

Management of money

Disability Act 2006

Introduction

The *Disability Act 2006* (the Act) commenced on 1 July 2007. The Act protects the rights of people living in residential services and provides clarity regarding the role and responsibilities of residential services. This includes the management of residents' funds.

Do I have to be formally appointed as an administrator so I can tell staff what to do with the resident's money?

No, you do not have to be formally appointed, but you must be the *nominated representative* of the resident.

Who is the nominated representative?

The nominated representative is the person who is named during the development of an individual's support plan, or a resident's financial plan as the most appropriate person to provide financial management support and responsibility for the resident's agreed financial plan.

Why does a resident need to have a nominated representative?

A nominated representative is required where a resident is not capable of making financial decisions regarding the person's own money, and when they do not have a formally appointed administrator.

Residents who are capable of making their own financial decisions do not require a nominated representative. They manage their own money in their own private bank accounts.

What instructions can staff accept from a nominated representative?

Staff can only accept instructions from a nominated representative on financial matters that are reasonably related to the resident's expenditure needs in the context of providing disability support, such as accommodation support, community access, day programs and respite.

What is the agreed financial plan for a resident?

A financial plan is the agreed budget provided to the disability service provider that sets out the budgeted routine expenditure needs of a resident in a shared accommodation setting. This plan guides the application of residents' money held in trust by the residential service. Approved expenditure items may include the residential charge, other accommodation costs that may be payable by the resident (such as utilities, food, housekeeping and household items of personal choice), funds for community access or recreation (such as taxis, activity expenses and day program fees) and personal care consumables and services (such as medical, therapeutic services, clothes and shoes).

A financial plan is generally not required for residents who are capable of managing their own funds.

(Please note that in government-managed residential services, a financial plan still applies to residents in charge of their own funds for the purpose of tracking housekeeping contributions and residential charges as part of the Client Expenditure Recording System).

Who can be a nominated representative?

Anyone who has a carer relationship with the resident or part of the resident's support network, other than the disability service provider or staff from the same organisation, can be a nominated representative. However, there must be agreement by all parties, including staff as primary carers, involved in the development of the resident's support plan or financial plan that the nominated person is the most appropriate person.

The nominated representative is the formally appointed administrator, if there is one. If not, it can be the person who is the recognised signatory to the resident's Centrelink bank account, a parent or friend who is trusted by the resident.

What happens if there is no agreement as to who is the most appropriate person to be the nominated representative?

This depends on the reasons for disagreement. This may need to be referred to the Office of Public Advocate for advice. This may result in a hearing by VCAT to determine who should be the administrator.

What are the responsibilities of the nominated representative?

Responsibilities include:

- providing financial management support to the resident
- approving the resident's financial plan including authorisation to spend the resident's money held in trust by the residential service
- authorising variations to the financial plan where necessary
- acting in the best interests of the resident and maximising the resident's involvement in decisions, with due respect to the resident's right to make financial decisions wherever they can
- monitoring withdrawals of the resident's funds held in trust by a disability service provider
- accounting for any resident's funds held outside the residential service trust
- maintaining confidentiality and privacy in a resident's financial affairs.

What is the accountability for a resident's money received by a residential service?

Residential services are required to maintain records of all funds held on behalf of residents. The following applies where funds are received for purposes other than a *direct payment* of a residential charge.

If the amount received or held on behalf of a resident exceeds \$250, and the surplus is not required to be spent within 14 days by the resident, then the surplus money must be held in a trust account on behalf of all residents. The residential service must be able to track funds belonging to individual residents.

The residential service must provide a monthly financial statement detailing all receipts and payments for the resident and the balance of funds held on behalf of the resident.

The balance of funds held must be paid to the resident on request, or when the resident leaves the residential service.

Can I have access to records held by the residential service?

Yes, if you are the resident, the guardian or the resident's nominated representative.

You may request to see a source document (such as an invoice or authorisation of payment) for a particular transaction or to view financial records relating to the resident. If you have concerns regarding the resident's account, and wish to view financial records and check source documents, you will need to put your request in writing to enable the residential service to provide access within a reasonable period of time.

Does the resident's account earn interest?

This depends on the amount of the resident's funds held in the trust account and what interest is earned from the trust account overall.

Please refer to the residential services' management of money policy for further information.

Are there any fees and charges for providing this service?

The residential service may charge an administration or accounting fee for maintaining the trust account. This fee should not exceed what other financial institutions would charge for an equivalent level of service and should take into account any interest income offsets.

The residential service must advise you of any fees and charges, and how they are calculated before automatic deduction of these charges from the resident's account. Please refer to the residential services' management of money policy for further information.

Who can I complain to if I do not believe that the fees and charges are reasonable?

You should first speak to management of the residential service to explain your concerns. If this is not resolved, you can speak to the Disability Services Commissioner.

For more information about the managing money policy, contact:

Disability Services Division, Department of Human Services

Telephone 1300 366 731 (9 am to 5 pm, Monday to Friday)

TTY: (03) 9096 0133 (for people who are deaf or have a hearing, speech or communication impairment)

Email: disability.legislation@dhs.vic.gov.au