

Adults and Health Committee

Agenda

Date: Monday, 25th March, 2024
Time: 10.00 am
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

To note any apologies for absence from Members.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary interests, other registerable interests, and non-registerable interests in any item on the agenda..

3. **Minutes of Previous Meeting** (Pages 3 - 6)

To approve as a correct record the minutes of the previous meeting held on 2 February 2024.

For requests for further information

Contact: Karen Shuker

Tel: 01270 686459

E-Mail: karen.shuker@cheshireeast.gov.uk with any apologies

4. **Public Speaking/Open Session**

In accordance with paragraph 2.24 of the Council's Committee Procedure Rules and Appendix on Public Speaking, set out in the [Constitution](#), a total period of 15 minutes is allocated for members of the public to put questions to the committee on any matter relating to this agenda. Each member of the public will be allowed up to two minutes each to speak, and the Chair will have discretion to vary this where they consider it appropriate.

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting.

5. **Adult Social Care Charging Policy** (Pages 7 - 128)

To consider a report on the implementation of the revised Adult Social Care charging policies.

6. **Implementation of All-age Direct Payment Policy** (Pages 129 - 260)

To consider a report on the implementation of the All-age Direct Payment Policy.

7. **Recommissioning of an Integrated Lifestyle Service (One You Cheshire East)** (Pages 261 - 284)

To consider a report on the recommissioning of the Integrated Lifestyle Service, currently known as One You Cheshire East.

8. **ANTON and PAM - Safeguarding Adults and Domestic Homicide Review - Updates** (Pages 285 - 298)

To receive an update on ANTON and PAM - Safeguarding Adults and Domestic Homicide Review.

9. **Minutes of the Cheshire East Health and Wellbeing Board** (Pages 299 - 302)

To receive the minutes of the Cheshire East Health and Wellbeing Board – 23 January 2024.

10. **Work Programme** (Pages 303 - 304)

To consider the Work Programme and determine any required amendments.

Membership: Councillors S Adams, A Burton, D Clark, J Clowes, N Cook, D Edwardes, M Edwards, S Gardiner, A Kolker, A Moran (Vice-Chair), J Place, J Rhodes (Chair) and L Wardlaw

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Adults and Health Committee**
held on Friday, 2nd February, 2024 in the Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor J Rhodes (Chair)
Councillor A Moran (Vice-Chair)

Councillors S Adams, C Bulman, D Clark, J Clowes, N Cook, D Edwardes,
M Edwards, S Gardiner, A Kolker, J Place and L Wardlaw

OFFICERS IN ATTENDANCE

Shelley Brough, Acting Director of Commissioning, and Integration
Jill Broomhall, Direct of Adult Social Care
Helen Charlesworth-May, Executive Director Adults, Health, and Integration
Karen Shuker, Democratic Services Officer
Dr Matt Tyrer, Director of Public Health
Janet Witkowski, Head of legal and Deputy Monitoring Officer
Nikki Wood-Hill, Lead Finance Business Partner

51 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor A Burton. Councillor C Bulman attended as a substitute.

52 DECLARATIONS OF INTEREST

There were no declarations of interest.

53 MINUTES OF THE PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on 22 January 2024 be approved as a correct record.

54 PUBLIC SPEAKING/OPEN SESSION

Mr Steve Nichols attended the Committee meeting on behalf of the Rossendale Trust, to speak in relation to item 5 - Medium Term Financial Strategy Consultation 2024/25 - 2027/28 Provisional Settlement Update. Mr Nichols requested that care providers receive the appropriate level of financial support in respect of Cheshire East Council's 2024 - 25 budget setting process. The Rossendale Trust and other care providers has a special relationship with Cheshire East Council with 86% of service users located in Cheshire East and without the financial security of large businesses with a wider geographic disposition this made the Trust particularly vulnerable to the low fees paid by the Council.

The cumulative underfunding over the past five years was having a detrimental effect on sustainability which made it difficult to do any meaningful future planning.

The Wirral and the Cheshire West and Chester Councils were consulting providers on provisional 24 - 25 supportive living rates which were higher rates for both day and night compared to Cheshire East. Mr Nichols stated that the local authority paid significantly different rates and was unjustifiable and the markets were not fully comparable.

