

## **REPORT OF THE CHAIR OF THE ADULT SOCIAL CARE AND HEALTH COMMITTEE**

### **DIRECT PAYMENTS POLICY**

#### **Purpose of the Report**

1. To seek approval of the proposed Direct Payments policy as recommended by the Adult Social Care and Health Committee on 1 June 2015 subject to further minor changes.

#### **Information and Advice**

##### **Context**

2. A report was brought to the Adult Social Care and Health Committee in January 2015, seeking approval for a proposed Council policy on Direct Payments. Committee decided that there should be a period of public consultation. A further report on the consultation was considered by the Adult Social Care and Health Committee on 1 June 2015.
3. 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. By March 2015, 45.2% of people in Nottinghamshire who use social care services and have a personal budget chose to take a Direct Payment to arrange to purchase all or some of their care.
4. 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. The Council must however be able to demonstrate that the support is achieving the outcomes people need, offers value for money and provides appropriate safeguards.
5. This proposed 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 Care Act 2014. 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. The proposed policy is included at **Appendix 1**.
6. The consultation process sought views on the proposed policy from the people of Nottinghamshire, staff, providers and those receiving a Direct Payment.

7. The recommendations in this report are informed by the recent consultation, as well as those made following the slightly earlier consultation undertaken on the increased use of pre-paid debit card, as part of budget savings proposals approved by Full Council on 26 February 2015. The development of the report also takes into account all relevant advice.
8. The consultation period has given the Council time to listen to opinion and it has helped to identify some issues which have prompted some recommended changes to the draft policy.

## **Consultation**

9. The consultation exercise ran for a 4 week period from 13<sup>th</sup> April to 15<sup>th</sup> May 2015. The strategic commissioning team has worked closely with the Council's marketing and engagement team to develop and deliver an appropriate consultation process through:
  - Survey Monkey
  - social media such as Twitter
  - face to face meetings with service users, families and carers who have a direct payment
  - face to face meetings with social care staff
  - face to face meetings with accredited Direct Payment support service providers
  - mailing of the consultation documents and survey (with prepaid envelope) to a sample group of 40 service users known to have a direct payment
  - the provision of paper copies of the documents and survey (with prepaid envelope) to people on request
  - promotion of the consultation through key groups

## **Care Act**

10. Through the consultation process issues have been raised which relate to the Council's interpretation of its duties and responsibilities under the Care Act. These include the degree of choice and control that the Council must provide in relation to different elements of service, including pre-paid debit cards and Direct Payment Support Services. An issue was also raised in relation to the requirement for all people employed by the recipient of the direct payment to be DBS checked, in terms of the proposed process to be used. At the meeting on 1 June 2015, the Adult Social Care and Health Committee asked that the views of the Chair of the Nottinghamshire Safeguarding Adults Board be sought in relation to the proposed requirement for DBS checking of prospective employees and the provision for this to be waived in some circumstances. The Chair has subsequently stated that, while he would want assurance from the Local Authority that residents are safe and risks are mitigated, the detail of how this is best done is for the local authority to determine.
11. The Care Act came into force on 1<sup>st</sup> April 2015 and the interpretation of the statutory guidance is developing. In relation to the specific issue of Disclosure and Barring Service checking, the rationale for the proposed process is to ensure that the Council can balance freedom of choice with its own safeguarding responsibilities. The proposed process reflects current practice within Children's Services where DBS checks are

undertaken. The Council will continue to review and develop its procedures in light of relevant guidance and emerging interpretation of the new legislative framework.

### **Summary of proposed changes**

12. The proposed policy is included at **Appendix 1**. The draft policy submitted to Adult Social Care and Health Committee in January 2015 has been further amended to reflect issues raised in subsequent consultation and advice as follows:
  - a) Changes to paragraphs 6 and 6.1, relating to the recouping by the Council of any funds in an individual's Direct Payment account in excess of six weeks' worth of Direct Payment. This has been changed to state that the amount that an individual can accrue will be agreed and recorded as part of the support, planning and review processes, based on individual circumstances
  - b) Changes to paragraphs 11-11.7 in relation to the requirement for DBS checks for all people being employed as personal assistants to carry out regulated activity. This section has been changed to provide the discretion to waive the requirement in exceptional circumstances.
  - c) Changes to paragraph 7.2 in relation to the use of pre-payment cards. This has been changed to state that the use of the pre-paid debit cards is the Council's preferred option for managing a Direct Payment. This will better reflect the Care Act requirement that pre-paid cards should not be provided as the only option.
13. Further work will be carried out to develop staff guidance to support the implementation of the Care Act as it relates to direct payments. This will include approaches to tackling the misuse of direct payments.

### **Reason/s for Recommendation/s**

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

### **Statutory and Policy Implications**

15. 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**

16. The policy requirement for Direct Payment recipients who intend to employ staff to be supported to enable appropriate Disclosure and Barring Service checks to be made promotes the safeguarding of children and vulnerable adults.

## **RECOMMENDATION/S**

- 1) That the Committee approves the proposed Direct Payments policy.
- 2) That the Committee approves work to commence on developing procedural guidance for staff including where recoupment of funds may be required in any case where there has been a misuse of funds.

**Councillor Muriel Weisz**  
**Chair of the Adult Social Care and Health Committee**

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### **Constitutional Comments (HD - 20/07/15)**

28. The recommendations fall within the authority of the Policy Committee.

### **Financial Comments (KAS 05/15)**

29. There are no financial implications contained within this 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.

Direct Payments Policy – report to Adult Social Care and Health Committee on 5 January 2015  
County Council Strategic Plan 2014-18  
Adult Social Care Strategy  
Direct Payments Policy – report to Adult Social Care and Health Committee on 1 June 2015

### **Electoral Division(s) and Member(s) Affected**

All.