

OPEN

**Adults and Health Committee / Children
and Families Committee**

25 March 2024 / 29 April 2024

**Implementation of All-age Direct
Payment Policy**

**Report of: Helen Charlesworth May, Executive Director Adults,
Health and Integration and Deborah Woodcock, Executive Director
Children's Services**

Report Reference No: AH/09/2023-24

Ward(s) Affected: All

Purpose of Report

- 1 This report seeks approval from Adults and Health Committee and Children and Families Committee to endorse and implement the 'all age' Direct Payment Policy.
- 2 Direct payments contributes to the Council's Corporate Plan 2021 – 2025 objectives of a council which empowers and cares about people, an open and enabling organisation and a thriving and sustainable place.

Executive Summary

- 3 Direct payments are a key part of personalisation, enabling people to have choice and control over how they draw on care and support. Direct payments enhance quality of life, improve overall wellbeing and independence for Cheshire East residents.
- 4 The 'all age' Direct Payment Policy sets out Cheshire East's approach to providing direct payments. The policy provides guidance on making and receiving a direct payment where there is an eligible need, for adults, adult carers and children and/or those with parental responsibility for a child.

- 5 Consultation and engagement has been undertaken with residents in Cheshire East to provide an opportunity for them to help shape and inform the policy. Engagement with members and wider stakeholders has also taken place.
- 6 Final approval of the 'all age' Direct Payment Policy will be sought from Adults and Health Committee on 25 March 2024, and Children and Families Committee on 29 April 2024. Please see Appendix 1 – All age Direct Payment Policy.

RECOMMENDATIONS

The Adults and Health Committee and Children and Families Committee is recommended to:

1. Approve and instruct officers to implement the 'all age' Direct Payment Policy in Cheshire East.

Background

- 7 Direct payments are a key part of personalisation, ensuring people are able to tailor their care and support as much as possible. Direct payments allow individuals with eligible needs to receive funds from the local authority in order to arrange their own care and support services and are available for adults, children and carers.
- 8 The council has a statutory duty to meet a person's need for care and support through direct payments, provided the person requests that their needs be met in this way. The Care and Support (Direct Payments) Regulations 2014 and Section 117 (2c) of the Mental Health Act 1983, also set out conditions under which direct payments must be made. The duty arises for children who meet criteria under s17 Children Act 1989, S2 Chronically Sick and Disabled Persons Act 1970 or meeting the definition of disability under S6 Equality Act 2010.
- 9 The council also has a statutory duty under the Care Act to provide information and advice relating to care and support for adults and support for carers including types of care and support available locally and how to access care and support. The Children and Families Act 2014 mandates that local authorities must provide information, advice and support about health and social care for children, young people and parents.
- 10 Cheshire East Council currently has separate direct payment policies for adults and children. The Adults Direct Payment Policy has not been

refreshed since 2015. The introduction and implementation of an 'all age' Direct Payment Policy will ensure there is a consistent approach to providing direct payments across adults and children and will facilitate the transition arrangements for those people with enduring life long needs.

- 11 As part of this alignment, since April 2023, the Direct Payment Personal Assistant hourly rate was uplifted and aligned via the Medium-Term Financial Strategy for adult and children Direct Payment recipients to £13.98 per hour.
- 12 The refreshed policy provides clear guidance to direct payment recipients and/or their responsible person and practitioners in Cheshire East. It also aims to take account of, and refer to, possible future changes to meet changing customer demand and flexible new models of care with a move away from traditional services.
- 13 Public consultation took place on the revised policy from 20th November 2023 – 9th February 2024, in order to seek the views of Cheshire East residents who are in receipt of a Direct Payment and/or those with parental responsibility.
- 14 To note, not all sections of the draft policy required consultation, for example, legislation and governance processes were out of scope. This also provided an opportunity to raise the importance of for example, safeguarding.
- 15 A Direct Payment Policy Project Group was established to provide oversight of the development of the draft policy, considering current policies, best practice and learning from other local authorities. The project group included representation from adult and children's social care and legal services, business and finance, commissioning, carers lead and the adult's commissioned Direct Payment Support Service (PeoplePlus).
- 16 To support the development of the draft policy, the council's LiveWell website pages have been updated and refreshed making it easier for residents and staff to navigate. This remains work in progress, and additional information will be added should agreement to implement the new 'all age' Direct Payment Policy be granted. This will include an easy read summary of the policy. LiveWell pages can be accessed via the following link: [Direct Payments and Personal Assistants \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/direct-payments-and-personal-assistants)
- 17 The draft 'all age' Direct Payment Policy has been refreshed following feedback received during the consultation; a copy of the new policy is attached as Appendix 1.