The impact of the demise of Rossendale Trust on its staff and service users was unthinkable. As well as placing a huge burden on the Council's social care teams, the reputational risk to Cheshire East Council would be massive. Mr Nichols asked if the Council had the financial resources and manpower to meet the CQC regulations if the Trust was to fail. Cheshire East's strategy of underfunding their complex care and supported living providers in comparison to both surrounding local authorities and its own care home and domiciliary care rates, is putting all of this at extreme risk.

Mr Nichols asked the Council to address the unfair strategy before the 24-25 budget was set in stone.

Mr Jeff Dawson attended the Committee meeting on behalf of 1st Enable, to speak in relation to item 5 - Medium Term Financial Strategy Consultation 2024/25 - 2027/28 Provisional Settlement Update. Mr Dawson requested that care providers receive the appropriate level of financial support with regards to the 2024 and 2025 budget.

Mr Dawson described the very positive relationship they had with the Council, in particular with the commissioning contracts, legal and social work teams. The support previously given was outlined and there was a willingness to do whatever they could for its local authority colleagues.

Mr Dawson expressed his concerns in respect of all Councils and the NHS feeling the same pressures therefore it was no longer appropriate or viable for them to continue to subsidize the work they do in Cheshire East for much longer.

The organisation was recruiting, managing and training staff whilst waiting for the Council to come good on previous conversations had in respect of services being put on an equal footing for those local authorities, with almost identical or even demographically less challenging conditions in supplying safe, responsive, well led effective and caring support, a pre requisite for maintaining their regulatory duties.

In response, the Executive Director for Adults, Health and Integration thanked Mr Nichols and Mr Dawson for attending and acknowledged the work that care providers do and how valued that work was. Officers would be in touch to discuss the 2024-25 budget and how a negotiated position could be reached, although it was emphasised that Cheshire East Council would not be able to match the rates that were being paid by Cheshire West and Chester and Greater Manchester.

55 MEDIUM TERM FINANCIAL STRATEGY CONSULTATION 2024/25 - 2027/28 PROVISIONAL SETTLEMENT UPDATE (ADULTS & HEALTH COMMITTEE)

The Committee received a report on the Medium-Term Financial Strategy (MTFS) for 2024/25 – 2027/28 and the revenue and capital proposals contained within the MTFS relating to the Committee's responsibilities. As part of the consultation process the Committee was asked to provide comments and feedback to the Corporate Policy Committee on proposals related to the responsibilities of the committee.

It was reported that the High-Level Business Cases would be presented at the Corporate Policy Committee on the 13 of February.

The Committee asked questions and provided comments in relation to the proposals, summarised below:

- Pay Inflation – The Committee noted that a 3% increase had been used for the 2024/25 forecast compared to 2023/24 where a 5% figure had been forecasted. It was stated that the final pay award allocated for 2023/24 was 7.5%. Officers confirmed that the 3% increase had been agreed across all Service Committees.
- National Minimum Wage –members queried if enough growth had been invested into the service as the impact of national living wage increase would particularly impact the staff within the Adults and Health Committee remit. Officers reported that around £2.5m growth would be available to cover unexpected pricing expenditure during 2024/25, however the estimated costs of implementing the national minimum wage across the Directorate was £5-7m.
- Risk Management - Members acknowledged the precarious financial position of the local authority and queried what the major risks facing the service were. Officers stated that the key risks included: implementation of the national minimum wage, the number of young people transitioning from children's to adults through the SEND process, and the increasing activity taking place in the NHS and the subsequent impact this had on adult social care.
- Members noted that the service provision responsibilities placed upon the Adults and Childrens Committees significantly impacted individuals across the borough. Members queried whether there had been adequate encouragement across all committees for savings to be identified that related to more generic services, that did not specifically impact on individuals. Officers confirmed that the Corporate Leadership Team, through CEBERT, were taking all necessary steps to identify savings across all committees.

A list of additional budget proposals put forward by the Conservative Group were circulated to the Committee. The proposals included:

(ai) Identify and evaluate Cheshire East Council assets and their potential as short, medium and longer-term care provisions to reduce the Borough's dependency on out of area providers for high-cost adult social care and health

provisions. This dovetailed with similar proposals discussed with the Children and Families Committee on 31.01.24.

