**DIRECT PAYMENTS FORUM MINUTES**

**London Borough of Merton**

**Committee Rooms D & E**

**15th January 2019**

**1.30pm to 3.30pm**

**Present:**

Slim Flegg SF (Chair)

David Slark DS (LB Merton)

Vannya Vassileva VV (LB Merton)

Osman Hamid OH (LB Merton)

Elaine Tinn ET (LB Merton)

Heather Smith-Crome HSC (LB Merton)

Clair McQueenie CM (LB Merton)

Pauline Mclean PM (LB Merton)

Lyla Adwan-Kamara LAK (Merton Centre for Independent Living)

Direct Payment customers

**Speakers:**

Jas Hayer JH (Pay-packet Account Relationship Manager)

Alexis Grant AG (LB Merton Financial Assessments Officer)

**1. Introductions & apologies**

SF welcomed everyone to the forum and noted apologies from four customers.

**2. Minutes from previous Meeting and matters arising**

The Chair asked if everyone had seen and read the Minutes from the previous Forum held on the 27th September 2018.

Previous Minutes were agreed to be an accurate recording of the previous Forum.

**Question 1.**

*SF asked about the payroll procedures for customers whilst in hospital.*

**Answer:**

DS explained that customers who are employers have a responsibility to continue to pay their Personal Assistants whilst they are in hospital in line with their contract of employment. The Council would continue to pay customers their direct payment for customers employing a personal assistant whilst they are in hospital in line with the customer’s direct payment agreement. However, after a period of continuous hospitalisation the Council would discuss with the customer any change to their direct payment and agree any variation and relevant support that they may require to ensure customers can continue to comply with their employment obligations.

**Question 2.**

*SF asked if transport could be arranged for attendees with mobility difficulties to forums.*

**Answer:**

DS said that if customers need assistance or support with transport getting to future forums, they should contact the Direct Payments Team who will support the customers as necessary.

**Question 3.**

*It was asked whether the direct payment rates would be increased this coming financial year.*

**Answer:**

DS confirmed that no decision has been taken yet, but any increase is likely to be reflective of factors such as any increase to NMW and pension increases. Customers would be notified of any increase before they are applied.

**Question 4.**

*SF asked whether there is a higher rate given to customers for bank holidays.*

**Answer:**

DS confirmed that the hourly direct payment rate (£13.08), an element of this is to cover on costs such as enhanced bank holiday pay, pensions etc. As concern were still raised at the forum, DS agreed to raise this issue again with management and up-date at the next forum.

**Question 5.**

*A customer explained that she has requested to see a social worker and is still waiting after three months. SF asked if anyone else is having difficulties with contacting a social worker and an attendee explained that they are.*

**Answer:**

DS asked that attendees who had experienced a delay, to speak to ET after the forum on an individual basis.

DS also agreed to raise this issue with social work managers.

**Question 6.**

*A series of questions were asked relating to the payment for transport of personal assistants through a direct payment.*

**Answer:**

DS requested that if customers had specific queries relating to their own assessed support plan that they speak to ET after the forum.

However, it was agreed that the issue of transport and direct payments be a specific agenda item at the next Direct Payments Forum.

**3. Direct Payments Monitoring Project Review update - David Slark**

DS provided an overview:

HSC started as an administrator last Monday.

ET is a new social worker appointed to the direct payment team to support customers with effectively managing their support plans in line with their assessed needs.

DS confirmed that the Direct Payments Team are committed to support customers with the effective management of their direct payment.

DS explained that generally a key outcome of the project to date, had shown that customers required more information on employing somebody to meet their assessed support needs and to support this JH from Pay Packet had been invited to provide an over view.

DS commented that a further area where customers generally needed more knowledge was around financial assessments and that AG had been invited to give an overview of the financial assessment process and what customers need to do to ensure that they continue to comply with the requirements of their direct payment agreement.

