



Guidance on money management for people who may lack capacity to make some decisions about how their money is used

by Jane Livingstone

First Published by ARC Ltd. 2011

ARC, ARC House, Marsden Street, Chesterfield, Derbyshire S40 1JY.
Tel: 01246 555043 Fax: 01246 555045 E-mail: contact.us@arcuk.org.uk
Web: www.arcuk.org.uk

Copyright © 2011 ARC

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means (electric or mechanical) including photocopying, recording or otherwise, without prior permission of the publishers.

Distributed in the UK by ARC.

The formal responsibility for the contents of the publication rests with ARC.

Contents

About this guide	3
Section One	
Introduction to Mental Capacity	5
- Assessing Capacity	9
- Who should undertake the assessment?	11
Section Two	
Making decisions involving money	15
- Opening and managing a bank account	17
- Signing a tenancy agreement for accommodation	20
- Paying housing costs such as rent, mortgage, utility bills	20
- Receiving and managing a direct payment	21
Section Three	
The role of appointees	23
- Becoming an appointee	26
- Duties of appointees	26
- Concerns about an appointee	27
Section Four	
Lasting Power of Attorney (LPA) for property and affairs	29
- How to make an LPA	32
Section Five	
Deputies for property and affairs	35
- Why might someone need a deputy?	37
- Who can be a deputy?	37
- Duties of a deputy	38
- Concerns about deputies	38

Section Six	
Supporting people who do not have an appointee, attorney or deputy	39
- Banking and bank accounts	41
- Budgeting	42
- Spending decisions	43
- Shopping	44
- Recognising financial abuse	45
Section Seven	
Supporting people who have an appointee, attorney or deputy	47
- What aspects of their money a person can manage themselves and how this can be supported	49
- Sources of further help	52
Appendices:	53
1. Useful resources	56
2. Financial capability assessment for people with a learning disability	57
3. My financial passport	62
4. Help with tenancies for people who may lack capacity	65
5. Example policy for handling money and financial matters	66
6. Example of recording system for social care workers in someone's own home or community based services.	68



About this guide

This guide is for support staff and their managers who work with people who may lack capacity to manage some aspect of their own money. It is not designed to be a guide for how to support people who are able to make all their own financial decisions with support, although some of the principles we describe may also be useful.

There are two distinct situations where this guide should be used:

- **The person you are working with has an appointee, attorney or deputy.** Support staff need to understand these roles and have ideas about how they can work with both the person and those with legal authority to support the person on money matters. This would include supporting the person to make as many decisions as possible, explaining how bank accounts can be managed and deciding whether, for example, your service holds money provided by the appointee.
- **The person doesn't have anyone who has been appointed to look after their money,** but possibly should have, as support staff have concerns about the person's ability to manage all aspects of money and property.



Section One

Introduction



Section One

Introduction

“Money Makes the World Go Round”, is not only the opening line of a popular song, but for most of us a day-to-day reality. However, if someone you support is having difficulty managing money because they have a mental impairment, a learning disability or dementia life can become more complicated. This guide is designed to offer some help.

Mental capacity is a person’s ability to make a decision. The Mental Capacity Act (MCA) 2005, provides a legal framework for decision-making when people are assessed as *lacking* the capacity to make their own decisions.

Lack of capacity can be either permanent, temporary or fluctuate over time. This means that because a person may not have the capacity to make a decision at a particular time, it does not necessarily mean they will be unable to make a similar decision in the future.

The MCA states that an assessment of capacity must be specific to the decision in question. Some people may have capacity to make simple decisions, but not more complex ones. For example, a person may have the capacity to make day-to-day spending decisions such as whether

or not to buy a magazine, or what they need to buy at the supermarket for their evening meal, but lack the capacity to make a decision about whether they have enough money to take out a contract for a mobile phone, or to manage a credit card.

The MCA sets out five principles which must be considered whenever a situation arises which might involve the question of a person's capacity:

- 1. Always start with an assumption that the person is able to make a decision themselves**, unless it can be shown that this is not the case. This means that there should always be an assumption that someone can look after their money and make decisions about how to spend it.
- 2. People should be supported as much as possible to make their own decisions.** Some people will be able to look after their money, but may need help either to understand some of the decisions they need to make about how to spend it, or to communicate these decisions with others. This might include helping to explain things in simple language, or 'easy read' words and pictures, choosing a time when the person is more alert or relaxed to explain what might be involved in the decision, or explaining to others what the person might mean when they find talking difficult.
- 3. Everyone has the right to make a decision that may seem unwise to others**, and the fact that they do so does not mean that they lack capacity. We all have different priorities when it comes to choosing how to spend our money. Some people may think that saving up for a holiday is important, whilst others would rather go out for a drink or meal with friends. Just because someone chooses to spend their money in a way which may seem unwise to you does not mean that they do not have the capacity to make those sorts of decisions.
- 4. Anything which you may do for, or on behalf of someone who does lack capacity must be in their best interests.** Best interest decisions about a person's own money can only be made if there is a legal authority to do this. The person would need an appointee, attorney or deputy.

5. **Before anything is done for or on behalf of someone who lacks capacity, there must be consideration of what would offer least restrictions on their rights and freedom.**

Assessing Capacity

If you are a support worker you may not be involved in making an assessment of someone's capacity, however, it is important to understand what is involved.

How do you assess whether someone has capacity to manage their money?

In making an assessment of the person's capacity to manage their money, you will need to consider whether they understand the information **relevant** to making the decision in question. The sort of decision being made is important, so, for example, you do not need to understand complicated financial information in order to decide whether or not to buy a Mars Bar, but you would when deciding about taking out some insurance, or other much more significant purchase.

Relevant information could include:

- the person's income, savings and expenditure
- their financial needs and responsibilities
- whether there are likely to be any changes in the person's financial circumstances.

As well as looking at a person's understanding of the relevant information, a capacity assessment should also consider whether the person can:

- retain this information long enough to make a decision
- discuss the pros and cons of this decision with you (in other words, can they use the information you've given them?)
- communicate their decision in a way which not only works for them, but which others can understand (for example, using an electronic communicator if this is available to them).

If the answer to one or more of the questions is 'no' then the person lacks capacity to make this decision.

The following are examples where there may be concerns about a person's ability to make some decisions about their money which might prompt an assessment of their capacity.

John

John is an elderly man whose wife recently died. John has been diagnosed as suffering from the early stages of dementia. John's wife always looked after their finances and paid the bills. John knows he needs to put money aside for fuel bills and other important expenditure, but finds going to the bank and dealing with money daunting. One day John plucks up the courage to go into the bank and ask for some help. When the bank staff ask him a question he becomes very flustered and walks out in despair.