(aii) High Level Business Cases (HLBC) should be developed to progress activity for future provision.

(aiii) A clear schedule for the short, medium and longer-term development of appropriate sites must be included in the Work Programme for Economy and Growth, Adult Social Care and Health Committees, with clear KPIs and Project Management oversight throughout the life of the projects.

(bi) That the committee requests that the Corporate Policy Committee work collaboratively with the Adults and Health Committee to explore the establishment of a Cheshire East Social Workers / Care Workers Agency to be included under the Workforce Strategy (Retention and Recruitment).

(bii) To provide a cost savings analysis over 2024/25 with a view to bring forward for consideration as part of the 2025/26 MTFS proposals.

It was proposed and seconded that the proposals in Appendix 1 and the Conservative Group proposals be recommended to the Corporate Policy Committee for inclusion in the Council's budget for 2024/25.

RESOLVED: (By Majority)

That the Adults and Health Committee

1. Recommend to the Corporate Policy Committee, for their meeting on 13 February 2024, all proposals within the budget consultation, as related to the Committee's responsibilities, for inclusion in the Council's budget for 2024/25.
2. Agree that the additional proposals from the Conservative Group be recommended to the Corporate Policy Committee for inclusion in the Council's budget proposals for 2024/25.

The meeting commenced at 2.00 pm and concluded at 3.01 pm

Councillor J Rhodes (Chair)

OPEN

Adults and Health Committee

25 March 2024

Adult Social Care Charging Policy

Report of: Helen Charlesworth-May, Executive Director – Adults, Health and Integration

Report Reference No: AH/23/2023-24

Ward(s) Affected: All wards

Purpose of Report

- 1 Members of the committee are asked to consider approval of the implementation of the revised Adult Social Care charging policies.
- 2 The proposals set out in this consultation support the council's priority in the Corporate Plan to support a sustainable financial future for the council, through service development, improvement, and transformation.

Executive Summary

- 3 The Care Act provides a single legal framework for charging for care and support and enables the council to charge a resident when it is arranging to meet a resident's care and support needs.
- 4 Adult Social Care services are means tested and a financial assessment is required for all residents receiving care and support, other than those types of care and support that are not chargeable. The financial assessment determines the level of contribution a resident would make towards the adult social care services they receive.
- 5 For residential services the Department of Health sets the Personal Expenses allowance which Councils disregard when assessing a resident's contribution.
- 6 Councils can use discretion when calculating contributions towards non-residential services, as long as allowances are no less than the minimum income guarantee set by the Department of Health.

- 7 A recent public consultation took place between 30 October 2023 and 21 January 2024 to seek feedback on changes to Adult Social Care fees and a revision of the Adult Social Care charging policies. The responses to the consultation have been reviewed to finalise the proposed changes to the charging policies. The report summarises how the consultation was carried out; the number of responses received; a summary of those responses and the recommendations for changes to the policy as a result.
- 8 On 27 February 2024, Council agreed the recommendations from Corporate Policy Committee in respect of the Medium-Term Financial Strategy 2024/25-2027/28 which included the scheme of charges.

RECOMMENDATIONS

The Adults and Health Committee is recommended to:

1. To approve the implementation of the revised Adult Social Care charging policies.

Background

- 9 The Care Act provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.
- 10 Section 17 of the Act requires the Council to assess the level of an individual's resources and the amount which they may be liable to pay, when it is anticipated that a charge is to be levied by the Council for meeting an eligible need.
- 11 When the Council decides to levy a charge, the charging provisions in the Care Act, related regulations and statutory guidance must be followed; in particular, the Care and Support (Charging and Assessment of Resources) Regulations 2014 would apply.
- 12 Cheshire East Council last consulted on Adult Social Care fees and charges in 2015. Since this consultation, the council has recommissioned several social care services.
- 13 Through public consultation, feedback was sought on several changes to the policy and charges, which removed financial subsidy.

