

Reward and Recognition

*The principles and practice of service user payment
and reimbursement in health and social care*

A guide for service providers, service users and carers

This document is endorsed by:



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Contact Details	Zoë Lawrence UE&I Room 5C08 Quarry House, Quarry Hill, Leeds LS2 7UE 0113 2546107
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Foreword

Patient and service user involvement is key to developing and delivering responsive services. There are a range of ways in which people can be involved from responding to a consultation exercise to being a patient representative on a committee or working group.

For effective involvement, people need to feel supported, and for their contribution to be valued. There are many ways to do this; being thanked, receiving acknowledgement, or seeing the improvements made as a result. Payment is also an option, and people should be offered reimbursement for any expenses incurred.

The people who usually have more to contribute are those who use services the most. By definition these people are likely to be ill, have disabilities or be carers. It is also likely that a proportion of service users will have low incomes, and therefore be in receipt of incapacity or income related benefits. For these people remuneration and reimbursement is not straightforward. It could have significant implications for their benefit entitlement, and if they are not sure what to do it could mean their benefits are affected.

This guide sets out the principles and practice for paying and reimbursing service users and volunteers for their involvement in service improvement activities in health and social care. It sets out the responsibilities for service users, volunteers and service providers. It explains the implications for benefits, employment law and tax. It is intended to support service users and volunteers to make an informed choice about being involved and what this may mean for them.

The development of this guide was led by the Office of the National Director for Patients and the Public, Harry Cayton, in consultation with a wide range of national health and social care organisations. I am particularly grateful to Michael Turner and Peter Beresford for their report *Contributing On Equal Terms: Service user involvement and the benefit system*, published in 2005 by the Social Care Institute for Excellence in association with Shaping Our Lives national service user network, the Care Services Improvement Partnership, and Judy Scott, an expert in this area, for their significant contribution in the preparation of this guide, building on the learning around this issue in the mental health field. I should also like to thank all those who have endorsed it.



Liam Byrne MP
Parliamentary Under Secretary for Care Services

Section 1: Introduction

1. Government policy actively encourages the involvement of service users in the development and delivery of local services. The purpose of involvement is to improve service user and carer experience of services and to make services more responsive to local needs.
2. Involvement of service users is a central element of health and social care activity. The NHS is required to consult and involve service users under Section 11 of the Health and Social Care Act 2001. Service users and carers contribute their time and expertise into improving services. This has raised issues concerning the reimbursement of expenses that have been incurred, but also clarification on circumstances where a service user should be offered payment for their involvement.
3. Service user involvement can be on a voluntary basis. Volunteering is when people give their time and skills for the benefit of society and the community. It is undertaken freely and by choice, without concern for financial gain. It is good practice to reimburse volunteers' out of pocket expenses.
4. This guide aims to support local health and social care organisations with the principles and practice of reimbursing and paying service users for their involvement. It aims to provide some consistency of approach and ensure that service users are treated fairly and appropriately according to their circumstances, so that they are able to make an **informed choice** about the arrangements concerning their involvement.
5. This guide sets out:
 - The principles of best practice for reimbursement and payment for involvement.
 - The roles and responsibilities for service users and NHS and social care organisations.
 - Advice on the implications of paying and reimbursing service users who are in receipt of benefits.
6. The focus of this guide is on enabling and ensuring equitable access for service users to involvement activities. It is not intended to be a technical or detailed guide on benefits advice but it does provide information on benefit rules considered to be most relevant. Further expert advice on benefits should be sought where necessary.

7. This guide has been developed in consultation with relevant service user and patient organisations, and health and social care organisations. A list of those who have contributed is at Annex A.
8. This guide has been prepared within the existing benefit rules and employment and tax legislation which were true at the time of going to press. It has been updated to reflect changes to the benefit system from April 2006.

Who is this guide for?

9. This guide is for local health and social care organisations which are involving service users and carers in the development and delivery of local services. It may be of particular interest to managers, front line staff, service user involvement leads, welfare rights advisors, finance, legal and HR staff.
10. This guide is also for service users and carers who are involved, or are considering their involvement in improving health or social care services.
11. This guide is principally aimed at local rather than national organisations. The appointment of disabled people on benefits to public bodies is outside the remit of this guide. However, the advice and best practice principles set out can be used by national organisations and for public appointments where relevant and practicable.

Note on terms used by this guide

12. We acknowledge that the term service user is not a term that is liked by everyone. Other terms include survivors, clients, public, patients and consumers. However, for the purpose of this guide we have chosen service user to refer to those people who have used or are using the services provided by health and social care organisations. To make the guide easier to read, the term service user also includes carers of people who use services.
13. The term *service provider* refers to any local health and social care organisation.
14. The term *payment* refers to a general fee payment to reward service users for their time and expertise, unless otherwise stated.
15. The term *reimbursement* refers to the refunding of specific expenses or costs that service users have incurred during their involvement.
16. The term *volunteer* refers to people who prefer to offer their time and skills on a voluntary basis i.e. not be paid.

Section 2: The Principles of Good Practice

17. The principles of good practice for payment and reimbursement for service user involvement are:
- service users are not to be left out of pocket or put at risk of being financially worse off as a result of their involvement in service improvement.
 - service providers and service users will discuss and agree on the terms of involvement prior to committing to it.
 - service users are given the right information at the right time to be able to make an informed choice about how and on what terms they want to be involved.
 - the contribution service users make can be recognised and valued in all sorts of ways such as being thanked, positive feedback and acknowledgement, staff time, practical assistance, training, personal development or seeing the impact of the work and changes made as a result of involvement. Payment can also be offered for certain levels of involvement.
 - a wide range of service users, with different needs and experiences are encouraged and supported to be involved. The way that payment and/or reimbursement of expenses are settled should not needlessly create barriers that deter service users from being involved.
 - service users in receipt of benefits should be provided with the right information and support to prevent a breach of their benefit conditions. Breach of benefit conditions can result in benefits being stopped.
 - service users are paid according to open and consistent criteria that takes into account the level of involvement, the type of work and the skills and expertise required.
 - paperwork to claim payment and reimbursement is kept to a minimum. Where paperwork is necessary to safeguard both the service provider and the service user, it should be accessible and easy to understand.

*“My involvement helps me to maintain a sense of balance and self-worth.” Service User
(Shaping Our Lives report)*

“User involvement is not a bolt on extra. It will affect everything an organisation does: it’s a way of changing the philosophy of an organisation and all the roles within it.”