Clare

Clare is a young woman with Down's Syndrome. She lives with her parents who have always looked after her money – her mother is her appointee. Clare hopes one day to have a home of her own, but has no real understanding of budgeting. Clare's mum tried giving her a weekly allowance to help her to practice looking after money, but found that Clare just spent it all on the first day. Clare's mum now gives her a small amount of 'pocket money' each day and finds that she can talk to her about how best to spend this.

Who should undertake the assessment?

This depends on the decision that needs to be made. The MCA states that capacity is decision specific – it relates to a particular situation at a particular time. If there are concerns about someone's ability to make a day-to-day decision a support worker or family member may be in the best position to do this – you do not need to be a professional to assess capacity. However, if the decision in question is more complex or there are concerns about a person's ability to make decisions about their money more generally, then a more formal assessment of capacity may be appropriate. This may involve a service manager, social worker or medical professional.

There are two distinct situations which support workers may need to think about.

- Firstly, what to do if a person doesn't already have someone with formal powers to manage money on their behalf.

If you have concerns about someone you support, your line manager should either advise the Department for Work and Pensions (DWP) if they get benefits (possibly after asking a professional to do an assessment), or ensure that an application is made to the Court of Protection (CoP) regarding deputyship for any other income or property. The DWP will do an assessment. Similarly an assessment will form part of the application for deputyship and could be done by a range of professionals. *(See the Section 5 for further details.)*

- If the person already has someone with formal powers it is their responsibility to make decisions, so support workers will need to liaise with them if there are any concerns about the decisions.

If you are a support worker and find yourself in a situation where you think a more formal assessment of capacity is needed for someone you support, you should talk to your line manager about this.

Deciding whether a person does or does not have capacity to make a decision will depend on a range of factors, in particular, the complexity of the situation and, to some extent, on the circumstances or support which is available.

The following is an example of a situation in which you would expect someone to have a mental capacity assessment.

Vera

Vera is in her 90's and lives alone following the death of her husband.

Over recent years Vera has become more confused and forgetful and has recently been diagnosed with Alzheimer's disease. She has reluctantly agreed to receiving some support at home. She sometimes asks the carer to do bits of grocery shopping and is usually happy to hand over an appropriate amount of money. One day Vera asks a new carer, Liz, to go to the bank with £500 to pay a bill for some roof repairs. Liz is very concerned that not only does the bill seem unreasonable, but that she does not want to handle that amount of money.

If you are a support worker and find yourself in a situation where you are not sure whether the person you support has the capacity to make decisions about their money, or are asking you to do something in relation to money which you feel is beyond the scope of your role, the first step should be to talk to your manager about this.

Appendix 2 is an example of a tool you can use to make an assessment of someone's financial capability. This is designed by 'dosh', a money advice service for people with a learning disability.



Section Two

Making decisions involving money



Section Two

Making decisions involving money

Some people can make some, but not all decisions, providing they have the options explained in a simple way. Some of the decisions described below are more complex and involve entering into a formal contract.

Opening and managing a bank account

When the person you support goes to a bank and asks to open an account the bank may sometimes have concerns that the person may not be able to manage the account. Opening a bank account involves entering into a contract, and the bank can refuse to open an account for anyone who is not able to understand the contract they are entering into. Remember, banks have a responsibility to make the information they provide easy-to-understand and they can also offer a private room or appointment at a time suitable to the customer.

In recent years, banking has become much more 'automated' and relies very heavily on computers. Although this will not affect someone's capacity, it does mean that having personal contact with the bank is often more difficult. To operate an account, for example, you often need to be able to read and remember numbers such as a card PIN number or online banking passwords, which many people with more limited

capacity may find difficult. Sometimes making a few changes can make a difference to the person's ability to manage an account, such as:

- choosing a 'basic' bank account which does not let the account holder go overdrawn
- paying bills by direct debit
- changing the PIN number to something which the account holder is more likely to remember
- choosing a bank branch which will allow the person to go into the bank to get their money.

It may be more appropriate for some people to have an account which can be accessed by someone else (assuming the person has agreed), for example, a joint or third party account which offers a way of supporting someone who lacks the capacity to manage all aspects of their money.

If you find yourself in a situation where you have concerns about a person's capacity to make decisions about managing a bank account, you may want to think about asking the following questions:

- does the person understand:
 - what money is?
 - what a bank is?
 - what a bank account is?
- can the person sign their name?
- can the person read and remember numbers?
- do they know how much money they receive and from where?
- do they know how much money they need for their everyday needs?
- are they able to budget for special needs?
- will they understand what it means if they spend more money than they have in the bank account?

Just because someone answers 'no' to some of these questions does not mean they do not have the capacity to make a decision about opening or managing a bank account. However, some special arrangements may need to be put in place to satisfy the bank that the money will be kept safe. Let's look at an example of how this might work in practice.

George

George is 30 and lives in his own house. When he moved in the support provider and his parents worked with George to set a budget for him.

Responsibility for money management is shared between George, his parents and the support provider. His benefits are paid into an appointee account, and all the regular outgoings (rent, utility bills, etc.) are paid out of it. George's mother is his appointee and she monitors this account to make sure there is enough money to cover his housing costs. Each month an agreed sum is transferred into George's other bank account, from which he draws cash, as needed, for his day-to-day needs such as food, clothing and going out socially, with the help of his support worker. The support provider set up a system for cash monitoring. George and his support worker sit down each week: they look at receipts and record how much he has spent so that they know how much cash George needs to draw out of his account to top up his cash tin.

Do remember, however, that if someone cannot make decisions about managing their money they will need someone else to do this on their behalf and this will involve a formal arrangement such as the DWP appointing someone to act as appointee for their benefits, or the CoP to appoint an Attorney or Deputy.

Signing a tenancy agreement for accommodation

A tenancy is a legal contract which involves an agreement to exchange money for the right to live in a certain place. There may also be certain conditions attached to the contract such as not causing a nuisance, keeping the property in good order or not having a pet.

A tenancy agreement does not have to be complicated; it can be written in simple language, using words and pictures. The person should be given support to understand what the agreement involves.

If there are concerns about a person's ability to understand the conditions an assessment of capacity should take place.

If the person is assessed as lacking capacity to understand and sign a tenancy and has not appointed a property and financial affairs attorney, an application must be made to the Court of Protection for either a one-off agreement to the tenancy or to ask them to appoint a Property and Financial Affairs Deputy who can do this on the person's behalf. It is important to remember that this may take several weeks. Paid staff, family or friends should not sign on behalf of the tenant unless they have been specifically appointed, with the appropriate powers, by the Court of Protection.

