

14 September 2020**Agenda Item: 10****REPORT OF THE SERVICE DIRECTOR FOR COMMUNITY SERVICES –
AGEING WELL****A NEW APPROACH TO PROVIDING DIRECT PAYMENT SUPPORT
SERVICES AND CHANGES TO THE STAFFING ESTABLISHMENT****Purpose of the Report**

1. To seek approval to go out to tender to establish a new Framework Agreement of Direct Payment Support Services (DPSS). This will involve a collaborative approach with Children and Families services, Nottingham City Council, Nottingham and Nottinghamshire Clinical Commissioning Group (CCG) and Bassetlaw CCG. It is proposed that the Committee receives a report on the outcome of the tender exercise in due course.
2. To seek approval for Nottinghamshire County Council to lead the tender exercise on behalf of the other parties.
3. To seek approval for the establishment of a permanent 0.6 FTE Finance Assistant – Managed Budgets post (Grade 4) to sit within Adult Care Financial Services (ACFS). This would be funded from redirected DPSS budget spend and will generate a modest saving to the department.
4. To seek approval for two temporary ACFS posts that sit within ACFS to be made permanent: 1 FTE Finance Assistant (Grade 4) and 0.5 FTE Business Support Assistant (Grade 3). These posts will be cost neutral to the department.

Information

5. People who are eligible for social care support from the Council or for personalised health care from the NHS Clinical Commissioning Groups are allocated a Personal Budget. They can choose to take this as a Direct Payment (DP). This is a monetary payment made to them by the Council or the CCG which they can then use to purchase and arrange their own support. Around 2,400 people currently receive a Direct Payment from the Council, with an associated annual net budget of £38m.

6. Direct Payments are the Council's preferred method for an individual to meet their assessed needs as this provides them with more choice and control over how their support is delivered. This is in line with the Council's Adult Social Care Strategy.
7. Councils have a key role in ensuring people are supported to use and manage the Direct Payment appropriately. Under the Care Act, councils are required to take all reasonable steps to provide the support to whoever may require it. In Nottinghamshire most support of this nature is delivered by external Direct Payment Support Services providers.
8. Direct Payments can be used flexibly to purchase different kinds of support. One of the most cost effective ways for support to be provided and one that delivers consistently good outcomes for service users is the employment of Personal Assistants (PAs). The Council has an ambition to increase the proportion of people who employ PAs to meet their care and support needs. However, with employment comes a range of responsibilities and legal requirements. It can potentially be difficult and complex for people to become employers and this can be a barrier for some people choosing to employ PAs. For this reason, employment support accounts for two of the three main Direct Payment Support Services elements that the Council makes available:
9. General Employment Support – everything from initial information and advice about employer roles and responsibilities, helping to recruit PAs, creating employment contracts, setting up safe working arrangements and promoting good employment practices.
10. Payroll services - this includes calculating pay and any deductions, producing payslips and other documentation, registering with Her Majesty's Revenue and Customs (HMRC) and ensuring that all payments and information returns are made to HMRC in a timely way.
11. The third main Direct Payment Support Services element is third party managed accounts (TPMAs), where the DPSS supports people, who would otherwise find it difficult, to manage the financial aspects of their Direct Payment. This includes opening and managing a dedicated bank account, paying care and support providers or PAs and maintaining records for audit purposes.
12. Over the years, the Council has taken different approaches to providing Direct Payment Support Services. Prior to 2010 the Council contracted with single providers. After this a light-touch 'accredited' approach was introduced. The main change was a shift of contractual responsibility. Whereas previously contract arrangements were between the Council and the DPSS provider, these changed to be between the individual service user and DPSS provider. Providers have also been able to determine the range and cost of services offered, rather than working to a service specification. The light touch accredited approach also made it difficult for the Council to manage issues of quality when raised, due to the contract being between the service user and the provider and not the Council.
13. At present, most Direct Payment Support Services are provided by three accredited external organisations. Around 1,100 people use DPSS at an annual cost of approximately £700,000.
14. It is proposed that the Council will move away from the accredited provider approach. The main reasons for this are:

- a. with current arrangements there has been no formal procurement process through which the Council can ensure a combination of price and quality and demonstrate best value.
 - b. there are a wide range of costs associated with current DPSS providers, different pricing structures and no common standards in relation to the services that are delivered.
 - c. the range of costs and different service offers are confusing for service users and make it complicated for operational staff to commission services.
 - d. the Council has no robust contractual relationship with the current DPSS providers and has limited influence over the cost, quality and nature of services. The absence of strong performance and monitoring arrangements, particularly in relation to third party managed accounts, creates financial risks for service users and for the Council. This is against a backdrop of some significant provider failures over recent years.
15. Work has been carried out to develop a new model of DPSS. This has been informed by service user consultation that took place in 2017 and engagement with front-line staff and DPSS providers. Further consultation with service users and front line staff was undertaken in July 2020, details attached as **Appendix 1**. The main elements of the new model are:
- a. Some elements of employment support to be delivered by specialist Council staff. One additional post (Commissioning Support Officer, Grade 4) will build on some Direct Payment support functions that are already provided as agreed through the ASCH Workforce Remodelling report which was taken to Committee in November 2019.
 - b. The provision of a Council third party managed account service for people who need help to manage their Direct Payment and choose to purchase care and support from agencies. An additional 0.6 FTE Finance Assistant post will be created at Grade 4.
 - c. A new framework agreement of up to five external providers sourced through a competitive tender process. These providers will deliver employment support, third party managed account and payroll services. In a framework agreement, the selected providers make services available to an agreed specification, quality and price. The services are then 'called off' and paid for on an individual by individual basis, as and when they are needed. Direct Payment recipients can choose which provider from the framework they want to use and which services they need to receive.
16. The service elements described above will be the "main offer" for people who start to use a Direct Payment in the future. People using the existing arrangements can continue to do so, but with the expectation that the price paid for these services will be brought in line with the new framework prices over a period of around 18 months. Where an individual chooses to stay with their existing provider, but the cost is more expensive than can be commissioned through the framework, then the service user can choose to top up the difference. A decision can be made in exceptional circumstances on a case by case basis by a group manager to agree to pay at the higher rate.
17. Work to create the new framework agreement of external providers is being carried out in partnership with Children and Families services, Nottingham City Council, Nottingham and Nottinghamshire CCG and Bassetlaw CCG. At present each agency has a different

approach to making DPSS available. By working together a consistent service offer, pricing structure and terms and conditions for all parties can be established.

18. One of the main benefits of the partnership approach is that it ensures continuity of service for service users if responsibility for their Direct Payment passes from one agency to another. For example if someone is jointly funded by the Council and the CCG, their Direct Payment is administered by the Council. However, if their needs change such that their care is funded completely by the CCG, the CCG then becomes responsible for administering the Direct Payment. Under existing arrangements, when this happens it is necessary to change the DPSS arrangements.
19. The framework agreement will be created by carrying out a competitive tender exercise, led by Nottinghamshire County Council. Following the tender evaluation, the County Council will enter into a framework agreement with the successful providers. Each partner will then be responsible for calling off from the framework agreement and making payment to its appointed provider in accordance with the terms of its call off contract.