- 14 The proposed changes include aligning the calculation of assessed contributions with national framework, set out by the Department of Health, when assessing contributions towards non-residential care services.
- 15 The fees and charging were approved at Full Council on 27th February 2024 - [Agenda for Council on Tuesday, 27th February, 2024, 11.00 am | Cheshire East Council](#)

Consultation and Engagement

- 16 A 12-week public consultation was completed between 30 October 2023 and 21 January 2024.
- 17 A flyer was sent to all residents who currently access Adult Social Care services on 26 October 2023, which detailed the ways in which residents could feedback on the consultation.
- 18 A dedicated online consultation webpage was developed to host the consultation material and to link to the 9 separate digital feedback questionnaires, with one questionnaire being provided for each proposal being put forward. Detail was also provided on this webpage about the various consultation events taking place. Social Care Business Support and Finance helpline number and dedicated email inbox were in place to take queries from residents who could not attend face-to face sessions, or complete feedback online.
- 19 Paper consultation packs, replicating the online content, were made available in libraries and upon request.
- 20 Nine consultation events have been held across Cheshire East as opportunity for residents to participate in the consultation and ask further questions. Over 120 residents registered for the events as follows:
 - (a) Thursday 9 November 2023 9am to 2.30pm - Capesthorne Room, Old Town Hall, Macclesfield SK10 1EA
 - (b) Monday 13 November 2023 9am to 2.30pm - Chamber, Municipal Buildings, Crewe CW1 2BJ
 - (c) Thursday 16 November 2023 1pm to 4.30pm (Drop in for 30-minute slots) - R1 and R2, Ground Floor, Westfields, Sandbach CW11 1HZ
 - (d) Wednesday 29 November 2023 9am to 2.30pm - Chamber, Old Town Hall, Macclesfield SK10 1EA
 - (e) Thursday 30 November 2023 9am to 2.30pm - Chamber, Municipal Buildings, Crewe CW1 2BJ

- (f) Monday 04 December 2023 10am to 12pm – Oakmere, Spath Lane, Handforth SK9 3NS
 - (g) Tuesday 05 December 2023 10am to 12pm – Heath View, Heath Road, Congleton CW12 4BB
 - (h) Wednesday 06 December 2023 10am to 12pm - Mill House, Queens Drive, Nantwich CW5 5BX
 - (i) Friday 08 December 2023 10am to 12pm – Willowmere, East Road, Middlewich CW10 9HW
- 21 Media releases providing detail on the consultation have been shared via the Council's webpage and social media platforms throughout the consultation period.
- 22 Detail on the consultation was shared with Adult Social Care providers and external supporting organisations such as Healthwatch, Age UK, Carers Hub, PeoplePlus and internal stakeholders.
- 23 Two member briefing sessions were delivered in the consultation period which provided an opportunity for members to gain more information on the changes and ask questions.

Summary of Consultation Findings

- 24 Both paper and online copies of the surveys were made available to respondents during the consultation period. A total of 284 online (including email) and 151 paper sectioned responses were received.
- 25 Overall, the response to all the proposals was net positive with the exception of the proposal in respect of income disregards.
- 26 A copy of the full consultation response is attached as Appendix 3.
- 27 A common concern from the feedback received was in respect of affordability.

Reasons for Recommendations

- 28 The changes set out support the Council's priority in the Corporate Plan 2021 – 2025: 'Support a sustainable financial future for the council, through service development, improvement and transformation'. By increasing the amount of the income that comes into the Council from Adult Social Care charges, the aim is to ensure quality services can be delivered to the residents of Cheshire East in a financially sustainable manner.

- 29 The changes aim to enable reinvestment of savings into front line services, contributing to maintaining service delivery and ability to meet growing demand.
- 30 On 27 February 2024, Council agreed the recommendations from Corporate Policy Committee in respect of the Medium-Term Financial Strategy 2024/25-2027/28. The proposed revision of the Adult Social Care charging policies, including a revised scheme of charges, would support the delivery of the budget commitment.
- 31 The Council has recommissioned a number of adult social care services since the last charging consultation in 2015 and in addition, has held fees levied to residents at old rates, without updating these to reflect the cost or adding inflation.
- 32 The Council will work to mitigate concern from residents in respect of affordability, by ensuring that every resident charged for Adult Social Care services, has a financial assessment review to confirm that any change is affordable to them, maximising welfare benefit entitlement and reviewing disability related expenditure.