“If its done right , it will result in a better service.”² (Fleishmann, NHS SDO 2004).

*“I couldn’t do a job but I really enjoy the work that I can manage.” Service user
(Shaping Our Lives report)*

Section 3:

Roles and Responsibilities

Role and responsibility of the service provider

Service providers:

- have a duty of care towards service users who become involved, particularly those who rely on benefits. This duty of care is paramount.
- have a responsibility to provide adequate expertise, information, time, administrative and financial resource to support effective service user involvement⁶.
- should agree, review and monitor a reimbursement policy and a payment policy that takes into account the potential impact of benefits entitlement, tax liabilities and employment law.
- should ensure that both payment and reimbursement policies are written in plain English and made available in different languages and formats to ensure they are fully accessible.
- must seek advice from the HM Revenue and Customs before they pay service users without deducting tax or national insurance contributions. Self-employed service users will be registered with the HM Revenue and Customs and will be responsible for their own tax and national insurance contributions.

Good practice points:

It is recommended that:

- a payment policy and a reimbursement policy are drawn up in conjunction with the HR and Finance Departments and consulted on with local service users/user groups. It should also be reviewed by the service provider organisation's legal department or contact. When a policy has been agreed it should be shared with Jobcentre Plus District Team for the catchment area and with local Jobcentre Plus office staff to help ensure there is understanding around the principles and practices involved at a local level.
- a copy of the policy should be given to all service users involved **prior to their commitment** to become involved.
- easy to follow forms and paper work should be made readily available to service users.
- support from the service provider to complete any forms should be made available.

- records of any payment are kept by the service provider and that a copy of that record is regularly sent to the service user, for example every six months.
- processes are put in place to ensure that both policy and practice are regularly monitored and evaluated including feedback from service users.
- where paid involvement is agreed, service providers should ideally provide role descriptions and be prepared to show criteria for the chosen rate and record it for audit purposes.
- staff training is provided to ensure all relevant staff are aware of the payment and reimbursement policies and follow them in practice.
- where service user involvement is planned for service improvement activities, specific budget allocation covering related involvement costs are standard within individual work programmes.
- ad-hoc arrangements that are not linked to policy are not tolerated.

Future development areas

Access to individual welfare rights advice for service users on benefits

18. Currently, a number of service providers ensure service users make an informed choice by arranging access to individual welfare rights advice before involvement. Advice is based on the service user's individual circumstances such as benefit conditions, earnings allowed and impact of reimbursed monies. Some NHS Trusts have arranged for employed welfare rights advisers to perform this task. Others have chosen to access, on a secondee or sessional basis, the services and expertise of a local Citizens Advice Bureau or other professional advice service. As the current role of welfare rights advisers tends to involve a different function i.e. maximising income from benefits, this is likely to require a revised job brief and additional training.

The role of a liaison co-ordinator

19. Service providers considered to have an effective payment policy in place often employ a liaison co-ordinator to assist service users and to ensure that policy is implemented. The co-ordinator represents the organisation and develops policy and procedures. They would be responsible for liaising with the Jobcentre Plus District Team for the catchment area clarifying benefit rules and explaining how involvement is different to employment. Some service providers have successfully developed this role to provide training and ongoing liaison with relevant Jobcentre Plus staff. The purpose is to provide a named point of contact to both service user and Jobcentre Plus staff who is familiar with the benefit system and who can deal effectively with enquiries. The co-ordinator aims to prevent any misunderstanding whereby minimising any potential risk to service users' incapacity benefit income.

Role and responsibility of service users

Service users:

- need to understand and agree to the terms and conditions upon which they get involved, be it on a paid basis or on a voluntary basis.
- if in receipt of a payment for their services, should be aware of what is expected of them in exchange (e.g. reliability, carrying out specific tasks) and what support they are entitled to.
- with regards to expenses such as travel or stationery costs etc., are required to choose the most cost-effective means available to them while still meeting their needs.
- are responsible for declaring any earnings to the tax and benefit offices as appropriate. (see paragraph 63)

Roles and responsibilities for service users in receipt of benefits

20. In addition to the roles and responsibilities set out above, service users in receipt of benefits should also:

- discuss their benefits with the service provider and be aware that fee payments and expenses reimbursement can impact on their benefit conditions. The terms of the involvement may need to be modified to prevent any unnecessary anxiety or risk of financial loss for the service user.
- be aware that they are ultimately responsible for ensuring that they keep within benefit conditions, although they are entitled to expect adequate support and information from the service provider. Service users on benefits should not be expected to make any commitment to involvement work until they understand how it will affect their benefits. They should be encouraged to obtain welfare rights advice on their benefit conditions.
- ensure that the sum amount of their involvement, if engaged in service involvement across more than one project or organisation, and any related payments or reimbursements do not breach their benefit conditions.
- be aware that it is not possible to accept payment and arrange for this to be donated to a charity. Jobcentre Plus will treat the amount as notional earnings as if a payment has been made to the service user. This can affect benefits and tax.
- keep to the benefit conditions that are required by Jobcentre Plus i.e. letting them know about voluntary work and earnings as requested.

Section 4: Putting it into practice

Right from the start

21. Getting the terms of involvement right from the start is crucial. It is recommended that each service user, either on a one to one or in small groups, should have the opportunity to be briefed in person on exactly what is involved. This is referred to in this guide as an induction briefing. It is suggested that service providers develop their own induction check-lists in consultation with service users based on the example below. The staff contact and the service user should then sign the check-list document and a copy should be kept by both service user and service provider, as a record and safeguard of what preparation was carried out.

An Example Induction Briefing Check-list

YES	NO	N/A	The Check-List
✓			<i>[The service provider]</i> has allowed time for me to think about my options and someone to call if I have any concerns around my involvement
✓			I have considered whether it is preferable to be paid or to be a volunteer.
✓			A written copy of the reimbursement policy has been provided.
✓		If applic	A written copy of the payment policy has been provided
✓			I know how my out of pocket expenses will be paid back to me
✓			We have discussed and agreed my expenses and how much they might be.
✓		If applic	I have been provided with advice on how much I can earn within my benefit conditions.
✓			I am aware that it is my responsibility to tell Jobcentre Plus about my earnings either now or before the earnings stop.
✓			I have been given the name of someone I can talk to at <i>[the service provider]</i> who can help me with my dealings with Jobcentre Plus.
✓		If applic	I am not self-employed and <i>[the service provider]</i> may deduct tax and national insurance contributions (depending on my tax code and level of earnings).
✓		If applic	I am self-employed and therefore responsible for my own tax affairs and national insurance contributions.
✓		If applic	How much I will be paid has been discussed and agreed. I have let <i>[the service provider]</i> know about the amount of time that I can offer.
✓			I am clear about my role and what support I will have

Section 5:

Putting it into practice – Reimbursement

Who is reimbursed?