Additional allied staffing requirements

20. Alongside the request to approve the creation of a 0.6 FTE Finance Assistant post (**see paragraph 15b**), this paper seeks to formalise the arrangements to transfer from temporary to permanent two posts that support the financial auditing of the DP accounts associated with this initiative.
 - a. 0.5 FTE Grade 3 Temporary Business Support Assistant – Auditing
 - b. 1 FTE Grade 4 Temporary Finance Assistant – Auditing
21. These additional posts, whilst included within the original business case for the DPSS work stream, were not within the remit of the ASCH Workforce Remodelling as the posts are required in the Adult Care Financial Services (ACFS) team and the ACFS team was out of scope for the workforce review.
22. Although a temporary post, the 1 FTE Grade 4 Finance Assistant post has permanent recurrent funding allocated to it, so there are no additional cost implications associated with making it permanent. There is also no cost implication associated with making the 0.5 FTE Grade 3 temporary Business Support Assistant permanent. If approval is secured for this latter post to be made a permanent post, the resource will be provided out of the current complement of Business Support provided across ASCH Department and will be incorporated into the on-going review of Business Support Officer capacity.
23. While there would be a theoretical cost implication to ASCH Department for the introduction of the 0.6 FTE Finance Assistant post (£17,138 p/a) to maintain in-house the third-party managed accounts, this cost is less than the cost associated with currently out-sourcing the work to an external DPSS provider. Extrapolating from the last six months of activity, it is anticipated that there will be 54 new Third Party Managed Accounts set up with external DPSS providers at a cost of £21,848 across the full year (January 2020 to December 2021). Therefore, in real terms, the creation of this post as a permanent post will save the department money.

24. On-going retention of all three Direct Payment posts hosted within the ACFS team is required to sustain the additional capacity needed to ensure ongoing compliance with internal audit recommendations. These related to improving the auditing and debt recovery processes uniquely associated with the provision of personal budgets via Direct Payments (as opposed to managed accounts) and to support the departmental plans to increase further the take up of Direct Payments overall, particularly to employ Personal Assistants. Therefore formal approval for the retention of these temporary posts as permanent posts is sought from the Committee to rectify the anomaly.
25. These posts are deemed to be the minimum resource required to ensure the Council fulfils its statutory duty to check that public funds are spent in accordance with the Council's Direct Payment Agreement and in line with a service user's assessed eligible care and support needs. The backlog of outstanding audits which built up previously demonstrates that the additional resource is indeed needed.
26. When the above posts were established, ACFS additionally made temporary business changes in the DP Team to free up as much of the Auditor capacity as possible to enable them to be able to clear the backlog of audits over the last 12 months. For example, they halved the time for dealing with telephone based Audit queries. It is now intended that the Auditors pick this telephone response work up again, which can often be key to resolving ongoing issues with DP accounts. In addition they will also pick up more complex audits associated with ceased DPs and enable further implementation and following of more rigorous processes to recover misused monies, unpaid contributions and chase up surplus recoups (currently there is a recoup rolling monthly average of 4.5% /£142,500 per month 2019-20). Without the additional resource, it will result in an inability to be able to audit the accounts as regularly and thoroughly investigate each DP account expenditure. This will result in a proportion of the funds that would be recovered due to thorough auditing being missed.

Other Options Considered

27. The Council could extend and update arrangements with accredited DPSS providers. The use of accredited rather than contracted providers means that the Council has less influence in shaping the 'service offer', the price, or the collection of performance information to measure quality – all things that the Council is seeking to do. The Council would be limited in the extent to which it could performance manage providers and would also be unable to demonstrate best value through this approach. It would also be harder for the Council to manage provider quality through an accredited list.
28. The Council could only select external providers to deliver the employment support and managed account service elements, but would lose the opportunity to test out the potential to deliver a better quality and more cost effective alternative.
29. The Council could do a direct award to one DPSS provider. This though would limit the choice and control for the service user and would also increase the risk of provider failure if there was only one provider.
30. The Council could choose not to make permanent the ACFS DP Auditor, Business Support Assistant and Finance Assistant posts. This would result in the financial benefits associated

with an improved financial audit processes not being realised due to an increase in unrecovered DP funds.