Other Options Considered

- 33 One other option was considered as follows:

Option	Impact	Risk
Do nothing	The Council does not generate the additional income required to balance expenditure and income. The Adult Social Care charging policy does not align to updated legislation and practice.	The Council cannot continue to provide services in a financially sustainable manner. The current policy does not reflect legislation and practice.

Implications and Comments

Monitoring Officer/Legal

- 34 The Care Act 2014 and the accompanying Care and support statutory guidance (updated 5 October 2023) allows councils some discretion as to what services they can charge for and what income, savings and assets can be taken into account when calculating a person's ability to pay for their care. Section 14 of the Care Act 2014 states that a local

authority may charge for meeting care needs and must follow the Care and Support (Charging and Assessment of Resources) Regulations 2014 if it chooses to charge. Section 17 of the Care Act 2014 states that, having determined that it will charge, the local authority must carry out a financial assessment to determine how much an individual should pay towards their care.

- 35 Paragraph 10.27 of the Care and Support Statutory Guidance updated 5 October 2023 states as follows:

10.27 In determining how to meet needs, the local authority may also take into reasonable consideration its own finances and budgetary position and must comply with its related public law duties. This includes the importance of ensuring that the funding available to the local authority is sufficient to meet the needs of the entire local population. The local authority may reasonably consider how to balance that requirement with the duty to meet the eligible needs of an individual, in determining how an individual's needs should be met (but not whether those needs are met). However, the local authority should not set arbitrary upper limits on the costs it is willing to pay to meet needs through certain routes; doing so would not deliver an approach that is person-centred, or compatible with public law principles. The authority may take decisions on a case-by-case basis which weigh up the total costs of different potential options for meeting needs, and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value.

- 36 Paragraph 8.2 of the Care and support statutory guidance states that ...

The framework is therefore based on the following principles, that local authorities should consider, when making decisions on charging. The principles are that the approach to charging for care and support needs should:

- ensure that people are not charged more than it is reasonably practicable for them to pay.
- be comprehensive, to reduce variation in the way people are assessed and charged.
- be clear and transparent, so people know what they will be charged.
- promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control.
- support carers to look after their own health and wellbeing and to care effectively and safely.

- be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs.
- apply the charging rules equally, so those with similar needs or services, are treated the same and minimise anomalies between different care settings.
- encourage and enable those who wish to stay in, or take up employment, education or training, or plan for the future costs of meeting their needs, to do so.
- be sustainable for local authorities in the long-term.

37 Proposals to make significant changes in service provision require consultation with the public and those directly affected, including service users, staff and carers and relevant stakeholders. The Gunning principles set out the common law principles to be observed when undertaking consultation. *R v London Borough of Brent ex parte Gunning* [1985] 84 LGR 168 established these principles, which set out that a consultation is only lawful when these four principles are met:

- Proposals are still at a formative stage - A final decision has not yet been made, or predetermined, by the decision makers.
- There is sufficient information to give 'intelligent consideration' - The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.
- There is adequate time for consideration and response- There must be sufficient opportunity for consultees to participate in the consultation. In the absence of a prescribed statutory period, there is no set timeframe for consultation, though it is widely accepted that twelve-week consultation period is sufficient. The adequacy of the length of time given for consultees to respond can vary depending on the subject and extent of impact of the consultation.
- 'Conscientious consideration' must be given to the consultation responses before a decision is made. Decision-makers should be able to provide evidence that they took consultation responses into account.

38 Following the consultation, members of the committee will now need to take account of the views expressed in arriving at their decision. Members must give clear and conscientious consideration to the responses received to the consultation which ran for a 12-week period between October 2023 and January 2024. Failure to do so could give rise to a judicial review challenge.

Section 151 Officer/Finance

- 39 The proposals contained within this report align fully with the budget for 2024/25 as outlined in the Medium-Term Financial Strategy (MTFS) and agreed by Council on 27th February 2024. The recommendations would ensure full delivery of the new financial targets contained within the budget for 2024/25.