Consultation and Engagement

Consultation methodology

- 18 The aim of the consultation was to understand the views and concerns that residents and relatives may have about the proposed changes to the Direct Payment Policy, to help inform the new policy.
- 19 A consultation and engagement plan was developed in collaboration with adult and children's services to identify the target audience, key stakeholders, and wider participants to consult with. An overview document was developed capturing each section of the draft policy, which helped to identify policy sections for consultation via the survey.
- 20 Informal engagement took place as part of the Personal Assistant recruitment campaign, to gauge residents, family member and carer views regarding the development of an 'all age' Direct Payment Policy, prior to a formal public consultation. Individuals commented that this would be a positive approach by the Council.
- 21 Public consultation took place from 20th November 2023 to 9th February 2024. A range of feedback options were provided including public facing events, a questionnaire available online and in paper format, and a dedicated council email address for feedback via email.
- 22 Each direct payment recipient (529 adults and 131 children and/or those with parental responsibility) was invited to take part in the consultation via postal letter. This provided details on how recipients could share their views on the draft policy by completing a survey or and/or attending an event.
- 23 The survey provided respondents with the opportunity to comment on each section, provide overall feedback on the policy and/or to provide additional comments. A frequently asked questions document was also developed to support the Direct Payment Policy consultation and engagement. A copy of the FAQ is attached as Appendix 3.
- 24 A dedicated online consultation webpage was developed to host the consultation material, including details of the two public facing consultation events taking place. A copy of the full draft policy was made available online and through paper packs where requested. Paper consultation packs replicating the online content were made available in each of the libraries in Cheshire East and additional copies were made available upon request.

- 25 During the consultation period, media releases were shared via social media platforms and the Council’s webpage. The consultation was also publicised widely in the borough via the following routes:

Council press release / social media	Members briefings
Adult social care staff	Learning Disability Partnership Board
PeoplePlus publicised via newsletter and website	Healthwatch Cheshire East via website
Mental Health Partnership Board	All age Carers Hub – newsletter
Cheshire East Parent Carer Forum	Children Services
SEND Jigsaw meetings	2 events (Macclesfield and Crewe)

Two public facing consultation events were held on 16th January at Macclesfield Town Hall and 18th January at Crew Municipal Building. At both events, council officers were on hand to explain the consultation proposals, answer queries, and gather feedback, with paper consultation packs also provided.

- 27 At each of the public facing consultation events, the following organisations were in attendance to provide information and advice to attendees:

- Healthwatch Cheshire East
- PeoplePlus (adult Direct Payment Support Service)
- Carers Hub – all age
- Cheshire East Council – business and finance and commissioning representatives

- 28 A total of 9 people attended the events, of which 5 attended in Macclesfield and 4 attended Crewe.

- 29 Two face to face meetings were held via the SEND Youth Forum (Jigsaw) meetings, to gather the views of young people. The Participation Officer facilitated the meetings on the following dates:

- 23 January 2024, Youth Support Service Hub, Macclesfield

- 25 January 2024, Monks Coppenhall Family Hub, Crewe

- 30 To note none of the young people will be managing the direct payment themselves, it is the person with parental responsibility. All parents of a child/young person in receipt of a Direct Payment, or those with parental responsibility, received a letter informing them of the consultation opportunity.
- 31 There have been limitations consulting with young people due to the complexities of the topic. As such, there will be ongoing conversations and support for young people and their families, during and after the policy implementation, including support from an advocate where required for young people who are non-verbal.
- 32 A Direct Payment Policy Consultation Briefing took place for Adults and Childrens Committee members on 15th November 2023. Attendees also included the Executive Director of Adults, Health and Integration, Head of Integrated Commissioning for Children, Families and Adults with complex needs, Business and Finance, and Commissioning representatives.

Consultation feedback

- 33 In total 62 consultation responses were received, which included 52 survey responses, nine people attending events, as well as conversations with young people on the draft policy at Jigsaw meetings. One written response was also received to the Direct Payment email box from the organisation Disability Positive.
- 34 Direct payments can be perceived as a complex topic area and the changes were largely technical in nature, meaning that feedback was unsurprisingly limited. However, a range of feedback options were provided and widely publicised, and steps were taken to enable as many residents as possible to take part during the consultation. A key achievement was aligning and bringing together children and adult direct payments into one policy document. The 'all-age' Direct Payment Policy Consultation Report 2024 is attached as Appendix 2.
- 35 Of the 52 people who responded to the survey:
- 69% of survey respondents were completing the survey as a carer or family member of someone who receives a direct payment from the council
 - 15% completed the survey as someone who receives a direct payment from the council directly.
 - The remaining 16% of respondents were from the following categories as an individual resident, as someone who receives a

direct payment, a Cheshire East Council employee, a Cheshire East Ward Councillor or other.