Reason/s for Recommendation/s

31. Establishing a framework of external providers of Direct Payment Support Services offers the following main benefits:
- a. a simple, standardised menu of services and pricing structure is easier for service users and front-line staff to understand and use. This responds to service user feedback and supports the Council's current efforts to streamline commissioning processes for front-line workers. Easing the administrative burden on front-line workers should in turn lead to an increase in the take-up of Direct Payments and an increase in the use of PAs in line with the Council's Strategic objectives.
 - b. the Council will performance manage providers through the contractual relationship. Service users will benefit from the application and monitoring of quality standards.
 - c. the contractual relationship will strengthen arrangements to ensure Direct Payments are managed safely and well, particularly with regard to the management of finances. This helps to safeguard the interests of both service users and the Council.
 - d. it is likely to offer a saving, as the services will be contracted directly rather than paid into the Direct Payment account, The Council would then be able to recover the VAT charges.
 - e. it promotes service user choice which was something that the recent consultation with Direct Payment recipients highlighted as being one of the key requirements of any DPSS offer.
 - f. working with partners in Children and Families services, Nottingham City Council and the CCGs has the potential to create economies of scale and, for the benefit of service users, will promote consistency of approach across the Nottingham and Nottinghamshire Integrated Care System (ICS) and in Bassetlaw.
32. The 'in-house' elements of service give the Council the opportunity to test out the extent to which it can deliver these in a cost effective way. In relation to employment support there is an intention that this can dovetail more effectively with social work assessment and support planning processes. By having the initial employment offer in-house it is anticipated that this will increase the number of people who choose to employ a PA as frontline staff will not be expected to have the specific employment knowledge around employment responsibilities but will be able to access this internally without the need to commission a service. It is anticipated that these support elements will be cost neutral to the Council due to not having to pay an external DPSS for these services which would be the case otherwise.

Statutory and Policy Implications

33. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty,

safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

34. The new pricing structure for the commissioning of DPSS provision has been designed to ensure that it is cost neutral and it is not anticipated that there will be any increase on the current £700,000 spent on Direct Payment Support Services based on current level of requirement. There is expected to be an increase in the number of people who employ a PA therefore increasing the number of people receiving a payroll service. This expenditure would have been purchased anyway without the introduction of the Framework agreement.
35. Funding for the additional posts: the budget for the 1 FTE Commissioning Support Officer – Employment Support post has already been confirmed and sits within the Integrated Strategic Commissioning Team budget. There is an existing ongoing funding allocation for the 1 FTE Grade 4 Temp Finance Assistant – Auditing post that already sits within the ACFS budget and the Business Support resource will be met from within current departmental BSO complement. The only notional cost implication is for the 0.6 FTE Finance Assistant post costing £17,138 p/a plus on-costs. However, if this post is not brought in-house, it will be necessary to continue to externally commission at a projected annual cost of £21,848 from external DPSS providers the tasks that the post will undertake. Therefore, the introduction of this additional post, based on current DP third party managed account activity would represent a future annual cost avoidance to the department of about £4,170.
36. There are no significant financial implications identified in this report. The Council already funds Direct Payment Support Services and will continue to do so. People who start to receive new Direct Payments will receive support purchased from the new framework of providers, when previously they would have purchased services from accredited providers. The prices will be set by the Council and have been modelled to deliver a small overall saving. The Council will need to consider annual increases as part of the budget setting process but does not commit to an annual uplift. This process will take into account inflationary and legislative requirements.
37. There is currently a wide variation in costs between existing providers. As prices paid to providers for existing service users are adjusted in future, either through legacy arrangements or because they are selected for the new framework, some may end up being paid more than at present for their services and some less.
38. The new model of commissioning will not be treated as a mixed package as it will still be seen as part of the Direct Payment. This will ensure that the Direct Payment is continued to be paid net of any assessed service user contribution. This will also increase the Council's control of what the Direct Payment is spent on and contract enforcement. The Council will not call off from the Framework agreement until the new commissioning elements are added to the Mosaic system.

Human Resources Implications

39. There will be a requirement to establish the 0.6 FTE Finance Assistant post within the organisational structure and appoint to this post and convert the temporary posts to permanent in the AFCS structure.
40. The ongoing requirement for business support to this area of work will be incorporated into the ongoing ASCH Business Support review without any further HR implications.