Policy

- 40 The Adult Social Care charging policies sets out the Councils position in respect of charging for Adult Social Care Services. The policy has been revised to reflect updated legislation, local practice and fees.
- 41 The policy and fees for Adult Social Care services support the Council's 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"> Support a sustainable financial future for the council, through service development, improvement and transformation 	<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 Increase opportunities for children and young adults with additional needs 	<ul style="list-style-type: none"> Thriving urban and rural economies with opportunities for all

Equality, Diversity and Inclusion

- 42 A full Equality Impact Assessment has been prepared during the consultation process reflecting issues raised during the consultation process and is appended to this report (Appendix 4) Members must have due regard to this report to ensure that it is satisfied that any adverse impact and any proposed mitigation allows it to meet the legal obligations set out above.

- 43 In coming to a decision, the Council should also have regard to its statutory duties under the Care Act 2014 set out above and the Public Sector Equality Duty (PSED) under the Equality Act 2010.
- 44 The PSED requires public authorities to have "due regard" to: The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 (section 149(1a)) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1)(b)) foster good relations between persons who share a relevant protected characteristic and persons who do not share it . (section 149(3)(c)).
- 45 The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1b)). This involves having due regard to the needs to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic (section 149(3)(a));
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (section 149(3)(b)); and
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low (section 149(3)(c)).

Human Resources

- 46 Additional posts will be recruited to support the implementation of the policy. The costs of these posts have been considered when calculated the savings to be attained.

Risk Management

- 47 The successful implementation of the policy will be measured through adult social care, with any significant risks reported through appropriate channels including Commissioning SMT, People's DLT.

Rural Communities

- 48 The policies 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)

- 49 There are no direct implications to Children and Young People as these policies applies to Adult Social Care service users only.

Public Health

- 50 There are no direct implications to Public Health.

Climate Change

- 51 There is no direct impact on climate change through the implementation of the Adult Social Care charging policies.

Access to Information	
Contact Officer:	<p>Danielle Brooks</p> <p>Danielle.Brooks@cheshireeast.gov.uk</p> <p>Lee Hudson</p> <p>Lee.Hudson@cheshireeast.gov.uk</p>
Appendices:	<p>Appendix 1: Non-residential charging policy</p> <p>Appendix 2: Residential charging policy</p> <p>Appendix 3: Adult Social Care Charging Policy Consultation response</p> <p>Appendix 4: Equality Impact Assessment</p>
Background Papers:	Cheshire East Corporate Plan 2021 – 2025

PROCEDURE TITLE	Charging Policy for Non-Residential Care Services
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PURPOSE	Charging Policy for Adult Social Care Non-Residential care services
SCOPE	Adult Social Care services in the community, direct payments, telecare, carers and services for those deemed as full cost payers.
POLICY SUPPORTED	Direct Payment Policy, ASC - Assisted Transport Policy
RESPONSIBILITIES	Executive Director of Adults, Health and Integration
ENQUIRY POINT	Danielle Brooks and Lee Hudson, Service Manager, Social Care Business Support and Finance
KEYWORDS	Charging, The Care Act 2014, Fees

PROCEDURE APPROVAL			
APPROVED BY	Adults & Health Committee	POSITION	Executive Director of Adults, Health and Integration
SIGNATURE		DATE APPROVED	March 2024

