

5 January 2015**Agenda Item: 7****REPORT OF THE DEPUTY DIRECTOR FOR ADULT SOCIAL CARE, HEALTH
AND PUBLIC PROTECTION****DIRECT PAYMENTS POLICY****Purpose of the Report**

1. It is recommended that Committee agrees to consult on the Direct Payments Policy with a further report on consultation outcomes to come to a future Committee.

Information and Advice**Context**

2. Direct payments are monetary payments made by the Council to individuals who are eligible for social care and request to receive one to purchase their own care and support services. Direct Payments are the Government's preferred way of offering people personalised care and support, as they offer people high levels of flexibility, choice and control over the way in which their support needs are met.
3. Nottinghamshire County Council has been a consistently high performer nationally with the implementation of personalisation. The achievement by March 2014 of 42% of people who use social care services choosing to take a Direct Payment to arrange to purchase all or some of their care is a key part of this and continues to rise within current year.
4. The legislative context for direct payments will be set out in the Care Act from April 2015, as well as Section 117(2C) of the Mental Health Act 1983 (the 1983 Act) and the Care and Support (Direct Payments) Regulations 2014. Care and Support Statutory Guidance 2014 adds detail to this, setting out how the Council should perform its care and support responsibilities.
5. Increasing the use of Direct Payments supports objectives within the Council's Strategic Plan and Adult Social Care Strategy; to promote independence and develop individual and community resources to prevent, delay and reduce the need for care and support. In working with people, the Council will always consider their needs, choice and preferences. Support must however be able to demonstrate that it is achieving the outcomes people need and offers value for money. All situations are assessed and considered on an individual basis
6. In terms of the way that the Council makes services available to citizens, Direct Payments differ from those either directly provided or contracted for by the Council. By making

monetary payments to individuals, the responsibility for purchasing and contracting for services passes to the individual. Many people also choose to use their Direct Payments to employ their own staff (Personal Assistants) and in doing so they take on the full legal responsibilities of being an employer, with all the administrative tasks and duties that are associated with this. The Council does retain its duty of care to individuals and ensures that the arrangements remain appropriate at annual reviews.

7. Some people need support with the tasks associated with managing the money and organising care and support, which they can find difficult and challenging as well as rewarding. The Council has a duty to provide support to people to manage their direct payments where this is not otherwise available informally from a friend or family member and can fund organisations to provide these services (a Direct Payment Support Service). The money to pay for a Direct Payment Support Service is currently included within the Direct Payment and as with other services purchased with a Direct Payment, the Service User contracts directly with a provider organisation for these services.

Purpose of this policy

8. This policy builds on previous guidance available and sets out how the council will interpret its duties and responsibilities in relation to Direct Payments within the new Care Act legislation. For the benefit of staff and people using services it aims to set out clearly the Council's position and the different roles and responsibilities.
9. The administration, management and monitoring of Direct Payments can be a complex area for the Council and for individuals. While Direct Payments offer people choice and control over how their services are provided and can often deliver the best outcomes in terms of meeting needs, they can also generate uncertainty in relation to how they should be used and what they can be used for. There are also a number of risks for both the Council and for individuals associated with the potential for Direct Payments to be used, knowingly or otherwise, in ways that are illegal, unsafe or inefficient.
10. The challenge for the Council is to balance the principles of individual choice and control as set out in the Care Act, with the need to use resources effectively and efficiently and to be accountable for the use of public money. Although individuals will use their Direct Payment to purchase and contract for services in their own right, the Council must ensure that, as far as possible they are enabled to do so within a framework which promotes arrangements that are legal and safe and allows for the use of public money to be properly accounted for.
11. The ways in which this policy can be delivered and improved evolve over time, for example through the integration agenda with health and also seeking corporate opportunities, such as the recent agreement to use the Council's Environment and Resources Department to carry out Disclosure and Barring Service checks.

Reason/s for Recommendation/s

12. To provide a clear policy framework for Direct Payments in Nottinghamshire that promotes the safe and legal use of Direct Payments and aligns with the priorities of the Council's Strategic Plan and Adult Social Care Strategy.

Statutory and Policy Implications

13. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Safeguarding of Children and Vulnerable Adults Implications

14. The policy requirement for Direct Payment recipients who intend to employ staff to support them to carry out Disclosure and Barring Service checks promotes the safeguarding of children and vulnerable adults.

RECOMMENDATION/S

- 1) It is recommended that Committee agrees to consult on the Direct Payments Policy with a further report on consultation outcomes to come to a future Committee.

Jon Wilson

Deputy Director of Adult Social Care, Health and Public Protection

For any enquiries about this report please contact:

Malcolm Potter

Commissioning Officer, Strategic commissioning

Email: malcolm.potter@nottscg.gov.uk

Constitutional Comments (LM 10/12/14)

15. The Adult Social care and Health Committee has delegated authority within the Constitution to approve the recommendations in the report

Financial Comments (KAS 20/12/14)

16. There are no financial implications contained within the report.

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.

- 'None'.

Electoral Division(s) and Member(s) Affected

- 'All'.

ASCH279