Appendix 4 has an example of an assessment to help with decisions about tenancy agreements. Housing Options, a housing advisory advice service for people with learning disabilities has some useful fact sheets about tenancy agreements (*see useful resources section*).

Paying housing costs such as rent, mortgage, utility bills

Understanding the day-to-day costs related to maintaining a home can be difficult and many people will need support in order to make such decisions. People should be supported to make these decisions themselves where possible. For example, explaining costs in language which is easier than the average utility bill, and arranging for direct debit payments make the day-to-day management of bills much easier.

If you are concerned that someone you support does not have the ability to understand the need to pay their housing costs, their capacity to manage this aspect of their finances must be assessed; you must not be drawn into making decisions regarding money without the approval of an appointee, attorney or deputy. Support workers should explain their concerns to their manager, who, subsequently, should arrange a capacity assessment.

If the person is assessed as lacking capacity to manage their housing costs a more formal arrangement may need to be put in place. This will usually be the appointment of an appointee.

ARC and United Response have produced a useful guide to help people with a learning disability understand household finances. The guide is called 'Your Money Your Home' and is part of the 'Making Money Easier' guides. There are more details in the resources section.

<http://www.unitedresponse.org.uk/your-money-your-home>

Receiving and managing a direct payment (including monies received as part of a personal budget)

A direct payment is money that is paid directly to a person to buy services to meet their assessed needs. People can only receive a direct payment themselves if they can manage them. If someone you support does not have the capacity to manage a direct payment, it can be paid to a suitable person who can manage the money on their behalf.

When thinking about whether a person has capacity with regard to a direct payment, there are two things to consider; whether someone has the *capacity to consent* to receive direct payments and/or whether they have the *capacity to manage* the direct payments. These are separate issues – it is possible for someone to be able to consent to receive direct payments but then be unable to make decisions about managing direct payments.

As a support worker you may find yourself working for someone who is managing their own direct payment, but finding this difficult. If you are concerned that your employer, or person you are supporting, is not able

to manage their direct payment, you may need to raise this with the local authority (or your manager if you are employed by someone else), in order that a mental capacity assessment can be undertaken. You should never be in a situation where you have to manage or make decisions about a direct payment for someone you are supporting.



Section Three

The role of appointees



Section Three

The role of appointees

An appointee is someone appointed by a court of law or government department who is given the legal right to act on someone else's behalf. If a person is assessed as lacking capacity to manage their money, but is in receipt of benefits, the Department for Work and Pensions (DWP) can appoint someone to take responsibility for managing this income. This person is called an appointee.

It is the responsibility of the DWP to undertake an assessment and ensure that there is an appointee. However, if there are concerns about a person's capacity to manage their benefits, this could be checked out by asking the following questions:

- do they have a general understanding of their benefits and what is involved in managing them – claiming, reporting changes, methods of payment?
- do they know what income they have?
- can they pay bills?
- do they have a general understanding of the consequences of not claiming, reporting a change, not having a bank account?

Becoming an appointee

A person who wants to become an appointee should contact the office that deals with the benefit and ask for an application form. This could be a DWP office (for most social security benefits), HM Revenue & Customs (for Tax Credits) or the local authority (for Housing and Council Tax Benefits). Someone who has been appointed by the DWP will usually be accepted as an appointee by HM Revenue & Customs and the local authority without needing to apply separately.

The DWP will sometimes visit the person who has applied to be an appointee and also the person on whose behalf they will act. This is to check that the applicant is an appropriate person to take on these responsibilities and also that the claimant does require an appointee.

The Care Quality Commission guidance suggests that people working directly with someone who is not able to manage their own benefits should not act as an appointee; this is because there may be a conflict of interests. However, it is possible for an organisation providing support to act as appointee, providing that they are able to keep a clear record of how much money the person receives and how this is spent. This may mean you will be supporting someone for whom your organisation is the appointee.

Duties and responsibilities of appointees

As a support worker you may find yourself working with someone who has an appointee. An appointee has the same rights and responsibilities (though not all responsibilities) as the person on whose behalf they are acting, and in effect acts as though they are that person in relation to their benefits. This means that they are responsible for:

- completing claim and renewal forms
- receiving or collecting benefits – these will be in the name of the appointee; the money must be used for the welfare of the claimant
- dealing with any correspondence about the benefits
- reporting any changes in the claimant's circumstances
- repaying any overpayments of benefit.

The appointee has a responsibility to involve the person as much as possible in making decisions about their money. This means seeking their views about how their money is spent, consulting other people who know them well and taking the time to work out what they might have chosen to do if they had capacity to make the decision.

Concerns about an appointee

You may come across a situation where you have concerns about the way a person's money is being managed by their appointee. Let's look at an example.

Jo

Jo is a woman with a severe mental health problem, who is spending some time in the short breaks service where you work. Jo's mum is her appointee, and visits one afternoon. During the visit Jo and her mum go out for a walk and return with some expensive items from a nearby shop. Jo's mum says that Jo has bought these for her dad, brother and sister-in-law. After the visit, you confide to your manager that you are concerned that Jo's mental health condition means that she would find this sort of decision-making difficult and wonder whether the decision to buy these gifts was in Jo's best interests.

If you have concerns that an appointee is not acting in the best interests of a person you support you should, in the first instance, report such concerns to your manager. Concerns about the actions of an appointee

should be reported to the DWP, who will investigate the concerns and, if necessary, withdraw the appointeeship.

Remember, an appointeeship relates solely to benefits. It does not create duties relating to any other money or property that the person may have; this would include such things as signing a tenancy in the person's name or signing a contract for a mobile phone. If there is a situation in which these sorts of decisions need to be made, an attorney or deputy may need to be appointed.



Section Four

Lasting Power of Attorney for property and affairs



Section Four

Lasting Power of Attorney for property and affairs

A Lasting Power of Attorney (LPA) is a legal document that allows a person to choose someone that they trust to be an attorney and make decisions about their lives at a time in the future where they no longer wish to make those decisions, or lack capacity to make them.

In England and Wales there are two types of Attorney; one who has power to make decisions about matters affecting health and welfare and one who can look after a person's property and financial affairs. This guide looks at the role of a property and affairs LPA.

An attorney appointed under an LPA has the authority to manage all the aspects of a person's money (assuming there are not any restrictions on the appointment), including: benefits, bank accounts, debts, tax returns and anything in relation to their home and property. If a person wishes to make an LPA which only deals with specific matters, they should make sure that it is drawn up very carefully so that the attorney is very clear about their authority.

