

Report to the Cabinet Member for Adult and Community Services and Cabinet Member for Children, Young People and Schools

Report submitted by: Head of Service, Policy, Information and Commissioning (Age Well)

Date: 9 March 2016

Part I

Electoral Division affected:
All Divisions

Approval of Revised Direct Payment Policy

(Appendix 'A' refers)

Contact for further information:

Sue Knox, 01772 532078, Manager - Policy, Information & Commissioning Age Well
sue.knox@lancashire.gov.uk

Executive Summary

This report outlines a revised Direct Payments Policy for adults and children and young people and the requirements for a revised Direct Payments Policy following the introduction of the Care Act 2014 and Children and Families Act 2014. It is proposed that previously there were two separate policies for Adults (2013) and Children and Young People (2007) which have now been amalgamated and updated in line with the Care Act 2014 and the Children & Families Act 2014.

This is deemed to be a Key Decision and the provisions of Standing Order 25 have been complied with.

Recommendation

The Cabinet Member for Adult and Community Services and the Cabinet Member for Children, Young People and Schools are recommended to:

- (i) approve the Direct Payments Policy, and
- (ii) agree that any fundamental changes to the policy and procedures should be presented to the Cabinet Members for approval, and to authorise the Director of Adult Services and the Director of Children Services, in consultation with the Director of Governance, Finance and Public Services, to approve all other future amendments to the policy, as well as any revisions to the associated procedures and guidance to support the implementation of the policy.

Background and Advice

Direct payments have been available since the mid 1990's to adults with social care needs and since 2001 to children and young people with disabilities. Direct Payments were introduced under the Direct Payments Act 1996 and the Carers and Disabled Children Act 2000 as a result of disability rights campaigns to gain choice and control over their lives. They remain the Government's preferred method of providing personalised care and support.

If a person has care needs, is eligible for support and has been given a personal budget, instead of asking the local authority to arrange that care for them they can request that the budget is given to them as a direct payment. With this they can either employ staff or buy in services, the benefit is that they can be in complete control of how their care needs are met, but of course along with this choice comes responsibilities and this policy sets out those responsibilities. Currently there are 4232 adults and 409 children who receive direct payments.

Previously there were two separate policies for Adults (2013) and Children and Young People (2007) which have now been amalgamated and updated in line with the Care Act 2014 and the Children & Families Act 2014. The purpose of one policy is to make access, implementation and updating of the policy easier and more transparent for all relevant parties.

The updated policy reflects the changes and extra clarifications in the two pieces of legislation.

The changes that have been included in relation to children and young people are:

- they are now eligible for personal budgets,
- all staff employed by the direct payment recipients have to have a Disclosure and Barring Service (DBS) check,
- no payments can be made to people with parental responsibility.

The primary changes that have been included in relation to adults are:

- where the council think it is necessary, there is an option to pay somebody to oversee complex packages of care;
- the council cannot insist that the budget is taken via a pre-payment card;
- the reviewing process must be a 'light touch' but says new direct payment agreements must be reviewed within six months and then at a yearly interval.

One of the complexities with providing a direct payment is the question of what it can be spent on. The majority of direct payment recipients use it to meet their eligible needs and create good wellbeing outcomes. The new legislation makes it very clear that local authorities should not write lists of what direct payments can be spent on. The direct payment can be spent on anything that meets an eligible social care need and is detailed in the care or support plan.

The updated policy states the direct payment should be spent on items or services that are safe, legal, meet eligible social care needs of the individual and is detailed in the care or support plan. National guidance does allow councils to produce a short

list of what it cannot be spent on such as services that are free of charge from other sources e.g. health, housing, benefits and usual household expenses. This has been included in the policy.

In addition, the County Council currently commissions a Direct Payment Support Service which supports all Direct Payment Recipients (adults and children) and one policy will support the effective delivery of this service. There is currently a procurement exercise underway to commission a new Direct Payment Support Service and the revised policy needs to be in place to coincide with the new contract.

Once the policy has been approved, new procedures and practice guidance will be produced for both adult social care and children's services. All key staff and relevant stakeholders will be trained and briefed on the new policy. These procedures have been developed and will be finalised following approval of the policy and implementation of the new Direct Payment Support Service with the successful provider. We are seeking approval for the Director of Adult Services and Director of Children Services, in consultation with the Director of Governance, Finance and Public Services, to approve all future amendments to the policy and revisions of associated procedures and guidance to support the implementation of the policy going forward.

Fundamental changes to the new policy and associated procedures will however follow the full decision making pathway through to Cabinet Member approval.

Securing this approval of the revised policy not only ensures compliance with legislation and supports operational delivery, it also demonstrates the County Council's commitment to deliver a fair, consistent and transparent offer.

Consultations

Public consultation has not been undertaken as the documents in question are not new presentations but rather revisions to ensure they fully represent the new duties and requirements placed on the local authority under the Care Act 2014 and the Children and Families Act 2014.

Implications:

This item has the following implications, as indicated:

Financial

The revisions have no new financial implications

Legal

The policy has been assessed and approved by the County Council's Legal Services before presentation to Cabinet Members for final approval. The policy will be publically accessible as part of this process with the aim of reducing legal challenge or complaints due to lack of understanding or transparency.

Equality and Diversity

The revised combined policy does not represent a change or reduction of services to existing or new clients. The County Council's Equality and Cohesion team has been consulted and has confirmed that as there are no detrimental impacts to any of the nine protected characteristic groups, a detailed Equality Analysis is not appropriate or needed in this instance. The revised policy seeks to take into account specific requirements of the Care Act 2014 and Children's and Families Act 2014 and at the same time combine the former Adult and Children and Young people policies into one composite policy with no changes/reductions of existing services proposed.

Risk management

If the recommendations are not taken forward, the County Council will not meet its statutory duties under the Care Act 2014 and Children and Families Act 2014 which will result in the County Council being exposed to legal challenge and reputational damage.

List of Background Papers

Paper	Date	Contact/Tel
Direct Payments Policy	26/01/2016	Sue Knox, 01772 532078, Manager - Policy, Information & Commissioning Age Well sue.knox@lancashire.gov.uk

Care Act 2014 –
http://www.legislation.gov.uk/ukpga/2014/23/pdfs/ukpga_20140023_en.pdf

Children and Families Act
(2014)
<http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

Reason for inclusion in Part II, if appropriate

N/A.