Implications for Service Users

41. Service users will benefit from a more consistent and clearer offer of support.
42. Service users will have a choice of providers and be able to choose from a menu of support services to suit their individual needs.
43. DPSS providers will have increased contractual responsibilities in relation to the management, monitoring and reporting of the Direct Payment monies, making it more likely that the Direct Payment is used safely and in line with the individual's care and support plan.
44. The new framework will be the 'main offer' of support for new Direct Payment recipients. However, under Care Act duties, the Council must continue to allow a choice of alternative providers from outside the framework. This means that if a DPSS provider delivering services to existing Direct Payment recipients under the current accreditation arrangements does not go on to the new framework, then legacy arrangements will be needed to ensure continuity of service. This will mean that the Council will only pay the DP recipient the amount that it could commission the services for through a DP. If the provider is more expensive the service user can choose to top-up the difference. A decision can be made on a case by case basis by a Group Manager to agree to continue to pay at a higher rate.
45. As part of the proposed arrangements, the amount of money made available (through the Direct Payment) to people using providers that do not join the framework will be adjusted to bring it in line with the framework prices. This is in accordance with the Adult Social Care Strategy principle to promote choice and control, balanced against the effective and efficient use of resources. A period of notice will be given to providers and service users of up to six months post framework contract implementation. Non-framework providers will have to choose whether to adjust their prices accordingly. If higher charging providers do not adjust the prices, their service users will need to either change providers or top up the difference from their own resources.
46. For existing accredited providers that do join the new framework, prices will also be adjusted. For people using these providers the method of payment will change. Service users will no longer pay the providers from their Direct Payment. Payment will instead be made centrally to providers by the Council.

RECOMMENDATION/S

That the Committee:

- 1) gives approval for a competitive tender exercise to establish a Framework Agreement of Direct Payment Support Services, which will be used by Adult Social Care, Children and Families

services, Nottingham City Council, Nottingham and Nottinghamshire Clinical Commissioning Group and Bassetlaw Clinical Commissioning Group.

- 2) gives approval for Nottinghamshire County Council to lead the tender exercise on behalf of the other parties.
- 3) receives a report on the outcome of the tender exercise.
- 4) gives approval for the establishment of a permanent 0.6 FTE Finance Assistant – Managed Budgets post (Grade 4) to sit within Adult Care Financial Services.
- 5) gives approval for two temporary posts that sit within Adult Care Financial Services to be made permanent as follows:
 - 1 FTE Finance Assistant (Grade 4)
 - 0.5 FTE Business Support Assistant (Grade 3).

Sue Batty

Service Director, Community Services – Ageing Well

For any enquiries about this report please contact:

Clare Gilbert,
Group Manager for Integrated Strategic Commissioning
T: 0115 8044527
M: 07580 970425
E: Clare.gilbert@nottsgov.uk

Constitutional Comments (AK 20/08/2020)

47. The report falls within the remit of Adult Social Care and Public Health Committee by virtue of its terms of reference.

Financial Comments (ZDB1 26/08/20)

48. There is an existing ongoing budget for the 1 FTE Finance Assistant (Grade 4) and 0.5 FTE Business Support Assistant (Grade 3).
49. It is proposed that the cost of the externally tendered DPSS and the 0.6 FTE Finance Assistant – Managed Budgets post are met within the existing Direct Payment budget, of which £700,000 is currently spent on external Direct Payment support services. There is an anticipated reduction in cost by bringing some services in house and creating the Framework for the remainder, as detailed in **paragraphs 34 to 36**.

HR Comments (SJJ 19/08/20)

50. The posts will be filled in line with the County Council's employment policies and procedures.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

[Review of the staffing structure within Adult Social Care – report to Adult Social Care and Public Health Committee on 11th November 2019](#)

Electoral Division(s) and Member(s) Affected

All.

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