

28th October 2013**Agenda Item: 7****REPORT OF THE SERVICE DIRECTOR FOR JOINT COMMISSIONING,
QUALITY AND BUSINESS CHANGE****TENDER FOR DIRECT PAYMENT SUPPORT SERVICES****Purpose of the Report**

1. To advise the Adult Social Care and Health Committee of the national and local policy drivers relating to Direct Payment Support Services (DPSS) and of the work undertaken to prepare for the re-tendering of these services.
2. To seek approval from the Adult Social Care and Health Committee to commence the tender for DPSS and for a new contract to be awarded for commencement in May 2014.

Information and Advice**National and Local Policy Drivers**

3. Legislation requires local authorities to offer people who are eligible for social care the choice to take all or some of their money (personal budget), as a direct payment to arrange and purchase their own care and support. This includes people who do not have capacity to consent to a direct payment as long as a 'suitable person' can be identified to accept and manage the payment on their behalf.
4. Guidance¹ states that local authorities should provide support to people who are considering the use of direct payments, including adequate support to those people who wish to use their direct payment to employ their own support staff. The guidance identifies that most people find it more successful if this support is provided by an independent organisation who can offer impartial, specialist advice, peer support and services to support the delivery of safe and effective direct payments.
5. In line with the Government's 'Think Local, Act Personal' policy, it is Nottinghamshire County Council policy to support more people to have choice and control over the type of services they are able to access and the way in which these services are provided. For many people the best way of doing this and achieving positive outcomes from their social care, is through choosing a direct payment; and numbers of people locally taking a direct payment are rising. In the last national survey 2011/12, Nottinghamshire County Council came fourth within the peer group for numbers of service users and carers taking direct

¹ Health and Social Care Act Guidance 2008

payments. Nearly £30 million of services are purchased through people's individual direct payments in Nottinghamshire. The Council currently delivers direct payments to 36% of people with a personal budget with a target of 40% by March 2014.

6. The Council is working with Clinical Commissioning Groups (CCGs) who are developing the use of Personal Health Budgets. This will ensure an integrated approach, so that where a person has a jointly funded direct payment, they can use one DPSS provider.

Current DPSS

7. Currently people can choose and arrange for any provider they wish to support them to manage their direct payment. The Council operates an accredited list of 11 providers that people can use and that those who are most vulnerable (for example, not able to have their own bank account) are required to use.
8. In 2012/13 the Council spent £506,000 on DPSS to support 500 people to set up their direct payment packages.

Local issues impacting on the delivery of home based support services

9. Although there are many providers to choose from, one provider currently provides a service to approximately two thirds of people requiring a DPSS. One DPSS has recently given notice of its intention to exit Nottinghamshire's accredited list, with a further 4 providers indicating that they are also considering this. The main reason given is that there is not sufficient work coming to them to make the DPSS aspect of their business viable.
10. Alternative options to the support provided by a DPSS are now available which have not been available previously and the proportion of people needing the specialist support of a DPSS to manage their direct payment is decreasing. For example, the Council has introduced pre-payment cards. These enable an amount of money to be loaded directly onto a card which individuals can then use to pay a provider without the money needing to go through their bank account. It is a cost effective alternative to a DPSS for some people. It is now therefore possible to support more people to manage their direct payments themselves, without the need for on-going support and this will be a key principle of the new service.
11. The rise in numbers of direct payments increases the number of individual financial audits of direct payments that the Council has to complete. To continue to manage the growth in direct payments and to support existing users, the Council needs to ensure that we have a robust system in place to support direct payment recipients. The Council seeks to develop a partnership approach to working with a DPSS with clear lines of responsibility and communication.
12. Direct payment recipients currently choose and contract directly with DPSS providers. This has resulted in limited opportunities for the Council to monitor quality and gather information to understand the nature of the current market, or facilitate its future shape and direction. A recent internal audit of direct payments identified the need to put in place more robust information sharing arrangements between the Council and DPSS providers, which is built into the new service proposed.

13. Some people choose to use their direct payments to directly employ their own staff, Personal Assistants (PAs). This is a cost effective solution for many people, but more complex to set up. It usually takes longer to arrange as the individual may need training to become an employer and understand their legal obligations as well as their rights. To recruit a PA, most people will need the service of a DPSS which has the skills and competence to ensure that all legal matters related to employment, health and safety at work, providing contracts of employment and employers' liability insurance are in place. A DPSS will also help to recruit the right PA, which may include using their own PA list or placing adverts and interviewing, promoting the use of the Disclosure and Barring Service check and the provision of references. DPSS providers play a key role in assisting in contingency planning where PAs leave or have extended periods of illness.

Future commissioning of DPSS

14. In preparing to re-tender the DPSS, a comprehensive review has been undertaken involving people who use services, DPSS providers and Council staff (Appendix A). This has considered what a good DPSS should look like and how any new contracts may be configured so that they most appropriately meet outcomes for services users and carers whilst at the same time being cost effective. This review has included:
- discussions and workshops with service users, carers and providers about their experiences of existing services and what they think does and doesn't work well
 - an analysis of the strengths and weaknesses of the current service model
 - forecasting future demand
 - making it easier for people to get support when they need it, including ways of streamlining processes and reducing bureaucracy
 - consulting with providers about their experiences of working with other local authorities, what they feel has and hasn't worked
 - learning from other local authorities on what they regard are strengths and weaknesses of the models they use
15. The above work, informed the following key principles of a new specification in which DPSS providers:
- promote self-management, enabling people to manage their own direct payment as much as possible themselves
 - manage demand, using their own initial assessment and on-going review of all referrals in order to identify the most appropriate and least intensive option to meet an individual's needs
 - target resources at those with greatest needs, for example, work with the Council to review people who could move from a DPSS onto pre-payment cards
 - are pro-active in supporting individuals to identify and pay back any monies accruing higher than 6 weeks value of service, triggering a review of needs if necessary
 - promote and increase use of PAs strategically and for individuals, matching vacancies to PAs, advising PAs and employers of the option of using Choose My Support to advertise