REVIEW			
REVIEW DATE & BY			
POSITION		APPROVED BY	
SIGNATURE		DATE APPROVED	

DEFINITIONS

Charge	The amount of personal contribution required from a resident for a particular council-provided service, dependent on their assessed ability to pay
Price	In the context of council-provided services, this is the amount required from a resident's Personal Budget to purchase a service, regardless of their ability to pay through a financial assessment
Personal Budget	Money that is allocated to you by the council to pay for care or support to meet your assessed needs. You can take your personal budget as a direct payment, or choose to leave the council to arrange services.
Care and Support Plan	A written plan after you have had an assessment, setting out what your care and support needs are, how they will be met (including what you or anyone who cares for you will do) and what services you will receive.
Carer	A person who provides unpaid support to a partner, family member, friend or neighbour who is ill, struggling or disabled and could not manage without this help. This is distinct from a care worker, who is paid to support people.
Client Contribution	The amount you may need to pay towards the cost of the social care services you receive.
Deferred	With a deferred payment agreement, a person can 'defer' or delay paying the costs of their residential care and support until a later date. Deferring payment can help people to delay the need to sell their home.
Department of Health and Social Care	The Department of Health and Social Care is a department responsible for developing the government's policies for health and adult social care matters in England.
Direct Payments	Money that is paid to you (or someone acting on your behalf) on a regular basis by the council so you can arrange your own support, instead of receiving social care services arranged by the council. Direct payments are available to people who have been assessed as being eligible for council-funded social care.
Minimum Income Guarantee	Amount set by the Department of Health and Social Care that you must be allowed to keep to cover daily living costs.
Non-residential care	Non-residential care refers to care and support received in a resident's own home, and other adult social care services provided in the community, outside of a care home. Social care services that can help you live a full, independent life and to remain in your own home for as long as possible.
Residential Care	Care in a care home, with or without nursing, for people who require 24-hour care.
Respite	A service giving carers a break, by providing short-term care for the person with care needs in their own home or in a

	residential setting. It can mean a few hours during the day or evening, 'night sitting', or a longer-term break. It can also benefit the person with care needs by giving them the chance to try new activities and meet new people.
Self-funding	When you arrange and pay for your own care services and do not receive financial help from the council.
Social Care Business Support and Finance	Council's department responsible for the completion of financial assessments, adult social income collection and debt recovery.
Telecare	Technology that enables you to remain independent and safe in your own home, by linking your home with a monitoring centre that can respond to problems. Examples are pendant alarms that you wear round your neck, automatic pill dispensers, and sensors placed in your home to detect if you have fallen or to recognise risks such as smoke, floods or gas-leaks. The monitoring centre is staffed by trained operators who can arrange for someone to come to your home or contact your family, doctor or emergency services.
Top-Up	A top-up fee is usually applied when the care and support you chose costs more than your personal budget (this is the amount the council is prepared to pay).

APPENDICES

Appendix 1: Non-residential Income Disregards 2024-2025

Appendix 2: Standard Charge Summary from 06th April 2024

1. INTRODUCTION

This policy explains how Cheshire East Council calculates the amount a resident is required to pay towards non-residential care and support services. Non-residential care refers to care and support received in a resident's own home, and other adult social care services provided in the community, outside of a care home. These services include but are not limited to:

- Home care (care in a person's own home)
- Day care, day activities and day opportunities
- Supported Living
- Extra Care Housing
- Services provided through Care4CE
- Direct Payments
- Transport
- Shared lives services
- Care services delivered to people in prison

Note: If a temporary and/or short term stay in a residential care home is required for any reason this will be subject to the charging policy for residential services

This policy commences from the XXXX and supersedes the council's previous adult social care charging policies. Any figures contained within this policy will be updated annually in accordance with any changes to legislation/benefit rates. The Council has a scheme of delegated fees and charges which are normally subject to annual inflationary increases.

2. CHARGING FRAMEWORK

The Department of Health and Social Care requires Local Authorities to agree a charging policy in relation to Adult Social Care fees for chargeable services. This relates to Residential and Nursing Care Home fees and non-residential charges for those living independently in the community.

This policy reflects the requirements of the Care and Support Statutory guidance issued under the Care Act 2014 and the Care and Support Charging and Assessment Regulations 2014.

The Care Act provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.

The overarching principle is that people should only be required to pay what they can afford. People will be entitled to funding from their local authority based on a means-test which may result in some people being entitled to free care. The accompanying Department of Health guidance includes the principles to be adopted by local authorities when deciding when to

charge, the requirements for appropriate information and advice and the financial assessment process.

3. CAPITAL LIMITS

For individuals with assessed eligible needs, the amount of funding they are entitled to from the council is means tested. The amount a person will pay depends on the type of care and support services they require and the savings and income that they have:

- If a person has income and savings of more than £23,250 they would need to pay the full cost of the care and support they receive.
- If a person has less than £23,250 in income and savings, they may be entitled to financial support from Cheshire East Council.

A financial assessment would need to be completed to check this.

A person with capital and savings above the upper capital limit will be deemed as a full cost payer and can choose to access services through the council. An arrangement fee will be applicable to any care or support sourced by the council and a weekly administration fee will be levied to full cost payers who wish to continue with services commissioned by the council.