Any person over the age of 18 can make an LPA if they have capacity to do so. People often consider making an LPA if they are getting older or have been diagnosed with a condition such as dementia, which means they may lack capacity in the future.

How to make an LPA

If you are involved in supporting someone to make an LPA, they need to firstly obtain the relevant forms – downloadable via the Directgov website: www.direct.gov.uk/en/Governmentcitizensandrights/Mentalcapacityandthelaw/index.htm

Alternatively, contact the Office of the Public Guardian (OPG) at:

**Office of the Public Guardian,
PO Box 15118, Birmingham B16 6GX
Tel: 0300 456 0300
Email: customerservices@publicguardian.gsi.gov.uk**

The forms are accompanied by a guidance pack to help the person to complete the appropriate forms correctly. The forms should then be returned to the OPG for checking and registration with the applicable fee (currently under review). An LPA can only be used once it has been registered with the OPG.

It is not necessary to seek the advice of a solicitor when making an LPA, and many solicitors firms will charge for this. However, if there are special provisions such as more than one attorney, different attorneys being responsible for different aspects of the person's affairs, or there is a question as to whether the person does have capacity to make the decision to create an LPA, it may be appropriate to involve a solicitor.

Some people receiving services will naturally turn to their supporters to ask them to act as an attorney, particularly if they have no relatives or friends who can take on this role. If you are supporting someone in a paid capacity, and are asked to act as an attorney, you should be very cautious about agreeing. Most organisations will not allow support staff or service managers to act as attorneys because of the potential conflict of interest.

The OPG can remove an attorney if they are failing to carry out their duties or not acting in the best interest of the person concerned. If you have a concern about an attorney, you can contact the OPG by using their dedicated phone line for reporting concerns: **020 7664 7734**.



Section Five

Deputies for property and affairs



Section Five

Deputies for property and affairs

Why might someone need a deputy?

Another option for managing someone's money is to apply to the Court of Protection to ask them to appoint a deputy. Deputies are appointed by the Court of Protection to manage the property and affairs and/or personal welfare of a person who lacks capacity to make certain decisions for themselves. The need for a deputy will usually be because the person has savings, capital or other income about which decisions need to be made (not just benefits, which can be managed through an appointeeship), or because a decision such as signing a tenancy or buying a house needs to be made. A deputy's powers are very similar to those of an attorney.

Who can be a deputy?

A family member or friend of someone who lacks capacity to make decisions about their money can apply to the Court of Protection to act as a deputy. The application forms can be downloaded from the Directgov website. www.direct.gov.uk/en/Governmentcitizensandrights/Mentalcapacityandthelaw/index.htm

If there isn't a family member or friend who is willing to take on this role, and decisions have to be made on behalf of a person who lacks capacity, it is likely that the court will appoint either the local authority or a solicitor to act as a deputy. If you think that someone you support may need a deputy, you should inform your manager who will need to alert the local authority about the difficulties.

Duties of a deputy

If someone you support has a deputy for property and affairs, what the deputy is able to do will be set out by the Court of Protection. This may include managing the person's money. It is possible for someone to have both an appointee for their benefits and a deputy who is responsible for making decisions about other financial matters – and they might not always be the same person.

The Deputy Order will specify if the deputy must complete a report for the Public Guardian, and how often this is required. This report helps the Public Guardian to supervise the deputyship. A report from a property and affairs deputy would include a record of money received and payments made during the year on behalf of the person. Deputies should keep all documents supporting their role as deputy, for example, receipts for money spent, bank statements, invoices and all correspondence.

Concerns about deputies

The Public Guardian is responsible for supervising Court-appointed deputies. This means checking that they comply with the terms of the Court order, that decisions made are in accordance with the MCA, and that a deputy is acting in the best interests of the person lacking capacity.

If the Public Guardian considers that a deputy has not fulfilled their duties as a deputy, the Court may look into this, and may discharge the deputy and appoint a new deputy in their place.

If you think someone who is acting as a deputy is not doing so in the best interests of the person concerned, you should first report this to your line manager who can complain to the Office of the Public Guardian. There is a dedicated phone line for reporting concerns: **020 7664 7734**.



Section Six

Supporting people who do not have an appointee, attorney or deputy



Section Six

Supporting people who do not have an appointee, attorney or deputy

If you are a support worker involved in helping someone to manage their money, you should have clear guidelines either from the person you support, or your organisation about being clear what this will involve. In order to ensure accountability, it is important to have a clear record which shows any financial transactions and the extent of staff involvement. There is an example in **Appendix 6** of this guide.

Let's take a look at how people who do not have an appointee, attorney or deputy can be supported to look after their money.

Banking and bank accounts

People who manage their own financial affairs are likely to have bank accounts with a cheque book, card and PIN number. It is appropriate for paid staff to provide support such as:

- reading and explaining information from the bank
- filling in forms
- making sure the person's signature is in the right place.

It is not appropriate for paid staff to undertake actual bank transactions such as:

- using a person's card to withdraw money from their account
- accessing a person's internet account
- writing a cheque for a person to sign
- knowing the person's pin number
- looking after bank cards or bank books for the person.

Benefits are now paid into a bank account. The options for accessing this are:

- using a debit card to withdraw cash
- going into the bank to withdraw cash
- purchasing a pre-paid cash card and arrange for small amounts of cash to be regularly transferred to this by direct debit
- nominating a person to withdraw cash on their behalf (this should not be a support worker).

The best option will depend on what is going to work for the person concerned and you will need to ask them how they wish to be supported. One consideration may include whether the person has the ability to remember a PIN number or is able to get to the bank. Paid staff should always check with their manager that the way in which the person they support accesses their money is the most appropriate and ensure that this is recorded in their care plan. Specific occasions where paid workers provide support to a person such as going to the bank with them to withdraw cash should be recorded in their financial record and evidenced, for example by obtaining a mini-statement.

Budgeting

(NB. This may equally apply to people who have an appointee – see section 7.)

Many people will need support to plan the best way to manage their money, particularly if their resources are limited or their only income is benefits. Making a budget will help someone to understand how much they have coming in, how much they need for bills, and how much is left for them to spend.

Some ways to support people to manage their budget might include:

- giving the person the information they need in a format which helps them to understand the need to pay bills. There are links to resources that can help you with this at the end of this guide.
- explaining the options for paying regular bills (e.g. rent and utilities), such as setting up a direct debit
- encouraging the person to set aside money to cover the household budget and food
- talking through with the person the pros and cons of whether to save for something big such as a holiday
- working out a plan for special events such as outings or Christmas.