- source efficiencies through centralising the procurement and management of overheads for individual one-off costs and organisational non-fixed costs, such as insurance cover for employers liability
- explore ways of establishing peer support mechanisms 'Experts by Experience'
- develop innovative, cost effective ways of responding to and resolving one-off issues that people not receiving an on-going service may have e.g. by e-mail/web-site/text/helpline

Delivering services more efficiently and effectively

16. It is proposed that two levels of service will be offered:

- A start up service** to work for up to one year with all new service users considering becoming employers and those with complex direct payment support needs. Support would be individually tailored to enable service users to use their direct payment safely, legally, effectively and become as independent as possible. This will include, for example, assessment of a person's suitability to become an employer of PAs followed by advice and practical support for those who then go on to employ PAs, preparation and submission of accurate HMRC returns and payments and agreeing suitable employer liability insurance. Where people consider but choose not to employ PAs, the provider will advise and signpost people to other information (e.g. Choose My Support web based directory).
- Issue-based support** would be available to people who have completed the "start up" pathway and also to all other people who are receiving direct payments but have no current support contract with a DPSS provider. This would comprise of:
 - on-going payroll support for people employing PAs
 - one-off issue resolution, to be achieved by the most cost effective method e.g. by mail/web-site/text/helpline. The majority of work required after year one will be addressed by this service.
 - issues that need more than two weeks to resolve would require review by the care manager to confirm appropriateness of the support plan and direct payment and assess the need for time limited support.

Future DPSS contract model

- The benefits and disadvantages of having contracts with several different providers or just one sole provider were considered. Having only one provider has the greatest potential for delivering a cohesive service that manages demand and could offer economies of scale. The disadvantage is that it relies on only one provider to deliver all the volume of work and meet all individual and specialist needs, for example, to support people with sensory impairments or dementia.
- A third alternative, preferred option, is for the Council to contract with one lead agent provider who would appoint a minimum of two associate providers to work with. The agent provider would need to evidence how they would engage an adequate number of associates to ensure choice in the local market, retention of smaller specialist niche

providers and also to minimise disruption of any transfers of service users. The agent provider would make arrangements for appropriate work to go to their associates and people using the service will only have to go to one access point.

19. The lead agent provider will have the co-ordinating role. They will take new referrals and manage demand, ensuring the adoption of an approach that promotes self management and independence wherever possible. As well as enabling this cultural shift, it is also more cost effective to have only one provider doing this. There are several efficiencies available from all the work going into one access point, including the provider being able to secure better deals for service users due to volume, for example, on employer insurance.

Transition

20. The transition plan will aim to minimise disruption to people using services and enable successful individual arrangements to be maintained by these moving into the new service through providers becoming associates. All new work and the transfer of the higher risk packages would be prioritised, with other individuals transferring at their yearly review.

Other options considered

21. There is a legal requirement for the Council to provide support to people to help them manage their direct payments. A different DPSS service is required to that currently in place. This is due to there now being new ways of people managing their direct payments more independently, reducing volume of work, the need to target the service at people with more complex and higher risk support arrangements and the need for more robust information sharing arrangements between the Council and DPSS. The new service specification addresses these issues as outlined in the report. The options for the best contract models to deliver this service have been appraised as summarised in paragraphs 17-19 of this report.
22. Consideration has been given to establishing a Council managed service. This would, however, compromise the Council in terms of an independent offer of support, be more costly due to Council staff terms and conditions and also be a high organisational risk to the Council due to the need for this service to provide very specialist employment and tax advice.

Statutory and Policy Implications

23. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, 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.

Implications for Service Users

24. People who use direct payments say that it is more important for them to have choice and control about the ways in which their care and support services are delivered and as long as there is some choice of DPSS providers they are satisfied.

25. The proposed DPSS will ensure that direct payment recipients who have established existing successful support arrangements can retain these. We would expect all current accredited providers to be willing to consider becoming an associate provider.

Financial Implications

26. 2012/2013 actual spend on start-up direct payment support of £500,000 will be used to commission the new service.

Equalities Implications

27. As well as undertaking consultation with service users and carers, an Equality Impact Assessment has been completed and issues reflected throughout the report. This will be reviewed following the tender process and in advance of the implementation of the new contracts.

RECOMMENDATION/S

It is recommended that the Adult Social Care and Health Committee:

- 1) Notes the work undertaken to review existing Direct Payment Support Services and to plan for the re-tender of these services.
- 2) Approves the tender for Direct Payment Support Services and for a new contract to be awarded for commencement in May 2014.

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Constitutional Comments (LM 10/10/13)

28. The Adult Social Care and Health Committee has delegated authority to approve the recommendations in the report.

Financial Comments (CLK 17/10/13)

29. The financial implications are contained in paragraph 26 of the report.

Background Papers

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.

a. Equality Impact Assessment

Electoral Division(s) and Member(s) Affected

All

ASCH163