- 36 Of those survey respondents who receive a direct payment or who were filling in the survey for someone who does, 68% use the Direct Payment to pay a Personal Assistant, 39% use the direct payment to pay for other activities including day care or activities, 18% use the direct payment to pay a home care agency, and 14% indicated other.
- 37 There were strong levels of support recorded in feedback for the amended policy, with 71% of respondents agreeing that the draft 'all age' Direct Payment Policy for 2024 should be adopted, whereas 13% disagreed. Example reasons for agreement included:
- To improve the current situation
 - To simplify the process
 - To make direct payments more accessible
 - To help ensure a smooth transition from children to adults
 - To help carers find personal assistants more easily.
- 38 Key themes from service user feedback are outlined below for the areas of the policy that were identified as particularly salient to social care users, children/young people and parents.
- **Section 15 – Direct Payment Restrictions**
This section sets out the restrictions on the use of a direct payment and describes what direct payments cannot be used for.
Feedback: no substantial impact was identified through planning work or via consultation feedback. 80% of respondents agreed with the text in the policy over Direct Payment restrictions.
 - **Section 17 – Definition of Personal Assistants**
This text broadens and aligns the use of Personal Assistants (PA) and self-employer personal assistants across all ages.
Feedback: The Direct Payment Project Group felt the change provides increased flexibility. 88% of respondents agreed with the revised definition of a PA resulting from this change.
 - **Section 19 – Pooled Budgets Direct Payments.**
This section describes how individuals could join together to 'pool' their direct payment, so that they could employ a personal assistant or contract with an agency to achieve better outcomes.
Feedback: For those direct payment recipients who choose to pool their budgets, it is thought that this will have a positive impact, as it would allow them to work together to achieve increased outcomes. 74% of respondents agreed with this approach based on consultation responses (with only 8% opposing).

- **Section 20 – Contingency Arrangements**
This section describes how recipients must make arrangements or contingency plans to cope with emergencies.
Feedback: This was not deemed contentious in the consultation feedback, although only 58% of users currently have made such arrangements, meaning the Council needs to continue to work with Direct Payment recipients around ensuring they have contingency arrangements in place.
- **Section 27 – Safeguarding/DBS**
Recipients were asked if they were aware of safeguarding procedures, and the requirement for a DBS to be carried out for both children/young people and adult direct payments service users.
Feedback: This has been provided for clarity to ensure Direct Payment recipients have ensured that DBS checks are in place and that they are aware of safeguarding procedures. 90% of respondents agreed with the approach.
- **Section 29 – Pre-paid Card**
This section set out that under the new policy, a direct payment prepaid card would be implemented.
Feedback: Pre-payment cards provide more convenience for service users and more efficient financial management. The highest portion of respondents agreed with this approach, with 46% supporting and 29% opposing. Concerns expressed included: that it should not be a default option; that a card may inhibit flexibility of payment and they may give the Council too much oversight over spend.

It should be noted that whilst the preference is for pre-payment cards to be used, it will not be mandatory, with the needs of the user carefully considered.

- 39 It is important that the council provides feedback in response to views shared by residents. This will include developing an action plan to illustrate actions to be taken and progress in response to feedback received from the consultation opportunity. A summary is detailed in Appendix 4.

Reasons for Recommendations

- 40 The 'all age' Direct Payment Policy aligns the approach for providing and managing direct payments for adults and children, in order to meet their care and support needs.

- 41 The development of the policy was overseen by the Direct Payment Policy Project Group working in collaboration with representatives from adult and children social care and legal services, business and finance, commissioning and the Direct Payment Support Service. The policy has been further informed by residents in Cheshire East.
- 42 The policy was written to provide a source of information to people who already have a Direct Payment or are thinking about getting one, and to provide operational staff with clear guidance and a point of reference, as they support people to navigate the care and support system.
- 43 The implementation of ‘all age’ Direct Payment policy supports Cheshire East Corporate Plan 2021 – 2025, personalisation and the council’s statutory duty to meet a person’s need for care and support through direct payments.