22. It is considered good practice to pay expenses to service users who have made an agreement with the service provider about getting involved e.g. have been invited by the service provider to take part in a meeting, training event, interview panel or a defined task or work programme.
23. Expenses will not routinely be reimbursed where a service user chooses to attend an open meeting, where they are there as an individual in their own right, wanting to express their views of their own experiences, not as a user representative of the service provider.
24. Expenses will not be routinely reimbursed where a service user takes part in a large research survey or consultation. However, this will be at the discretion of individual service providers and should be agreed in advance between service user and service provider. This also applies to people who are employed elsewhere and whose costs will be met by their employer organisation.

Good Practice Points

25. It is recommended that:
 - organisations should have a policy covering reimbursement (separate from the payment policy) and this should be made available at the first meeting and subsequent meetings.
 - for paid involvement, expenses reimbursement or provision of travel tickets etc. should be offered in addition to the payment fee.
 - the costs that a service user is likely to incur in the course of the involvement should be discussed before the involvement starts. The service provider and service user may have to agree childcare costs or replacement care cost needs etc. The service user may require an interpreter, a signer, a personal assistant or facilitator. The manner of the reimbursement must be agreed. The service provider may consider maximum limits on costs such as stationery etc.
 - service users should have a named contact to liaise with throughout the involvement to discuss any expense queries in advance of spending the money.
 - it should be considered standard practice to fill out an expense claim form.

- receipts will normally be required for all expenses that are to be reimbursed, however service providers can use discretion on reimbursing expenses where receipts have not been provided.
- reimbursed expenses should be for the exact amount, not an averaged amount or a rounded up amount.
- if travel expenses can be reimbursed in cash these should be reimbursed on the day where possible.
- for larger costs which may not be able to be met on the day, the service provider should consider a process for paying expenses that ensures the service user is out of pocket for as little time as possible. This may require finance departments to consider setting up bespoke procedures to fast track payments. An expense form (and ideally a freepost or stamped addressed reply envelope) should be provided. It will be likely these will be paid by BACS or by cheque depending on the finance department's procedures. However, service providers must arrange payment in cash if the service user does not have a bank account.

What do service users prefer?

- Cash payments on the day are preferred by service users and carers.
- Payment by cheque can cause difficulties for those users or carers without bank accounts.
- Delays in making payments discourage people from participating.
- Too much form filling can put people off claiming or even participating again in the future once they have experienced what they see as overly complex processes.

(ref: Contributing on Equal Terms. Turner M, Beresford P, 2005)

Type of expenses

26. The following is considered best practice:

Travel

Reimbursement for travel should be offered in full for any pre-agreed involvement whether paid or voluntary. This may include travel tickets, mileage, taxi fares. (see paragraphs 30 – 32)

Subsistence

People who are involved, whether paid or as volunteers can be provided with tea, coffee and meals, if this is during the course of involvement. Volunteers can be provided with or reimbursed the cost of their meals or refreshments that are incurred during the course of their involvement should it be over a lunch or evening period. This will not effect benefits.

Administrative

If a service user has specific agreed tasks to undertake that require administration, the receipted costs for stationery, postage, photocopying and telephone calls should be met. These will not affect benefits.

Costs incurred from replacement care and individual support needs

27. To ensure that involvement is accessible to all service users, the service provider should be prepared to reimburse these costs which may include interpreters, signers for deaf people; personal care assistants i.e. the cost of a personal assistant or support person who is needed to enable someone to participate. However, the exact arrangements should be discussed between the service user and service provider and agreed in advance. Jobcentre Plus must be consulted and agree to treat these reimbursed costs as expenses that are ignored for benefit purposes.
28. Childcare costs will only be reimbursed when the care is provided by a Registered Person(s). Evidence of this may be required. Jobcentre Plus must be consulted and agree to treat these reimbursed costs as expenses that are ignored for benefit purposes.

Expenses for Service Users in Receipt of Benefits

29. Service providers need to be fully aware of how reimbursement of expenses can impact on benefits and HM Revenue and Customs rules. What Jobcentre Plus and/or the HM Revenue and Customs view as income, as opposed to what is commonly thought of as *out of pocket* expenses, is not straightforward. Similarly, there are different treatments of expenses depending on whether the service user is involved on either a paid or a voluntary basis.
30. The general rule for both the benefits and tax system is that expenses that are 'wholly, exclusively and necessarily incurred in the course of work' are generally not considered to be earnings.

31. Service users involved on a voluntary basis can be reimbursed travel expenses from home to work and the benefit system does not treat these expenses as income (providing they are actual not rounded up amounts).
32. However, reimbursed travel expenses from home to work are treated as earnings by the benefit system for people doing paid involvement. This means, for example, that where people on benefits have an earning disregard weekly limit on their earnings, (such as £20) this needs to take account of their actual pay as well as their reimbursed travel costs (see Annex B on earning limits and disregards). Reimbursed travel expenses from home to work for paid workers are also treated as earnings by the HM Revenue and Customs.
33. The provision by the service provider of travel cards or tickets or taxis (through an account with a taxi firm) or the provision of petrol (through an account at a garage) does not affect benefits in any way and can be a useful way of enabling increased involvement for some service users. If the service provider gives the service user money to purchase travel cards etc., this will not apply and the money will be treated as earnings by Jobcentre Plus.
34. The service provider should keep records for the reimbursement of expenses separately so that these are not mixed up with payments for involvement. This is important because of benefit rules and for tax.

Childcare/Replacement care costs reimbursed for people on Benefits

35. Childcare vouchers can be provided to people regardless as to the benefit they claim and these will be ignored by the benefits system. Childcare vouchers up to £55 a week are exempt from tax. It must be registered childcare. Where people claim a non-means tested benefit (Incapacity Benefit or Severe Disability Allowance) and do not claim a means tested benefit (Jobseekers Allowance or Income Support) childcare costs of up to £60 a week for children under 11 years can be reimbursed in some circumstances (lone parents, partner incapacitated or in full time work) without affecting benefits. This must be registered childcare and Jobcentre Plus must be consulted and agree the arrangement.