It is always important to ensure that you are facilitating the person to make the decisions which are right for them, not making decisions for them, or that the person is just agreeing with your suggestions.

Spending decisions

How many of us have been in the position of being propositioned by a sales person, or enticed by a 'bargain' in a high street shop, and later regretted having decided to buy the item? This is no different for people who need support. The third principle of the MCA states that people have the right to make what others might regard as an unwise decision. If a staff member is supporting a person who is making what they consider to be an unwise decision they should encourage them to take a moment and help them think through what it will mean to make that decision. If the person understands these things and still wants to buy the product then they can do so; the same as anyone else.

Let's look at an example (overleaf).

Sarah

Sarah, who has a mild learning difficulty, is telephoned by her mobile phone company to ask if she wishes to renew her contract. Sarah is tempted by the offer of the laptop that she will get if she renews. Her support worker prompts her to take time to think about the options, rather than agree to a new contract over the telephone, and then talks through with her the implications of the contract including whether she has enough money to cover the increased payments and whether she really needs a new laptop.

The example above shows the support worker not making the decisions for Sarah; instead she is helping her to think through what it will mean to make a decision about how she will spend her money on the new contract. However, it is often a narrow line which is being taken, and if you are a support worker in such a situation you will always need to be sensitive to your potential power to persuade someone to take a particular course of action.

Shopping

Some people do have capacity to manage their money, but may receive support for shopping. This section is not about *how* to help people with their shopping but rather *how not to*!

Let's look at an example.

Jim

Jim, who has mental health issues, is visited by a support worker once a week. Jim appreciates the social contact. Part of Jim's support plan identifies that he needs help with shopping, so they both spend part of the afternoon visiting their local supermarket. The support worker does his shopping at the same time, sometimes agreeing to share the 'buy one get one free' items.

Although this may seem like a 'normal' everyday activity, it would be too easy for Jim's support worker to take advantage of the situation and very difficult to have a clear audit trail of the money Jim has spent. If you are involved in supporting someone with their shopping, it is important to keep receipts for all items bought, and not to be drawn into taking personal advantage from special offers such as 'buy one get one free' items, loyalty points or money off vouchers, which is financial abuse.

Some people who need support may find the facility of online shopping useful. If paid staff are asked for help from someone they support to do their shopping on the internet the same principles apply as if they were at the shops. For example, they should not access the person's bank details when it comes to payment. Paid staff should record and evidence any transactions in the person's financial record.

Recognising financial abuse

Financial abuse can range from failure to access benefits, from opportunistic exploitation to deliberate and targeted abuse, often accompanied by threats and intimidation.

Action on Elder Abuse have suggested that the risk of financial abuse is greater for those living alone, in receipt of services, in bad or very bad health, and those who are divorced, separated or lonely where family members, or friends are most likely to be the abusers.

Signs of financial abuse include:

- unexplained or sudden inability to pay bills
- unexplained or sudden withdrawals of money from accounts
- unusual levels of interest by family members or friends
- high level of expenditure without evidence of the person benefiting
- purchase of items which the person does not require or use
- unreasonable or inappropriate gifts.

If you are a support worker and are concerned that someone you support needs help to manage their money, you should alert your manager who will need to follow the safeguarding adults procedures.

The **key messages** for paid workers providing support to people who do not have an appointee, attorney or deputy are:

- The aim is always to establish a safe, reliable, transparent system to protect everyone involved.
- If asked to undertake any other financial activity not covered by the support plan, support workers should speak to their manager first.
- Transparency is essential in all transactions to avoid misunderstandings.
- Being aware of whether you are crossing the line between providing support and making decisions in the person's best interests. If you are concerned you are doing this or you have been asked to provide support, which feels like this you should not do it as you will be making best interests decisions without the legal authority to do so.

Don't agree to hold bank cards, books, PIN numbers or keys which would allow you to access the person's bank account or money without them.

If you see unusually valuable items or relatively large sums of money in the person's home or possession advise you manager of this to protect yourself from a possible accusation of stealing.



Section Seven

Supporting people who have an appointee,
attorney or deputy



Section Seven

Supporting people who have an appointee, attorney or deputy

What aspects of their money a person can manage themselves and how this can be supported

Even when an appointee, attorney or deputy is responsible for managing aspects of someone's money, this does not mean that they do not have capacity to manage some areas of their finances. Many attorneys or deputies operate within an order, which stipulates which aspect of the person's affairs they manage, or, in which circumstances they can act. As a support worker you may be given authority by an appointee to either support the person to make some spending decisions themselves, for example, how they choose to spend £30 a week; or how to make best interests decisions, e.g. buying clothes for someone with severe learning disabilities.

Consider the following example (overleaf).

Jane

Jane, who has a learning disability, hasn't been on holiday since last year. Her supporters thought it would be good for her to have a special holiday to Disneyland in the United States as she enjoys watching Disney films. Jane's money is managed by her mum, who is her appointee. Jane's supporters worked through the Best Interests decision-making process (involving Jane; talking to people who know her well; thinking through the different options), to make the decision on Jane's behalf. The team began by using people who know Jane well to identify the right people to explore the decision on her behalf. Jane was part of this gathering.

They discussed what Jane likes and together they explored significant events in her life to help inform their decision, e.g. Jane had had a great time on a weekend break in Devon the previous year; but had also – Jane's mum explained – been away with a housemate five years ago and had become upset and had to come home early.

The group then weighed up the pros and cons and together made the decision that Jane would go on the holiday. Jane's mum agrees to sign the cheque to pay for the break and Jane's staff continued to attempt to involve her in the planning and organising of the holiday.

An appointee, attorney or deputy may decide that it is appropriate to delegate some aspects of managing the person's money to support staff. This is likely to be money to cover their everyday household needs such as paying bills and groceries. If this is the case, the support staff will still need to:

- involve the person as much as possible in the decision-making
- ensure that any decisions are made in the person's best interests
- use their knowledge of what the person does and does not like
- keep detailed records of all income and expenditure.

Let's look at an example.

Margaret

Margaret is an elderly lady with dementia who lives in a residential care home run by a charity. Margaret's daughter has power of attorney on behalf of Margaret but lives some distance away and is not able to visit very often. She has agreed with the care home that they will hold some money in a special account to cover Margaret's everyday living expenses, such as clothing and toiletries.