Other Options Considered

- 44 One option was considered:

Option	Impact	Risk
Do nothing	Fragmentation of approach and lack of clarity to providing Direct Payments across adults and children	Lack of clarity to residents and/or staff particularly for those young people transitioning from children services to adult services

Implications and Comments

Monitoring Officer/Legal

- 45 The proposed all-age Direct Payments Policy has been subject to appropriate consultation and all responses have been considered as set out above.
- 46 The statutory guidance to the Care Act 2014 states that ‘while the use of such cards [prepaid cards] can be a useful step from managed services to direct payments, they should not be provided as the only option to take a direct payment. *The offer of a ‘traditional’ direct payment paid into a bank account should always be available if this is what the person requests and this is appropriate to meet needs.*” [para 12.59]. The proposed ‘all age’ Direct Payments Policy does not remove the choice of whether to take the direct payment on a pre-paid card or receive it in a bank account (All Age DP policy paragraph 29.2).

- 47 The clawback provisions in the Policy specify at para 29.5 that the Council ‘will allow a reserve equivalent’ to 4 weeks funds to be held as a contingency but reserves the right to reclaim funds in excess of this amount. The statutory guidance suggests this should be considered on a case by case basis to allow for the individual fluctuating needs of people to be accounted for [Statutory Guidance to Care Act 2014 paragraphs 4.25 to 4.26] and the Policy has been drafted in line with this.
- 48 The policy is lawful, and the proposals made and the consultation informing the final policy have been completed lawfully.

Section 151 Officer/Finance

- 49 i. the recommendation to approve the new ‘all age’ Direct Payment Policy does not present a change to the Council’s Medium Term Financial Strategy.
- 50 ii once the new policy is implemented, direct payments will need to be managed within existing approved budget.

Policy

- 51 The ‘all age’ Direct Payment Policy aligns adult and children direct payments, setting out the way the Council provides direct payments in Cheshire East.
- 52 The policy will support the Councils Corporate Plan 2021 – 2025:

An open and enabling organisation	A council which empowers and cares about people	A thriving and sustainable place
<ul style="list-style-type: none"> • Ensure transparency in all aspect of Council decision making 	<ul style="list-style-type: none"> • Work together with residents and partners to support people and communities to be strong and resilient • Reduce health inequalities across the borough • Support all children to have the best start in life • Increase opportunities for children and 	<ul style="list-style-type: none"> • Thriving urban and rural economies with opportunities for all •

	young adults with additional needs	
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Equality, Diversity and Inclusion

- 53 An Equality Impact Assessment was completed in October 2023 and has been updated to take into account the feedback received from the public consultation. The EIA is attached as Appendix 5.

Human Resources

- 54 There are no direct implications arising from the policy itself.

Risk Management

- 55 The successful implementation of the policy will be measured through adult and children social care, with any significant risks reported through appropriate channels including Commissioning SMT, People's DLT, Children SMT. Control of risks will take place via Direct Payment Policy Project Group.

Rural Communities

- 56 The policy will support people across all communities in Cheshire East including those in rural communities, ensuring equitable adoption of the policy.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 57 This is an all-age policy that includes children, and young people accessing their personal budget as a Direct Payment.
- 58 The policy provides clear guidance to direct payment recipients and/or their responsible person and practitioners in Cheshire East, by adopting the policy it will ensure a consistent approach to direct payments across all ages.

Public Health

- 59 The policy aligns the approach for delivering direct payments for adults and children and provides guidance and sets out how the Council will deliver direct payments in Cheshire East.

- 60 The policy aligns with the Joint Health and Wellbeing Strategy / Place Plan priorities:
1. Cheshire East is a place that supports good health and wellbeing for everyone
 2. Our children and young people experience good physical and emotional health and wellbeing
 3. The mental health and wellbeing of people living and working in Cheshire East is improved
 4. That more people live and age well, remaining independent; and that their lives end with peace and dignity in their chosen place
- 61 Direct payments can provide greater independence, choice and control for residents, and have a positive impact on the individuals health and wellbeing for residents accessing their personal budget as a direct payment in Cheshire East.

Climate Change

- 62 There is no direct impact on climate change through the implementation of this policy.

Access to Information	
Contact Officer:	Sharon Brissett, Project Manager, Sharon.brissett@cheshireeast.gov.uk
Appendices:	Appendix 1 – All Age Direct Payment Policy (final version) Appendix 2 –Direct Payment Policy Consultation 2024 report on Appendix 3 – Frequently Asked Questions (FAQ) Appendix 4 – Summary example of findings and actions consultation results Appendix 5 - Equality Impact Assessment
Background Papers:	Cheshire East Corporate Plan 2021 – 2025