it will be free to make use of the equipment as it sees fit and will not be regarded as having bought the equipment from you.  |
| 2.8 | The indicative following payments will be made to you at the beginning of:April £xxxxJuly £xxxxOctober £xxxxJanuary £xxxx |
|  | The payments will be made by Achieving for Children for and on behalf of the Council and its partners.   |
| 2.9 | The actual payments may be subject to variations due to a change in circumstances or money not being spent as agreed over a six month period. |
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| 1. **What you or your nominee agree to do**
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| 3.1 | Ensure the payments are only used to buy the necessary services and/or support defined in clause 2.3 and as identified in the support plan. You are not entitled to use the direct payment for any other purpose. |
| 3.2 | Negotiate the specific terms and conditions of contract and employment with any provider or individual delivering all or part of the services and/or support defined within clause 2.3. This will be an exclusive arrangement between you and the service provider(s). You will need to make provision for staff holidays and other leave, such as sickness. |
| 3.3 | Seek prior written agreement of the headteacher or principal for any services or support defined in clause 2.3 that are to be delivered in school or college.  |
| 3.4 | Ensure any healthcare provider or agencies used to provide any support defined in clause 2.3 are registered with the Care Quality Commission. |
| 3.5 | Ensure any healthcare professionals employed to deliver the services or support defined within clause 2.3 are qualified to provide the required service and are registered and maintain their professional registration with the relevant professional body.  |
| 3.6 | Ensure the health and safety of your staff and that any individual employed to deliver all or part of the services or support defined within clause 2.3 are approved or certified by the Disclosure and Barring Service (DBS).  |
| 3.7 | Ensure any individual employed to deliver all or part of the services or support defined with clause 2.3 is permitted to work in the United Kingdom. |
| 3.8 | Comply with all legislation and take full responsibility for meeting all of the legal requirements under employment law including minimum wage, redundancy, sickness, pension, Income Tax and National Insurance within the agreed budget and where appropriate registering with HM Revenue and Customs as an employer.  |
| 3.9 | Ensure all employees or prospective employees recruited to deliver all of part of the services or support defined within clause 2.3 are not discriminated against based on disability, age gender, race or ethnic origin, religious beliefs or sexual orientation and comply with all relevant legislation.  |
| 3.10 | Take out and maintain insurance to cover any employment related claims, public liability, professional indemnity and liability and, where relevant, medical malpractice insurance within the agreed budget.  |
| 3.11 | Ensure there are contingency arrangements in place in case the services or support you need is temporarily disrupted within the agreed budget. This will include both planned and the unplanned absences of an employee due to sickness or annual leave.  |
| 3.12 | Ensure the payments are not used to:* employ any partner (married, unmarried or in a civil partnership) or any close relative living in the same house as you;
* pay for an activity or service that is for someone else;
* pay for household expenses such as food or bills, rent or mortgage payments;
* pay for anything illegal; or
* gamble or buy lottery tickets, raffle tickets, bingo, alcohol or cigarettes.

Add or delete as required. |
| 3.13 | Set up a separate bank account to receive the payments. This account may be in joint names if someone is assisting you with the management of the personal budget. You must not request or accept an overdraft facility on this account. |
| 3.14 | Ensure the payments have been received and there is sufficient money in the account to meet the expected bills. |
| 3.153.16 | Take responsibility for any bank charges or other charges applied to the bank account and the benefits of any interest which may be accrued on the bank account. Keep clear records of how the money received has been spent and allow the Council to look at these records on a quarterly basis or within 31 days if requested.All invoices, payslips (showing staff details, hours worked and payments made as well as payments which you have made to the Inland Revenue, timesheets, agency invoices and receipts (if appropriate), receipts for one-off payments or cash payments for items or services purchased which have been identified in your support plan and monthly bank statements must be kept for a period of six years. If you fail to provide receipts to prove that the money has been used for a purpose for which it was issued, then you must re-pay the full amount of the direct payment to the Council. |
| 3.17 | Agree to tell the Council if there is any change in circumstances that may affect the delivery of the support plan and/or the supply of the services and/or support named in Clause 2.3. |

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| 1. **What the local authority and partners agree to do**
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| 4.1 | Act in your best interests and work with you in a flexible way to meet the agreed outcomes and assessed needs.  |
| 4.2 | Offer you independent support and advice from a local brokering service to help you manage the obligations of this agreement.  |
| 4.3 | Agree to make the payments to you in accordance with the payment schedule described in clause 2.8. |
| 4.4 | Continue to have a duty to meet the eligible assessed needs of the child or young person should the arrangements defined within this agreement breakdown with no sign of any such difficulties being resolved. |
| 4.5 | Review the support plan and personal budget arrangements defined within this agreement after three months and at least once a year thereafter.  |
| 4.6 | Provide you with four weeks’ notice if your personal budget is to be suspended, reduced or stopped.  |
| 4.7 | Reduce the personal budget if:* if a surplus has been accrued;
* if an over payment has been made to you; or
* following a review, your eligible needs have reduced.
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| 4.8 | Charge interest on any money owed or over paid which is not repaid within 30 days of receipt of the invoice requesting payment.  |
| 4.9 | Suspend the payments to you if:* for whatever reason the child or young person is temporarily unable to receive the service or support defined within Clause 2.3;
* if the child or young person is admitted to hospital or requires emergency residential care, unless the Council agrees the support or services can and should continue to be provided in hospital;
* you fail to comply with the review and monitoring process; or
* criminal activity or a deliberate misuse of the funds is suspected.
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| 4.104.114.124.13 | Stop the payments to you and notify you in writing if:* following a review or reassessment of the child or young person’s needs, they no longer meet the criteria for Element 3 (Top Up ) Special Educational Needs Funding, Children and Young People’s Continuing Care or Social Care Services;
* If the direct payment has been used for items or services other than those specified within clause 2.3 and it has been proved there has been a misuse of funds or a persistent breach of the terms and conditions of this agreement.
* The child or young person begins a 52 week residential placement.