**4. Direct Payment Literature – update – David Slark**

DS explained that Direct Payments literature review has taken a little longer than anticipated but it is expected that a draft set of literature would be completed by the end of February 2019. The revised direct payment literature would include:

Direct Payments Policy

Direct Payments Guide

Direct Payments Agreement

Leaflet on Merton Managed Accounts

Employment Contract templates

DS explained that the Council would be asking for a small number of customers to form a working group to review the draft literature for comment before the final version is agreed with the aim being to ensure that all literature is customer friendly.

DS confirmed that it is hoped the revised literature would be implemented by April 2019.

The Chair asked that he be included in the working group –agreed.

A customer asked whether the literature could also include what a direct payment can be used for. It was explained that this would be extremely difficult to do as what each customer can use their direct payment for is based around their own individual assessed needs.

However, it was agreed that the literature would include details of what a direct payment cannot be used for.

**5. Financial Assessments Overview - Alexis Grant**

AG explained that income and household expenses are considered when conducting a financial assessment, e.g. state pensions, personal independent payments, rent/mortgage and council tax.  Gas and electricity is not usually taken into consideration unless this is excess due to the service users disability/illness. Disability related expenditure can also be taken into consideration, these are expenses directly related to disability/illness. For example, if a customer is incontinent they may incur extra costs as they need to do extra washing or purchase incontinence pads.

**Question 1.**

*SF explained that he requires two new arms on his electric wheelchair and new motors with a cost of over a thousand pounds so is he entitled to financial assistance?*

**Answer:**

AG explained that such costs can be considered in the financial assessment but receipts must be retained and provided.

AG explained that customers who have to purchase a stair lift; new chair, etc. should provide evidence such as receipts. AG also stressed the importance of submitting evidence with the financial assessment form. For example, bank statements to verify income such as ESA, State Pension, etc. Household expenditure and disability related expenditure needs to be verified.

The financial assessment is undertaken in-line with Government legislation such as the Care Act. Each person’s contribution is different and a financial assessment is undertaken each year. Contributions increase in line with DWP benefit yearly increases. Customers must inform the team if there are income changes e.g. changes to any benefits, to ensure the financial assessment is adjusted accordingly.

AG explained that the financial assessment team are always willing to help and can assist with completing forms over the telephone, in the civic centre or with home visits.

**Question 2.**

*A customer said that his son has OCD and showers or baths five times a day leading to the use of extra gas, electric, water, etc. and asked how is he to go about getting evidence for this? What is average costs for gas and electric?*

**Answer:**

AG explained that he should keep the receipts for his next assessment and that average costs depends on the household. For example, the national average for a detached home would be roughly £1,400 per year. So we would take into consideration costs in excess of this.

**Question 3.**

*A service user asked must you only be claiming DLA or PIP to be entitled to disability related expenses.*

**Answer:**

AG explained that this is the case and such expenses will only be considered if customers are in receipt of DLA or PIP.

**Question 4.**

*A customer explained that when transferring from DLA to PIP there is often many people who lose their entitlement to their benefits, which they consider very distressing and even more distressing to go through the appeal procedure.*

**Answer:**

AG explained that the success rate of appeals is very high. Currently, they are only able to consider disability expenses if customers are in receipt of DLA or PIP. Majority of customers that incur these expenses receive disability related benefits.

**Question 5.**

*PM asked about the date changes of the yearly contributions. It is important that customers are made aware of the new periods in order to amend calculations and make payments at accurately in regards to the direct payments.*

**Answer:**

AG explained that a letter would be sent to customers stating the dates the new calculations are to commence.

**Question 6.**

*A customer said that physiotherapy is no longer available on the NHS.*

**Answer**:

AG explained that receipts should be saved to be looked at.

**Question 7**

*PM asked about respite support.*

**Answer:**

AG explained that there would be a separate financial assessment completed for respite stay. Disability benefits are omitted when calculating respite charges and customer contribution will be higher than for home care.

**6. Employer responsibilities around tax, holiday pay, employment issues & HMRC regulations - Jas Hayer.**

JH explained that an employer must provide a Contract of Employment to employees stating the hours to be worked and include sickness and holiday entitlement.

It is an employer’s responsibility to provide holiday and maternity entitlement based on the contracted hours of employment agreed. When time sheets are calculated holiday entitlement will be incurred of which Pay Packet will inform the employee.