Care costs reimbursed for people who are caring and on Benefits

36. Reimbursed expenses will be ignored by the benefits system if these are agreed to be expenses that are 'wholly, exclusively and necessarily incurred' in the course of involvement. The interpretation of this rule can vary. Welfare Rights Advice and Jobcentre Plus consultation is required in advance.

Section 6:

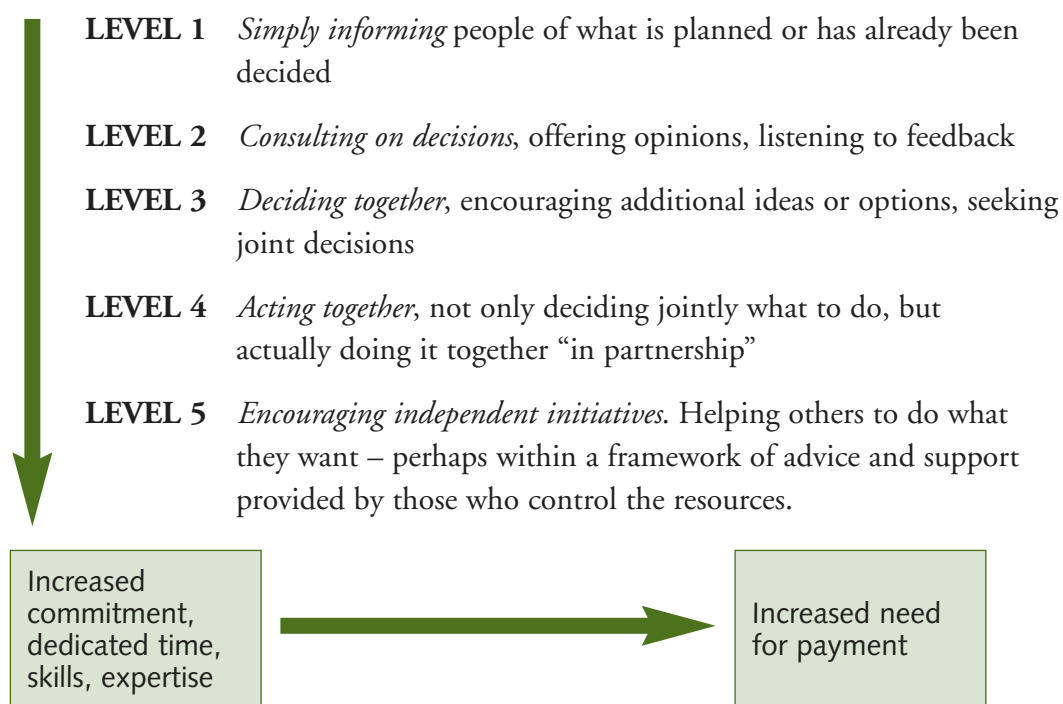
Putting it into Practice –

Paid Involvement

Levels of involvement

37. When service users are involved in service provider meetings or work programmes, it is important to try to define what “involvement” actually means. Their level of involvement will vary depending on the commitment, skills, time, experience or expertise the activity requires. This will have a bearing on how much people are paid.
38. People who use services participate in lots of different ways. For example:
- By joining committees alongside professionals.
 - Through groups (such as focus groups, reference groups, working groups) and consultations.
 - By undertaking training or writing brief reports.
 - In research projects.
 - On staff recruitment panels or training.

Levels of involvement have been defined in many ways. A simple classification has been suggested by researchers¹¹



Who can expect to be paid?

39. It is best practice that service users involved with service providers in activities that involve *deciding together*, *acting together* and *encouraging independent initiatives* are offered payment. The service user can decline this offer if they wish and be involved on a voluntary unpaid basis.

Examples include:

- Where a user is involved to provide a representative view or where he/she is one of a few (or the only) user representatives for a specific task, regular service improvement planning meeting or working group.
- Where particular skills, commitment, reliability and work output is expected.
- Where individual service users have alloted to represent a wider group of service users at a meeting.
- Where service users are involved in the recruitment/interviewing process.
- Where people have been invited by the service provider to provide a user's point of view at a particular event.

Payment should not be expected when an individual is informed or consulted on decisions:

Examples include:

- Where an individual provides their opinion (significant and valuable though that opinion is) and where there is no requirement for any specific experience or expertise. For example, where an individual chooses voluntarily to go along to an event or meeting addressing an issue that is of interest to them.
- Acting with other members of the public giving their individual views in a formal consultation exercise or a survey.
- When users are being consulted on decisions, service providers should use discretion regarding payment if, given the size or scale of the research, payment is considered necessary.
- Payment will not be provided when a service user has chosen to work on a voluntarily basis (making a genuine gift of their time and experience).

Is there a standard rate of pay?

40. The rate at which service users are paid for their involvement, just like any other sphere of life, will depend on the type of activity, the skills and experience, the complexity, and responsibility that the activity demands. Some service providers

choose to have an hourly rate. Others choose to pay a set rate for a block session such as a half or full day rate. Service providers should be aware of the National Minimum Wage requirements in relation to paid involvement, so all rates for paid involvement should not equate to less than the National Minimum Wage. Pay rates should aim to be set at a level that enables most service users to participate (including those on benefits).

41. Service providers may feel that higher levels of pay are appropriate where participants take responsibility for an area of work such as chairing a group, writing a report, preparing and presenting a session at a workshop or training event. Service providers should consider paying for time spent on preparation for a meeting or specific task. However this should be discussed and agreed in advance with the service provider and is likely to be based on the same rate.
42. Those who are involved at the highest levels of involvement e.g. encouraging independent initiatives, are most likely to be self-employed consultants. These users will have particular skills and specific work programmes to develop in an on-going or specific time period. These consultants will be treated just like any other self-employed consultant and are therefore outside the scope of this guide and will be paid at an agreed rate deemed appropriate for his/her experience and the requirements of the job.

Payment arrangements for involvement contracted out to a service user organisation

43. If a service user organisation is commissioned to arrange for service users to participate then an agreement can be made with them as to the appropriate level of fee for say an annual contract. The service user organisation becomes responsible for arranging payments to service users. If the service provider does devolve payment they have a duty to support the group with advice on the complex issues and access to welfare rights advice for the service users.