If you have supplied information that is later found to have been given fraudulently, the Council will require the full amount of the direct payment to be paid back immediately. In the event of the death of the child or young person, this agreement will end with immediate effect. The local authority and its partners will consider what contractual responsibilities exist at the time of death when determining what money should be repaid.The Council will not have any contractual responsibility for the delivery of the services or support defined within this Agreement.  |
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| 1. **Review and monitoring**
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| 5.1 | You can request a review of the arrangements defined within this agreement at any time should your needs change. |
| 5.2 | The Council will review with you your education, health and social care assessments and the personal budget arrangements at least annually on an agreed date. |
| 5.3 | Variations to this agreement, other than variations in the review or reassessment of needs, must be in writing and agreed by all parties signing this agreement. |
| 5.4 | The Council will monitor how you are spending the agreed personal budget on a quarterly basis.  |
| 5.5 | You will be expected to submit all of the documentation described in clause 3.15 to your named support broker on a monthly basis. |

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| 1. **Ending this agreement**
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| 6.1 | You may end this agreement by writing to the Council. Depending on the circumstances, there will be a maximum of four weeks before the agreement ends.  |
| 6.2 | You will be notified in writing if the Council intends to end this agreement for any of the reasons described in clauses 4.9-4.11. It will be your responsibility to notify your named nominee. |
| 6.3 | You will only receive a personal budget for as long as you are eligible to receive the services described in clause 2.1.  |
| 6.4 | In the event of the agreement ending, the named Council may provide up to four week’s payment, not withstanding any breaches to this agreement and there is still good reason for payment to be made.  |

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| 1. **Complaints**
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| 7.1 | You or the named nominee have a right to complain about the operation of this agreement and should use the Council’s complaints procedure. You can obtain a copy of the complaints procedure from Learning and Children’s Services Directorate, including from the address of the Council shown at the head of this agreement. |
| 7.2 | If you or the named nominee wish to complain about the services or support that you have been received you must contact the provider directly.   |
| 1. **Consent**
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| 8.1 | By signing this agreement you and your named nominee: |
|  | * agree to the terms of the agreement
* agree you have been offered and informed of your right to seek independent support and advice
* agree that the local authority and partners may share your information with relevant partners in order to meet the needs of the child or young person named in this agreement
* Agree you have been informed of your right to know what personal information is being held about you and that the named local authority will protect the information they hold about you.
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| 1. **Law and jurisdiction**
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| 9.1 | This legal agreement is governed by and construed in accordance with the law of England and Wales and the parties. |

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| 1. **Partners to this agreement**
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We agree to the terms of this agreement:

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| **Clinical Commissioning Group**  |       |
| **Print name/Dept**  |       |
| **Signed**       **Date**       |

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| **Named school of college**  |       |
| **Print name/Dept**  |       |
| **Signed**       **Date**       |

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| **Independent brokering service**  |       |
| **Print name/Dept**  |       |
| **Signed**       **Date**       |

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| 1. **Glossary of terms**
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| **Direct payment** | The payments made by the Council to an individual to arrange the support services required. |
| **Third party managed budget** | An organisation nominated to receive the payments and arrange the support services on behalf of an individual.  |
| **Named local authority** | The Royal Borough of Kingston upon Thames or London Borough of Richmond upon Thames |
| **Partners** | * Kingston Clinical Commissioning Group
* Richmond Clinical Commissioning Group
* The school, college or academy attended by the named child or young person
* Other agencies providing services or support to the named child or young person
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| **Achieving for Children**  | A Community Interest Company owned by the Royal Borough of Kingston upon Thames and the London Borough of Richmond upon Thames that administers and manages the personal budgets. |
| **Brokering service**  | An independent organisation that will support you to decide how to spend and manage your personal budget and find the support or services you require.  |
| **Assessment**  | An assessment of the named child or young person’s needs under Section 17 of the Children’s Act 1989, Health and Social Care Act 2012 or Children and Families Act 2012.  |
| **Education, Health and Social Care Plan**  | Following an assessment of a child or young person’s needs a single plan will be completed that will describe how the identified needs are going to be met, the outcomes to be achieved and the measures of impact or success.  |
| **Support plan**  | The support plan will detail the specific service or support to be provided and by whom to meet the needs and outcomes defined within the Education, Health and Social Care Plan.  |
| **Element 3 Special Educational Needs Funding** | Where a child has special educational needs, the school will receive additional money to meet these needs. Some children will have higher needs normally requiring individualised support and will receive further funding to meet the cost of these needs. |

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| **Continuing care for children and young people** | A child or young person may require a continuing care package if their complex and often long term healthcare needs cannot be met by universal, targeted or specialist services. |
| **Social care services** | Social care cover a wide range of services provided by or on behalf of the Council to safeguard and support families. |
| **Care Quality Commission** | An independent regulator that checks the standards and compliance of all health and adult social care services in England on behalf of the Government.  |
| **Personal budget** | A personal budget is an amount of money allocated to support your child or young person’s complex education, health and social needs |