Margaret's key worker uses pictures of clothes from a high street store's catalogue to help Margaret think about choosing a new dress for the home's summer garden party. She knows the sort of dresses Margaret used to like buying, and her favourite colours, and uses this knowledge

cont...

to prompt Margaret to express her preferences. She does this during the morning coffee time, which she knows is a good time for Margaret. Having made the decision together about which dress to buy, she records this in Margaret's finance book and arranges with the charities Finance Officer to withdraw the necessary money from her account. After buying the dress she asks her senior to check the till receipt and they both sign the record book to say that the purchase is made. Every three months the Finance Officer sends a letter to Margaret's daughter to say what has been spent and how much money is left in the account.

Sources of further help

An independent organisation called the **Money Carer Foundation** has been set up to help local authorities and care providers to deal with some of these issues. They are able to take on the role of appointee for the benefit of people who lack capacity to manage themselves, and to manage their day-to-day finances. The Money Carer Foundation is able to issue either paid support workers or people needing support with a 'Carers Expense Card' which is a pre-paid debit card that can be used to purchase household and personal items, topped up directly from the person's account held in their name by the Money Carer Foundation. More information can be found at www.moneycarer.org.uk.

'**dosh**' is a not-for-profit company providing financial advocacy support and appointeeship to people with a learning disability. They can act as a Court Appointed Deputy for people's financial matters and their Financial Advocates are trained to help people make choices with their money, using an independent Capabilities Assessment to look at where people may need support to manage their money (**Appendix 2**). www.dosh.org/



Appendices

Appendices

1. Useful resources
2. Financial Capability Assessment for people with a learning disability.
3. My Financial Passport
4. Help with tenancies for people who may lack capacity
5. Example policy for handling money and financial matters
6. Example of recording system for social care workers in someone's own home or community based services.

1. Useful Resources

'Managing Money': A website guide for people with Autism, but useful for anyone who wants to know more about managing other people's money.

www.managingmoney.org.uk/en-GB/Keeping-Money/Letting-other-people-manage-your-money.aspx

ARC, 2006. *'My Money Matters; Guidance on best practice for handling the money of people with a learning disability'*

www.arcuk.org.uk/publications/2010/11/23/my-money-matters/

CFEB, *'Money Made Clear Guides - No Selling; No Jargon – Help With Managing Money'*

<http://yourmoney.moneyadvice.service.org.uk/publications>

British Bankers Association, *'Banking for people who lack capacity to make decisions'*

www.bba.org.uk/media/article/banking-for-people-who-lack-capacity-to-make-decisions

Essex Safeguarding Adults Board, *'Policy & guidance on managing finances'*

<http://microsites.essexcc.gov.uk/microsites/ESAB/Documents/Policies/Safeguarding%20Service%20Users%20Finances%20-V3%20January10.pdf>

Housing Options 2010. *'Choice, Contracts and the Mental Capacity Act'*

[http://www.valuingpeoplenow.dh.gov.uk/sites/dhvpnweb.rroom.net/files/webfm/CMS_Videos/Housing_Pages/Housing_publication/Choice, Contracts and Mental Capacity Act 2005 - final.pdf](http://www.valuingpeoplenow.dh.gov.uk/sites/dhvpnweb.rroom.net/files/webfm/CMS_Videos/Housing_Pages/Housing_publication/Choice,_Contracts_and_Mental_Capacity_Act_2005_-_final.pdf)

'Managing Your Money' (part of the Making Money Easier websites)

www.unitedresponse.org.uk/your-money-your-home/managing/index.php

Mental Health Foundation, 2008. *'Banking on Good Decisions'*

www.mentalhealth.org.uk/publications/banking-good-decisions-fulltext/

'Mental Capacity and the Law' on the DirectGov. website

www.direct.gov.uk/en/Governmentcitizensandrights/Mentalcapacityandthelaw/index.htm

Suto, I, et al. 2007. *'Financial Decision Making: Guidance for supporting financial decision making by people with learning disabilities'*. BILD publications

Office of the Public Guardian

www.direct.gov.uk/en/Governmentcitizensandrights/Mentalcapacityandthelaw/index.htm

2. Financial Capability Assessment for People with a Learning Disability

People with a learning disability vary widely in their ability to manage money and it is essential that we protect those who are vulnerable from financial abuse, and that staff are also protected from allegations of misconduct when they follow the correct procedure. People living independently are among the most vulnerable to abuse, and preventing this requires the skilful exercise of judgement to balance risk and the right to independence in each instance.

This guidance gives a structure within which to exercise that judgement and emphasizes the use of independent scrutiny to demonstrate that proper processes have been followed. The statements in the criteria are not a test which we can administer and produce an answer. They summarize in a structured form the things we need to know about someone's abilities in order to establish how great is the risk, and whether it is acceptable. This risk is both to the service user, and to workers.

This guidance should be used alongside other guidance and agreed procedures.

1) Process

- a) Service managers should decide who is the best person to apply this guidance and review people's abilities. This person should not be the worker who has day-to-day responsibility for assisting the person in their financial affairs.
- b) The manager should arrange to review the financial abilities of everyone receiving support at least once a year, and should ensure that everyone has an assessment recorded on their file.
- c) Workers can use a range of evidence in applying the criteria listed below. This evidence can include discussion with, or observation of, the person concerned, the views of other people who know them, written records and reports already available. The essential element in this is to state what evidence has been used, and how it was obtained.

2) Criteria and their use

- a) These consist of four sets of skills or vulnerability, with examples of five levels in each set.
- b) You should record a level in each section.
- c) Record the total score, and record the decision you have made about the level of support and protection the person needs in managing their money.
- d) This is not a tested assessment scale. However, it is very likely that a person who is on level 1 in any of the four sections would be vulnerable to abuse, and you should seek advice, about the best process to safeguard against this happening. It may well require setting up an appointeeship, or an even more substantial change to the arrangements in place.
- e) It is also likely that if anyone scores an average of less than three in each section, i.e. a total score of less than 12, they are similarly vulnerable and the same action should be taken.

The decision, and the reasons for it, should be recorded for each person you review. There may be people who score low, and where there are significant risks, but where there are also circumstances which justify not taking more restrictive action. This could include the presence of an able relative who is known to be willing to protect the service user from financial abuse. In such cases record clearly why the way of working with the service user is different to other instances with similar risks.

Assessment

Name:

Date:

Persons Present:

Section A: To assess mathematical capability.

- Level 1. Has no numeracy skill and cannot count.
- Level 2. Has some numeracy skill but no understanding of the concept of money, e.g. does not recognise the different values of coins and notes.
- Level 3. Can count money in coins and notes up to the value of around £10.00.
- Level 4. Performs basic additions and subtractions using coins and notes.
- Level 5. Can perform all calculations necessary for dealing with own finances and can perform them in practical situations, e.g. whilst out shopping.

