IMPLICATIONS OF THE MENTAL CAPACITY ACT 2005 FOR THE HANDLING OF SERVICE USERS MONEY POLICY

Purpose of this Document
Premier Care (Plymouth) Limited has considered the implications of the Mental Capacity Act 2005 in respect of any of its service users who might lack capacity to take decisions over their financial transactions and affairs.

Some service users might already have handed over powers of attorney to others to act on their behalf and to manage their financial affairs. Other service users whose capacity can be questioned might still retain control over their financial transactions. They might then seek to involve their care and support staff in the taking of the decisions as well.

It is this second group who present particular issues for the agency and its staff. Other people such as family members also might or might not be involved in the decision taking so support staff will have to work out their position in relation to them too.

To this end Premier Care (Plymouth) Limited adheres fully to Outcome 7: Safeguarding People who use Services from Abuse: of the Essential Standards of Quality and Safety: and Regulation 11: of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010; which relates to ensure service users are safeguarded against the risk of abuse by means of theft, misuse or misappropriation of money or property.

Policy Statement
There are occasions when a service user, whose capacity is in doubt, involves an agency worker and others in a financial decision.

For example, the person might ask the worker to help withdraw a large amount of money from their account and to spend it on some item that seems to be unsuitable. Support workers must be very careful how they respond. They should always report the issue and seek management advice on how to proceed.

The agency responds to situations where service users of questionable capacity seek to involve its staff with or without others in financial decisions as follows.

The agency follows the five principles of the Mental Capacity Act to govern its response.

1. Individuals must be assumed to have capacity (to take their own financial decisions) unless it is established that they lack capacity.
2. Individuals are not to be treated as unable to make a decision unless all practicable steps have been taken without success to help them take the decision.

3. Individuals must not be treated as unable to make a decision just because they might or have been known to make an unwise decision in the past.

4. When people take a decision on behalf of someone else who lacks capacity they must act in that person's best interests.

5. If anyone takes a decision on behalf of someone lacking capacity at the time, they must act so as to minimise any restriction to that person's rights and freedom of action. The agency considers the potential role and responsibilities of the agency's workers in providing assistance to the service user to take the financial decision.

It ensures that any conflicts of interest over the decision are fully recorded and discussed and the agency's position is always made clear. Such issues might need to be discussed at a meeting in which the user's views must always be considered (using an advocate if needed).

Premier Care (Plymouth) Limited ensures that the service user's capacity to take that decision is assessed in accordance with the code of practice issued with the **Mental Capacity Act 2005** so that their best interests are fully considered.

Premier Care (Plymouth) Limited ensures that any person lacking capacity to take the decision has a plan to secure their best interests in these matters. The plan should offer as much independence and choice as the person is able to make. Premier Care (Plymouth) Limited will follow the agreed decision-maker's instructions and discharge any agreed plan to the best of its ability as long as the decision is in the person's best interests.

In taking these actions the agency tries to act fully in accordance with the **Mental Capacity Act 2005** which states that individuals must be regarded as capable to take a decision unless it is proved otherwise.

Premier Care (Plymouth) Limited's staff are expected to ensure that safeguards are always in place to protect the financial interests of the service user, particularly in respect of any who has been assessed as lacking capacity under the **Mental Capacity Act 2005**.

Premier Care (Plymouth) Limited ensures that it keeps secure written records of all financial transactions in which staff have some part to play.

Even if the worker is only indirectly involved, e.g. in acting as an escort, it insists that the
situation is fully recorded. It also ensures that appropriate records and receipts are kept whenever staff spend any money on behalf of service users who lack capacity.

The service offers service users who have difficulties dealing with their finances or with money, whether they have capacity or not, support and help to manage their finances as effectively as possible and in their best interests.

Any such help offered (for example, accompanied shopping) is recorded and exact details of all money spent placed on record.

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<th>Date: 30/03/2012</th>
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<tr>
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