Paid involvement: the National Minimum Wage and employment law

44. Involvement activity does not usually equate to paid employment that is covered by a contract of employment between an employer and an employee. However, under current employment law regulations, there are certain rights that people who participate in regular paid activity (without having the status of employee) are entitled to. This applies to service users who undertake paid involvement activity. Service users involved on a paid basis also have the right to independent employment advice.

45. The National Minimum Wage applies to people who are paid for their involvement. Therefore, service providers are advised that rates of pay should comply with the National Minimum Wage Act. Service providers can seek advice from the National Minimum Wage helpline if they are unclear about their duties in this area (see Annex C for details).
46. Where involvement is paid and is continuing (i.e. other than a genuine, one-off activity such as a consultation – see paragraph 54 on *one-off gifts*) the service provider must provide terms and conditions. Legal advice should be sought when forming the terms and conditions. These can be flexible such as a bank registration agreement for nursing staff (see example at Annex E). The service user can withdraw from the agreement at any time. The terms then only become applicable during the specific times when the service provider and service user have agreed and committed to involvement. A registration agreement offers a safeguard to both service user and service provider by being clear about what is expected of both parties without bringing into question the service user's independence, as can sometimes be the case with employment opportunities.
47. Service users who are paid for their involvement will have employment rights (regardless as to whether they claim benefits or not). However people who earn less than the National Insurance threshold (£84 a week from 6 April 2006) do not have rights to sick pay, maternity pay or a stakeholder pension.
48. Paid work attracts a minimum of 4 weeks pro-rata holiday pay as a statutory right. At present the law allows the option of adding holiday pay to weekly pay rather than provided through actual paid leave. A percentage can be calculated according to the number of weeks of holiday.

Paid involvement and the benefits system

49. Service users who receive benefits as their main income need to make an arrangement that enables them to keep within their benefit conditions. Generally, the conditions mean that the paid work must be for less than 16 hours a week. However for most people on benefits earnings over £5, £10 or £20 a week will lead to a reduction of their benefits. As a result many service users may choose to limit their involvement to an amount that will not impact on their benefits. The National Minimum Wage is currently £5.05 an hour and service providers may want to pay more. People may offer to become involved for one, two or four hours a week. The number of hours and disregard levels vary depending on individual circumstances and which benefits are being claimed. Further specialist advice should be sought where necessary.
50. Temporary employment rather than involvement is outside the scope of this guide. Expert advice on stopping and re-starting benefits should be sought.

Section 7:

Voluntary Involvement

Voluntary involvement and employment law

51. It is good practice to offer the option of involvement on a voluntary basis, as some service users may prefer to offer their skills and time as volunteers i.e. not be paid. Service users are not allowed to designate part of the involvement as voluntary in order to fit into the earnings categories. A position is either fully voluntary or fully paid.

Voluntary involvement and the benefits system

52. Service users involved on a voluntary basis are likely to be involved alongside other service users who are being paid for involvement. Those involved on a voluntary basis are strongly advised to contact Jobcentre Plus to ensure that they will not attribute what is known as “*notional earnings*” for volunteers. The concept of *notional earnings* is to safeguard employers exploiting volunteers and is not usually used in this context, but volunteers should be aware of it. Expert welfare rights advice should be offered if necessary. (See also section 8 Consultation with Jobcentre Plus and the HM Revenue and Customs for further information)
53. For service users on benefits where involvement is not paid and is voluntary, most expenses can be safely reimbursed. It is however important to reimburse only actual expenses. If the amount is rounded up or a notional amount is set (e.g. a standard £10 for ‘expenses’ per meeting) or people are given vouchers or small gifts two problems may arise:
- The benefit system treats *rounded up* expenses as earnings and some other non-cash payments such as vouchers as *notional earnings* or actual earnings. The volunteer would be treated as in paid work and their earnings will be taken into account against their benefits which may affect benefit payment. Rounded up expenses may also be treated as earnings by the HM Revenue and Customs.
 - The Minimum Wage Act states that voluntary workers (who are exempt from the Minimum Wage) “receive no benefits in kind” – if benefits in kind (such as rounded up expenses, vouchers and small gifts) are provided to voluntary workers the employer could be found liable to pay the National Minimum Wage.

- All those claiming Incapacity Benefit, Income Support and Jobseekers Allowance should complete a JCP VOL1 form from their Jobcentre Plus. This includes questions on choice to receive payment/reward.
- Service users who receive incapacity based benefits may prefer to keep their involvement to under 16 hours a week. Voluntary work for 16 hours or more a week in some circumstances has been known to lead to Jobcentre Plus triggering a review of incapacity.

One-off gifts

54. Sometimes service users want to be involved for a particular event or brief activity such as consultations, attendance at seminars or conferences. Providing this is a genuine “one off” arrangement, and the service user is not employed by the organisation, it is possible to provide a cash gift in appreciation. This is similar to the practice that some market research companies use for example when engaging members of the public in a survey etc. Providing the gift is made voluntarily and not in payment for work, and is within the capital rules for income support, income based job-seekers allowance and Pension Credit, it will not affect any benefits nor be described as payment for work under the Minimum Wage Act.

Section 8:

Dealings with Jobcentre Plus and HM Revenue and Customs

Consultation with Jobcentre Plus

55. It is good practice to communicate or seek out prior agreement in principle on aspects of the service provider's payment and reimbursement policy with the Jobcentre Plus Business Development Team (for the district).

Awareness of the specific nature of user involvement

56. Individual Jobcentre Plus staff are often not aware of the duty for NHS and social care organisations to involve service users as framed in law under Section 11 of the Health and Social Care Act 2001. Service providers can therefore usefully demonstrate how and why involvement does not equate to being fit for work. It is important therefore for service providers to raise this matter at a district level with Jobcentre Plus and to take their advice on the most effective means for preventing such misunderstandings. It is important to advise on how involvement differs from ordinary employment and to emphasise the flexibility and support arrangements.