A PA cannot work and take holiday at the same time; it must be one or the other.

If a PA requests, Pay Packet can inform an employee of the total hours accrued.

Holiday accrued must be taken by the end of March each financial year or it will be lost because it cannot be carried over.

JH explained that some customers just require a pay slip service; quarterly invoices will be sent portraying liabilities to be paid to HMRC.  It is the responsibility of the service user to pay these costs or they will be fined.  Pay Packet will pay the costs on your behalf of which will incur costs of working on your behalf.  Payslip service quarterly payments must be paid to HMRC.

A pension scheme is available to PA’s which a customer must never discourage a PA from joining.  A customer should never get involved in pension discussions and should always refer to Pay Packet or their payroll provider.

JH advised that customers could always contact Pay Packet if they have queries around any concerns such as pay and leave entitlement etc.

A series of questions and answers then followed:

**Question 1.**

*If your PA is self-employed, will the same rules apply?*

**Answer:**

JH explained that PA’s who are self-employed are responsible to pay HMRC themselves at the end of each financial year based on their earnings and calculations submitted.

**Question 2.**

*How many hours holiday pay would a PA be entitled to who works sixty hours per week?*

**Answer:**

JH explained that employees working full time are entitled to twenty-eight days holiday per year.  Holiday calculations are based on hours worked and calculated as pro-rata.

**Question 3.**

*What if a customer’s care package decreases?*

**Answer:**

JH explained that if a customer’s care package decreases the employee’s hours will decrease and each submitted time sheet will accrue holiday entitlement based on calculations.

JH explained if a PA is ill, they should inform their payroll provider. An employee must submit a signed doctor’s certificate and will not be entitled to statutory sick pay for the first three days after which full statutory sick pay will be paid to the end date as advised by the GP.  If an employee is still unwell after the return date on the certificate the employee should provide a further certificate from the end date to a new date to continue receiving statutory sick pay.

**Question 5.**

*SF asked if a PA should be paid extra for bank holidays.*

**Answer:**

JH explained that it is at the discretion of local authorities and employers to decide employee rates and costs.

Please refer to response to question four (Section 2) of the minutes for further information.

**Question 6.**

*Do the same rules apply if your PA is self-employed?*

**Answer:**

JH explained that self-employed PA’s are not the customer’s liability because they have different rights to employed PA’s.

In regards to maternity pay, a self-employed individual should complete and submit to HMRC, a MATB1 Form.

**Question 7.**

*Customers have phoned Pay Packet saying that they have no money in their account but there is money on their pre-paid card.*

**Answer:**

JH explained that a PFS Card is reliant and set-up in time for payroll. Pay Packet are streamlining the process but ask customers to let them know of any discrepancies.

**Question 8.**

*DS asked if there is a link to pension information and tax liabilities.*

**Answer:**

[www.hmrc.gov.uk](https://urldefense.proofpoint.com/v2/url?u=http-3A__www.hmrc.gov.uk&d=DwMFAw&c=HmJinpA0me9MkKQ19xEDwK7irBsCvGfF6AWwfMZqono&r=EfAiZvN_Qa8-R2eVl1FOWEsCY1FN3MBMXPQElj2w8Qg&m=sYW8IGlmB_wTUUkng7qtWXKI0dp9LpS2d3LTjEfT8Z4&s=g0CoEf5Z0YtwyUqaLPTUeclN4xSu2cpGzL6Id_P7NlA&e=)

[www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

**Question 9.**

*PM asked how could it be confirmed whether a PA is actually self-employed?*

**Answer:**

If an individual states that they are self-employed, the responsibility is on that individual to pay HMRC.

**7. Any Other Business**

It was felt that the Committee rooms D & E were a better venue for the forum.

The availability of the lifts was a concern. However, DS confirmed that he would see what could be done for subsequent forums.

DS explained that the Direct Payments Team are here to assist and support customers, with the management of their direct payments.

A customer commented how informative, useful, engaging and welcoming it has been and looks forward to attending the next Forum.

**8. Date of next meeting**

Wednesday 22nd May 2019 -2pm.