Section B: To assess understanding of value of money.

- Level 1. Has no awareness of the value of money, e.g. does not understand that it is used to buy things.
- Level 2. Understands that money may be used to buy things but has no understanding of how much money is worth in terms of purchasing individual goods/service, etc.
- Level 3. Can relate the cost of goods/services to the amount that needs to be paid in money.
- Level 4. Can tell the difference between expensive and inexpensive goods when out shopping.
- Level 5. Fully understands the importance and value of money.

Service C: To assess financial vulnerability in terms of theft and /or deception.

- Level 1. Would not understand or would not be able to communicate if financial abuse is taking place.
- Level 2. Would be easily manipulated or ‘conned’ into parting with money.
- Level 3. Understands that other people may want to take their money away from them and so shows some evidence of protecting their money.
- Level 4. Takes steps towards protecting their money and would know and be able to communicate if they had been the target for financial abuse.
- Level 5. Protects their finances from abuse.

Section D: To assess understanding of ‘abstract’ money issues, e.g. bank accounts/ benefit books/cheque books, etc.

- Level 1. Has no concept that items such as benefit book/cheques, etc. may have financial value. Has no concept of debt.
- Level 2. Has basic knowledge for ‘abstract’ monies, e.g. knows that their money may be kept in a bank account or post office but is unaware of the basic systems used to withdraw/put in cash and has no awareness of personal funds/benefit amounts due to or owed by them.
- Level 3. Understands the systems used for accounts/post office withdrawals, etc. and can relate bank statements/benefit books, etc. to their ‘real’ money value, but would not recognise discrepancies in forms/system/procedures and understand the consequences of debt. Would recognise and be able to communicate some discrepancies within the abstract money systems relevant to them.
- Level 4. Has good knowledge of abstract money systems/procedures and understands the consequence of debt. Would recognise and be able to communicate some discrepancies within the abstract money systems relevant to them.
- Level 5. Has full understanding of the banking systems, benefits, consequences of debt, loans, overdrafts, etc. Would recognise discrepancies in these systems and would be able to communicate this information to the relevant parties.

Recording:

For each section give the person a score of 1 – 5 depending on which level you think best describes their ability, e.g. for Level 1 award 1 point.

A score of less than 12 -14 (out of a maximum of 20) would indicate an individual needs significant help with their finances and therefore is likely to need an appointee.

Section	A	B	C	D	Total Score
Level achieved					

Summary of assessment:

A.

B.

C.

D.

Conclusion:

Used with kind permission from 'dosh' financial advocacy www.dosh.org

3. My Financial “Passport”

Excerpt from ‘My Money Matters’ © ARC

This is a document which a support worker might use with someone they support to see what their different needs are, what skills they might like to develop and who can help with this. It is also a short list of where their money is spent and who might be involved in spending decisions.

Things you need to know about my money 4 – people who help me

Write down here the names of people who help you with your money, e.g. anyone who is acting as an 'appointee', who signs for money in a bank account, or who has an account on your behalf.

Write down here the names of people who you agree can know about your money and help, e.g. with a bank cash card.

Date reviewed:

by whom?

What I know about money and what I need help with

Write down here information about how much you know about money, and any learning you are doing to get better:

What I know 1 - using money

Include here information about whether I need any physical or verbal help when I am shopping, e.g. handing money across the counter, collecting and checking change.

What I know 2 - budgeting

Include here any help I need with bills, rent or savings, how much I understand about budgeting and why it might be important. Can I compare prices in a shop and only choose items I can afford? Am I likely to leave the shop without paying for goods?