Who to contact in Jobcentre Plus

57. Jobcentre Plus is the agency that administers claims to benefits for people of working age. It is also the name given to local offices that administer benefits and advertise jobs. Some local offices are still Social Security offices. These will be merged into Jobcentre Plus offices by end 2006. Service users could be claiming from one of a dozen or more Jobcentre Plus or Social Security offices in their local area.
58. Service provider liaison with Jobcentre Plus should initially be with the District Team that deals with general policy issues and has the authority to resolve problems. These are called Business Development Teams. Managers of local Jobcentre Plus offices do not have the authority to discuss arrangements over issues such as the reimbursement of replacement carer costs. Once liaison has been established with the Business Development Team they will be able to advise on further liaison at local level.
59. The service provider must not identify any individual service users to Jobcentre Plus without their express permission and agreement about the extent of the contact. Under the Data Protection Act, Jobcentre Plus will not discuss a third party without their express authority. Staff should be aware that they could inadvertently cause problems for the service user if there should be a misunderstanding over the nature of involvement.

Reimbursement of costs of an interpreter, a signer, a personal assistant or facilitator

60. As the benefit rules on these reimbursements can be subject to interpretation, the service provider should seek prior clarification from the Jobcentre Plus Business Development Team. The service provider should ensure that reimbursed expenses are ignored and not treated as earnings.

Use of the “averaging rules” (see Annex B for further information)

61. Weekly limits for income permitted for people on particular benefits are set. If the involvement is intermittent and not every week and the service provider wishes to offer a payment for half a day or one day at a rate that is above that allowed by a person in receipt of benefits in one week this may be possible **if** payment is made in arrears fortnightly or monthly and the average over the pay period is no more than the weekly limit (i.e. £80 could be paid after four weeks for a benefit claimant who is allowed to earn £20 a week). This will be a matter for the discretion of your local Jobcentre Plus staff. The service provider should discuss and agree such payments in advance with Jobcentre Plus. This is an example where a liaison coordinator would be able to advise.

Voluntary involvement

62. It is important to be clear that the Jobcentre Plus office will not attribute notional earnings (see Annex B for further information). If service users are to be offered one-off gifts, it would be sensible to obtain Jobcentre Plus agreement to this. NHS Trusts who have already done so, have not encountered problems.

HM Revenue and Customs

63. Service providers should not automatically treat service users as self-employed and therefore responsible for their own tax. Whether a person is paid as self-employed or via payroll as an employee of the service provider depends on the terms and conditions of the involvement, and is the responsibility of the service provider to decide the correct status based on the HM Revenue and Customs criteria set out in leaflet IR56 available on their website. This lists a number of questions to help service providers decide whether a person is an employee (and the employer is responsible for tax deductions through Pay As You Earn PAYE) or is self-employed (and responsible for paying their own tax). This should be discussed and agreed with service users as part of the induction briefing and agreement reached over whether the service user is self-employed or not. It is important to note that people in receipt of certain benefits for living costs cannot register to be self-employed. People who declare themselves as self-employed without notifying the HM Revenue and Customs within three months

of becoming self-employed are liable to fines. People who are registered self-employed will have an HM Revenue and Customs reference number. Further advice is available from the Newly Self Employed Helpline on 08459 15 45 15.

64. Some service providers are legitimately concerned that service users will not come forward if they are asked to fill in a tax form. Service providers are often tempted to make payments in cash to service users without notifying the HM Revenue and Customs. The reality is that if the service provider does not deduct tax and national insurance contributions as it should have done the HM Revenue and Customs will hold the service provider responsible for the back tax and National Insurance that should have been deducted.
65. To resolve this service providers should contact their tax office and discuss their plans for paying people to become involved, some of whom may be in receipt of benefits. A number of service providers with developed service user participation schemes have been advised that the HM Revenue and Customs only requires the service user to complete a P46 (if they do not have a P45 available). This simple form is quick and easy to complete. It allows the HM Revenue and Customs to issue the correct tax code allowing service providers to pay people who are on benefits without deducting any tax. Other people who are not on benefits and have another income, or may have taxable benefits will not be exempt and will have tax deducted according to the tax code that the HM Revenue and Customs allocates. The service provider should remember that they must not identify any individual service users to the HM Revenue and Customs without their express permission.

Annex A:

List of those who contributed to this guide

Brian McGinnis	L'arche
Judy Scott	Judy Scott Consultancy
Kate McMullen	General Social Care Council
Mike Took	Rethink
Nasa Begum	Social Care Institute of Excellence
Tanya Simpson	Social Care Institute of Excellence
Peter Beresford	Shaping Our Lives National User Network
Alison Cooley	London Development Centre, Care Services Improvement Partnership
Rachael Dodgson	Commission for Social Care Inspection
Peter Horn	London Development Centre, Care Services Improvement Partnership
Jose King	Healthcare Commission
Zoe Lawrence	National Director for Patients and the Public, Department of Health
Reg Mckenna	Experts by Experience, National Institute for Mental Health England
Sarah Buckland	Involve
Roger Steel	Involve
Sheila Hawkins	Volunteering England
Mark Restall	Volunteering England
Peter Mansell	National Patient Safety Agency
Tina Thompson	Citizens Advice Bureau
Tracey Sweet	Patient and Public Involvement Manager South West Peninsula Strategic Health Authority
Pippa Hague	Patient and Public Involvement Manager Norfolk, Suffolk and Cambridgeshire Strategic Health Authority
Melissa Campbell	Partnership and Involvement Facilitator Leicestershire, Northamptonshire and Rutland Strategic Health Authority
Val Raynor	Blackpool Social Services
Simon Frances	National Social Inclusion Team Department of Work and Pensions Jobcentre Plus HM Revenue and Customs

Annex B:

Overview of current regulations on Benefits

The information in this annex is for general guidance only and was correct at time of publication. Conditions, limits and entitlements are subject to regular changes. Service users should contact an expert welfare rights adviser to confirm the implications for their own personal circumstances.

Benefits that can be affected

The benefits for income, for housing costs and for care costs that have conditions attached around paid work, hours of paid work and earnings include:

- Incapacity Benefit.
- Severe Disablement Allowance.
- Income Support (for incapacity).
- Income Support (for lone parents, for carers).
- Income Support (increase to allow for mortgage interest).
- Carer's Allowance.
- Jobseekers Allowance.
- Pension Credit.
- Housing Benefit and Council Tax Benefit.
- Local Housing Allowance
- funding for residential accommodation.
- any benefits that are paid to an inpatient during a hospital admission.
- funding for children in care.

Benefits that are not affected by work or earnings are: Disability Living Allowance and the Attendance Allowance (although if the activity appears to contradict the reason why allowance is granted, entitlement could be reviewed), Retirement Pension. Funding arrangements for care or support costs in the home are not usually affected by earnings.

Benefit conditions require claimants to notify Jobcentre Plus about voluntary work or any paid work before they start. There are two exceptions to these conditions, for Permitted Work, lower level, and Supported Permitted Work (see below).

Earning limits and disregards

Benefits listed above, other than Incapacity Benefit and Severe Disablement Allowance, have an earnings disregard. This means that earnings up to a set amount (£5, £10, £20) are disregarded. Earnings over the set amount are allowed but the excess is deducted from the benefit. All earnings must be declared to Jobcentre Plus either at the time or for incapacity based claimants before the work ceases if the earnings are according to Permitted Work, lower limit (see below).

The Averaging Rule

Where there is a cycle of work or where there is a pay period (say monthly), earnings over the period may be treated as being 'averaged'. If the weekly limit is £20 and pay is made every four weeks then up to £80 can be paid. In the same way if the weekly limit is £81 and pay is made every four weeks then up to £324 can be paid. However it is for Jobcentre Plus to define whether or not this rule applies. It is usually used where there are a series of different amounts of pay over the period. It is not usually used where the earnings would only apply to one day in the pay period. It may be possible for this to be negotiated as acceptable. Hours of paid work must be on average less than 16 hours each week.

The Rules around Permitted Work

Benefits for incapacity have additional rules attached. These are called the Permitted Work rules. These rules only apply to people who are receiving an incapacity based benefit. These include:

- Incapacity Benefit.
- Severe Disablement Allowance.
- Income Support for Incapacity (and with a Disability Premium).
- Housing Benefit with a Disability Premium.

No paid work at all is allowed unless it is done according to the Permitted Work rules.

There are four options in Permitted Work.

1. Permitted Work, Lower Limit.

- This allows involvement and earnings of up to £20 a week (but see means tested benefit for couples).
- The Permitted Work rules allow all claimants of the above benefits to start earning £20 a week as and when they want.

- Service users should be aware that they are within their rights to contact the Jobcentre Plus at any time before the work ceases. It is best however to get Jobcentre Plus approval.
- The combined effect of Minimum Wage rate of £5.05 an hour and an earnings disregard of £20 will limit the number of hours of paid involvement in any one week.

2. Permitted Work for people who are exempt from Jobcentre Plus medical reviews

- This is a new category of Permitted Work for people who are exempt from the medical review called the Personal Capability Assessment.
- If a claimant is receiving either Incapacity Benefit or Severe Disablement Allowance and are NOT getting either Income Support or Housing Benefit or Local Housing Allowance or Council Tax Benefit, then they are allowed to earn up to £81 a week and to keep all of their earnings (no benefit reductions). See below for more information on Permitted Work for those receiving means tested benefits.
- There is no time limit for doing Permitted Work for people who are exempt from the Personal Capability Assessment.
- The paid work must be for less than 16 hours a week.
- The law doesn't say if Permitted Work for people who are exempt should notify Jobcentre Plus. It is best however, to get prior approval from Jobcentre Plus

3. Supported Permitted Work

- The Permitted Work rules allow a few claimants to earn and keep up to £81 a week if they have a support worker. This is called *Supported Permitted Work*.
- If a claimant is receiving either Incapacity Benefit or Severe Disablement Allowance and are NOT getting either Income Support or Housing Benefit or Council Tax Benefit, then they can follow procedures which will allow them to earn according to the Supported Permitted Work rules and to keep their earnings.
- Earnings of no more than £81 a week are allowed for claimants who have a support worker who is named on the form with which they notify the Jobcentre Plus office about their planned earnings.
- A support worker must be someone who is working for a local or public authority or voluntary organisation, whose job it is to find work for people with disabilities. The work can be done anywhere and it can be any kind of work. The amount and type of support is up the claimant to decide. It can be just a regular phone call or regular meetings.

- There is no time limit for doing Supported Permitted Work.
- Supported Permitted Work should be notified to Jobcentre Plus on a form PW1. The law requires Supported Permitted Work to be notified at any time before the work ceases. It is best however to get prior approval for Supported Permitted Work arrangements.

4. Permitted Work, Higher Limit – this time limited option will not usually be suitable for service user involvement work

- There is a fourth type of Permitted Work which is called Permitted Work, Higher Limit.
- The time limit has been increased to one year.
- Claimants must notify Jobcentre Plus within 42 days of starting Permitted Work, Higher Limit, however advisable to notify Jobcentre Plus before starting.
- The paid work must be for less than 16 hours a week.
- Earnings of no more than £81 a week are allowed for 52 weeks for people claiming Income Support for incapacity, Incapacity Benefit, Severe Disablement Allowance, Housing Benefit, Local Housing Allowance and Council Tax Benefit.
- The means tested disregards apply in the same way as with Supported Permitted Work and Permitted Work for those who are exempt so most people decide to limit their earnings to £20 a week and avoid benefit reductions.
- Permitted Work, Higher Limit is limited to one year after which it must stop. A claimant is allowed to transfer to Permitted Work, Lower Limit and earn up to £20 a week.
- Permitted Work, Higher Limit will not usually be appropriate for involvement because of the 52 weeks time limit and the emphasis on improving capacity for work. This is unless service users are planning to use involvement as a stepping stone into employment (off benefits) in which case it may be useful.

Permitted Work for those receiving means tested Benefit

People who are in receipt of Income Support for incapacity or Housing Benefit and Council Tax Benefit with a disability premium can use the Supported Work rules to earn up to £81 a week. **BUT** they must declare their earnings to Income Support (first) and they will have their benefit reduced, penny for penny for any earnings over the £20 disregard limit per week. Those with a partner who receives income support should note that the earnings disregard is shared between them. If they do not get Income Support then the excess earnings over £20 or £10 a week must be declared to Housing Benefits. Housing Benefit will be reduced by 65 pence to every £1 over the £20 disregard limit, and Council Tax will be reduced by 20 pence for every £1 over.

Incapacity based benefits and involvement

People who receive incapacity based benefits should be aware of the importance of describing their role as a service user representative, and any support measures that are provided, when contacting Jobcentre Plus. If the Jobcentre Plus decision-maker has not heard about involvement they may assume that an appointment to an NHS Trust committee, for example, means you have recovered. They may want to review your incapacity benefits. Providing you or the service provider explains about involvement such misunderstandings can be prevented.