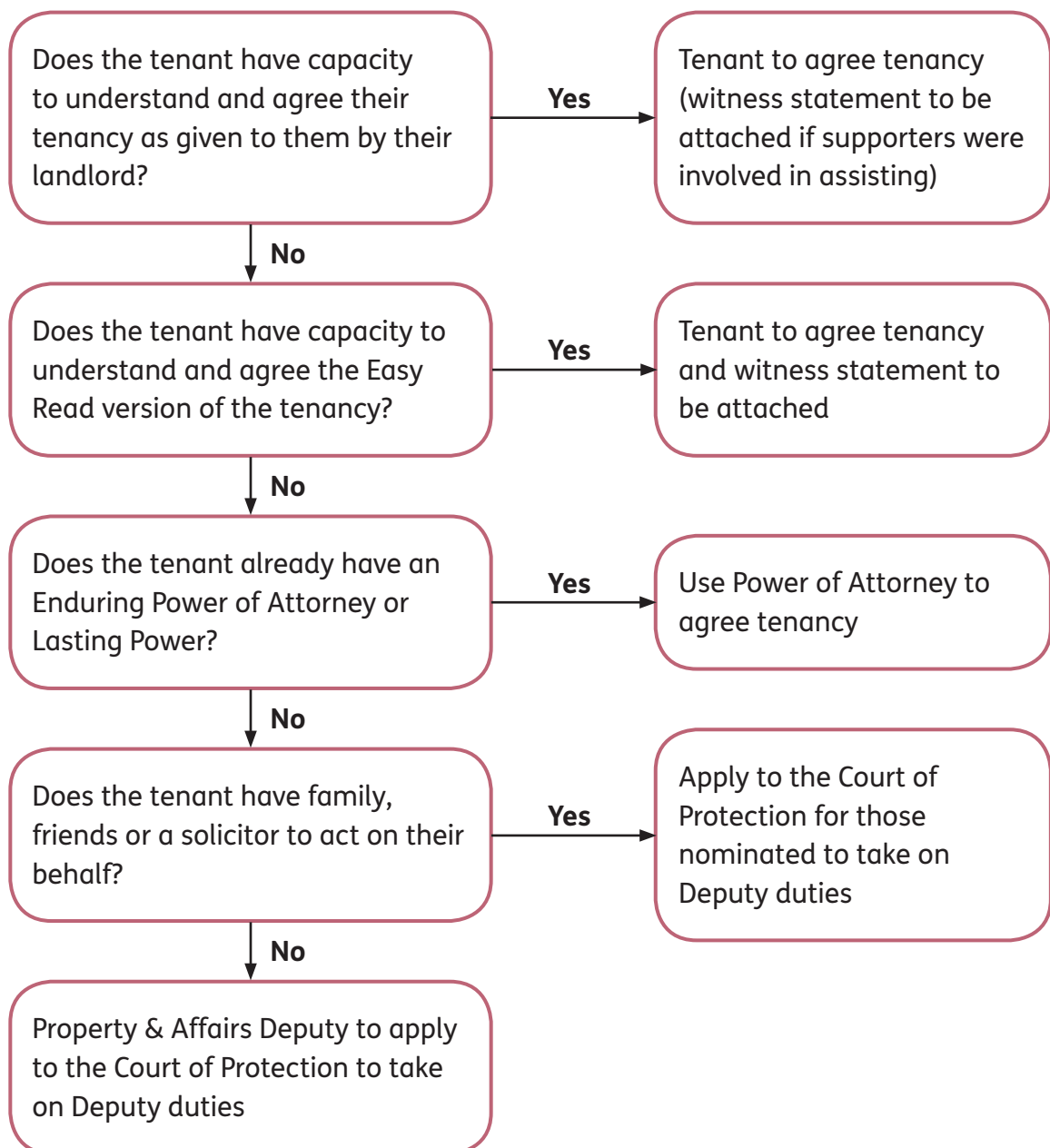
What I know 3 - using a bank

Include here information about how much I understand about banks and bank accounts. Have I visited a bank; do I know what banks are for; do I have a bank account; can I write a cheque; can I remember a PIN number; can I use a cash machine; can I understand my bank statement?

4. Help with tenancies for people who may lack capacity

(Taken from 'Choice, Contracts and the Mental Capacity Act', Housing Options 2010)

The following diagram is designed to help with deciding whether a person has capacity for their own tenancy. It is taken from guidance for organisations who offer housing to people with a learning disability.



5. Example Policy for Handling Money and Financial Matters

This is an example of a policy for supporting people who are able to make their own financial decisions and is used with permission.

Handling money and financial matters on behalf of a service user

Purpose

The policy describes the procedures to be taken with regard to the handling of a service user's financial matters.

For obvious reasons, it would be preferable not to become involved with a service user's financial affairs, however, on occasions this will be unavoidable. To safeguard both service users and members of staff, the following procedures must be strictly followed.

A written record of the request for such a service will be held in the office, as follows – the user agreement and care plan will detail whether financial transactions are required. A separate consent form will also be held.

Handling service user's cash for shopping and pension collections

Each carer who is responsible for a client who specifically requests that carers undertake such duties will be issued with a **Receipt Book**. This book will be used for recording all cash transactions.

On receiving cash for shopping or a Post Office Card Account (POCA) card for collection, the following procedure is to be followed:

- a) Record that you have received cash (exact amount) and Post Office Card Account card from the service user.
- b) When shopping you must keep all receipts as proof of purchase. On completion of shopping and pension collection, details of the purchases made, the change, amount of pension collected are to be recorded in the receipt book on the same entry as paragraph a) above.

- c) Receipts will be shown to the service user, and pension book returned, once satisfied, the receipts are to be given to the service user and recorded in the receipt book, this entry must be signed and dated by the service user and the care worker. Where the service user is unable or chooses not to sign, two members of staff must sign the record.

Handling cheques and cash for banking

- a) In the absence of family, staff may be required to write a cheque on behalf of a service user, this is to be noted in the Support Plan Notes. The cheque is to be written exactly to the service user's instructions in the presence of the service user, and the service user must sign the cheque.
- b) Where a cheque is to be used for paying a bill, a receipted invoice will be obtained for the amount paid and this receipt returned to the service user as before.
- c) If a cheque is given to a member of staff to cash on the service user's behalf, then a record of this transaction is recorded in the receipt book. When the withdrawal has been made and the cash given to the service user, this is also to be recorded in the receipt book together with the client's signature and date as proof they have received the cash.
- d) If the service user requires a member of staff to deposit cash/cheques into a bank account, this will be carried out in accordance with paragraphs (a) and b) above. The stamped lodgement book will be returned to the client and receipted in accordance with paragraph c) above.
- e) Records of all these transactions must also be entered in the receipt book. Where the service user is unable or chooses not to sign, two members of staff must sign the record.

6. Example Financial Transaction Booklet for Community Care Assistants

Example of documentation in use in Neath and Port Talbot Council, Homecare Services to support someone who has capacity to make their own decisions.

Using the Financial Transaction Booklet

1. This notebook is provided for the community care assistants (CCA) to record all financial transactions undertaken on behalf of their client.
2. The Homecare Manager must be aware of any financial transactions that are to be carried out.
3. This booklet will record shopping, pensions collected and bills paid.
4. The CCA must record all transactions clearly, accurately and promptly on the day of the transactions.
5. All financial transactions are conducted following the client's instructions, where possible and the client kept fully informed of all transactions.
6. Any monies obtained must be passed in full to the client. It is advisable to carefully count out money in front of the client. Keep the client's money entirely separate from your own.
7. Receipts of all transactions must be available to the client.
8. The client [is] to observe and agree with the information recorded before signing or initialling the booklet.
9. The financial transaction booklet will be checked periodically by the Homecare Manager/Domiciliary Care Supervisor.
10. Should any difficult situations arise, then the CCA should seek advice and guidance from Homecare Manager.
11. Any fraudulent recordings of financial transactions by a member of staff may result in disciplinary action.
12. No pages should be removed from the financial transaction booklet and when full should be returned to the Homecare Manager.
13. The booklet [is] to be safe with all Homecare documents/leaflets within the home.

Sample only ... Financial Transaction Recordings

Date	Details of financial transaction	Client's name	Care assistant's signature
06.04.01	Electricity bill for £46.50 paid, receipt returned to client. 2 x £5.25 Home Care stamps bought. £9.50 change received from £20 – given to client		
11.04.01	Collected pension at £90.00 At post office bought: 1 x Home Care stamp 1 x Postal order 1 x Electricity Stamp 1 x TV licence stamp £76.25 change, POCA card, stamps, postal orders returned to client.		
17.04.01	Shopping – £10 received Cooked ham 79p, cheese 54p, butter 57p, biscuits 49p, tissues 99p, beans 23p. Total – £3.79 £6.21 change returned.		
19.04.01	Received - £25.00 Groceries £10.00, Newsagents £4.50, Chemist £3.25. Total – £17.75. £7.25 change returned.		



Tel: 020 7089 6840
Email: info@scie.org.uk
Goldings House, 2 Hay's Lane, London SE1 2HB
Charity No. 1092778, Company Reg. No. 4289790.



Tel: 01246 555043
Email: contact.us@arcuk.org.uk
ARC, ARC, House, Marsden Street, Chesterfield,
Derbyshire S40 1JY
Charity No. 285575, Company Reg. No. 1658354.