Annex C: Useful Sources of information

Minimum Wage Guidance from the DTI

www.dti.gov.uk/employment/pay/national-minimum-wage/index.html

Minimum Wage confidential helpline

0845 6000 678

Part-time employment law guidance from the DTI

www.dti.gov.uk/employment/employment-legislation/employment-guidance/page19479.html

Self-employment guidance from HM Revenue and Customs

www.hmrc.gov.uk/home.html search for leaflet IR56

Benefits advice from Citizens Advice Bureaux

www.adviceguide.org.uk

Childcare vouchers can be purchased from

www.childcare.co.uk and other such organisations

User friendly guide to benefits and part-time work published by the Disability Alliance

020 7247 8776

'The way to work' Judy Scott & Daphne Hall

Annex D:

Summary of issues to include in payment and reimbursement policies

Theme	Issues to address in policy and practice
Purpose	How does the policy related to: <ul style="list-style-type: none"> • Service development and participation • Service delivery participation • Conferences • Training events • Other forms of participation
Payment issues	What is the position on: <ul style="list-style-type: none"> • Payment for travel • Incidental expenses e.g. phones, photocopying etc. • Payment for time • Payment for child-care, sitting (e.g. older people) or alternative care • Providing transport for users, carers, advocates or supporters • Amount or level of payment and any different rates between different tasks or forms of participation • Process for making payments • Receipts for expenses incurred • The range of options for payment that could be viewed as taxable income e.g. money, goods, services in kind, tokens, vouchers or other non-cash payments • Food and drinks (if not provided) or other subsistence issues • Speed of payment • What is not paid
Ground rules	What is the position on: <ul style="list-style-type: none"> • Eligibility • The range of ways users and carers can participate • Representation issues • Exclusion issues • Expectations of users and carers as participants • Relationships between people paid for their time and the commissioners of that time • Incremental scale of payments for different types of work
Budgets	What's the position on: <ul style="list-style-type: none"> • Who contributes to the budget for participation • Where such budgets are held • How are they administered • How such budgets are audited
Benefits issues	What information is provided on: <ul style="list-style-type: none"> • Effects on benefits • Support e.g. a named contact for advice to users and carers

(continued overleaf)

Theme	Issues to address in policy and practice
Quality assurance	Does the policy include: <ul style="list-style-type: none"> • A review date and people responsible for undertaking the review • How to complain if the policy is not working or there are issues of concern
Other issues	<ul style="list-style-type: none"> • Liability issues • Tax position in relation to people receiving benefits • HM Revenue and Custom's position on any employer's liability for those making the payments

Taken from A survey of policy and practice on expenses and other payments to mental health service users and carers participating in service development. T. Ryan & C. Bamber. 2002

Annex E: Sample Bank Registration Agreement

BANK REGISTRATION AGREEMENT

Dear [insert name of participant]

Thank you for your interest in being involved in developing and informing the work of this organisation from a service user perspective. We appreciate your contribution and in line with the organisation's payments policy we will pay you for your time. This document outlines the terms on which this is offered.

In order to receive payment you should read this letter, sign and return the enclosed duplicate to your involvement contact, keeping the original for yourself. If you need help in having this document explained to you please contact [insert name]

You are not obliged to undertake any work offered to you, nor is the organisation obliged to offer you any work. Each task is a self contained offer of work and once the task is over, you are not obliged to undertake any further tasks, nor is the organisation obliged to offer you any. During periods of engagement, your relationship with the organisation shall be that of an independent contractor, and not of employee.

The current rate for tasks is:

£[-] per hour (including 8.3% for paid annual leave) for participation in paid work up to a maximum per month determined by your personal circumstances, including:

1. Presentations.
2. Lead or co leading Focus Groups.
3. Representation, membership, and participation at designated meetings.
4. Staff recruitment panel membership.

The above rate will be subject to review by the organisation from time to time.

Payment will be monthly, one month in arrears by credit transfer to a nominated Bank or Building Society following receipt of a completed form confirming your attendance. Payment will be conditional upon your carrying out work that has been offered to you, which you have agreed to carry out.

In some cases, if we are concerned about you taking on any workload which could impact on your health, we may require you to be referred to our occupational health team who will provide advice.

Prior to you undertaking any work you will be required to have a criminal records bureau check as the organisation is obliged by the Department of Health to ensure people working at the organisation even as volunteers have this clearance. Please note that a criminal record in itself will not mean that you will not be accepted onto the Bank.

In accordance with the Asylum & Immigration Act 1996 you must be able to demonstrate you are able to legally work in the United Kingdom.

Whilst undertaking any assignment for the organisation, you should comply with the general protocols, standards and conduct applicable to the area in which you are working, including showing respect for others and maintaining confidentiality. Details of these standards will be explained to you by the project work or manager who is co-ordinating the task you are involved with. If you fail to comply with applicable protocols, standards and conduct, the organisation has the right to end your engagement and/or remove you from the Bank.

You must be aware of your own responsibilities for Health and Safety and you must comply with the organisation's Health and Safety Policy, including any instructions given to you on this matter. You should report all accidents or incidents to the manager co-ordinating your project/tasks.

In order to ensure that the Bank register is up to date you must notify [contact name] of any change in circumstances e.g. change of address, bank details, etc.

You are advised that the organisation does not accept responsibility for articles lost or damaged on its premises, whether by fire, theft or otherwise; with the exception of money or valuables which have been handed in for safe-keeping and for which a receipt has been given.

When working, you may have access to, see or hear information of a confidential nature and you are required not to disclose such information, particularly that relating to patients and staff. Any breach of confidentiality is likely to result in the end of your engagement and/or your removal from the Bank.

You should notify [contact name] in writing if you are no longer available and no longer wish to remain on the Register.

If you have any complaint or grievance relating to your registration or the work you are undertaking on specific engagements, you should raise the matter, in writing, with [contact name and address]

For the avoidance of doubt, it is agreed and understood that registering on the Bank does not constitute a contract of employment between you and the organisation. Registering on the Bank does not imply any obligation to provide you with work nor does it imply any obligation on your part to accept any work offered.

The organisation reserves the right to make such changes to these terms from time to time at its discretion as may reasonably be required.

The organisation agrees to provide you with access to a Welfare Rights Adviser upon your agreement to undertake an engagement and to provide such further access as may reasonably be required when taking up future engagements.

Yours sincerely,

[contact name and position]

I have read and understood the above and, by countersigning and returning it to the [contact name], I agree to the terms of this letter.

Signed Date

Print Name:

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