Termination of the contract between the council and care provider will be considered in cases whereby the person is deemed as a full cost payer and does not settle the invoices for their care charges.

4. INTERIM CHARGING

The council will levy an interim charge from the start of services for up to a 6-week period. The interim charge is a nominal fee which would be adjusted and backdated to the start of the care service once a full financial assessment has been completed.

The person's final charge may be higher or lower than the interim charge and will be reflected in their billing. Residents should ensure that payment is made for any interim charges applied and if necessary, the council will refund monies or apply a credit on account should an overpayment occur.

Whilst the interim charge is in place the resident should comply with the financial assessment process as per section 6 of this policy.

5. NON-CHARGEABLE SERVICES

The council will not charge for certain types of care and support which will be arranged and provided for free. These are:

- **Intermediate Care including Reablement:** intensive support with a duration agreed as part of the discharge planning process to enable an individual to recover from an acute episode and be independent.
- **Community Equipment (aids and minor adaptations).** Aids must be provided free of charge whether provided to meet or prevent/delay needs. A minor adaptation is one costing £1,000 or less.
- **Care and support provided to people with Creutzfeldt-Jacob Disease.**
- **After-care services/support provided under section 117 of the Mental Health Act 1983.**
- **Any service or part of service which the NHS is under a duty to provide.** This includes Continuing Health Care and the NHS contribution to Registered Nursing Care.
- **More broadly,** any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014.
- **Supported Employment** - free of charge.
- **Continence Services:** The NHS is responsible for providing and meeting the cost of any continence supplies and services that individuals are assessed as requiring, including any equipment needed.
- **Specialist Medical Equipment in Care Homes:** A care home providing nursing must produce a Statement of Purpose, which explains what equipment and facilities it will provide. It should also make general alterations and adaptations to allow appropriate access to facilities for its residents.

6. FINANCIAL ASSESSMENT

The financial assessment is a means test to calculate if a person can afford to contribute towards their care and support.

A financial assessment is required for all residents receiving care and support other than those types of care and support that are not chargeable.

Once an individual has been found to have eligible needs for care services a referral for a financial assessment will be made. Financial assessments can be completed online or via paper forms. Support will be given from Social Care Business Support and Finance to complete the financial assessment if required.

The financial assessment is conducted by a Financial Co-ordinator who will gather financial information from a range of sources including, information previously shared with the council, data held by The Department for Work and Pensions and completion of the financial assessment forms.

The outcome of the financial assessment will be shared in writing and residents will be offered the opportunity to provide further evidence to ensure the accuracy of the assessment.

During the financial assessment process Social Care Business Support and Finance will check that residents are in receipt of their correct and full benefit entitlement. For those that are not in receipt of full benefit entitlement, help and advice will be provided to claim the appropriate benefits.

In some circumstances the council may choose to treat a resident as if a financial assessment had been carried out. To do so the council must be satisfied on the basis of evidence provided by the resident that they can afford, and will continue to be able to afford, any charges due. This is known as a 'light-touch' financial assessment.

The main circumstances in which the council may consider carrying out a light-touch financial assessment are:

- a) Where a resident has significant financial resources and does not wish to undergo a full financial assessment but wishes to access care and supported arranged by the council.
- b) Where the council charges a small or nominal amount for a particular service and the resident is clearly able to meet the cost
- c) When a resident is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs.

The value of a resident's property which they occupy as their main or only home will be excluded from the financial assessment for non-residential care services.

Where a resident has an interest in a second property which they do not live in, the asset will be taken into consideration as capital and the resident is likely to be deemed to be a full cost payer.

The charging start date will always be the day that the care and support commenced. When the financial circumstances of a resident change they should inform the council so that their contribution can be re-calculated. If full information is delayed or not disclosed the council can backdate the change in contribution to the appropriate effective date.

Failure to comply with the financial assessment process would result in full cost charges being levied to a resident for the care and support they receive. The council will allow 21 days for the completion of financial assessment forms from the point that the forms are received.

At the time of the assessment of care and support needs it will be established whether the resident has the capacity to take part in the financial assessment. If the resident lacks the capacity to undertake the financial assessment, then the council will establish if the resident has the support of any of the following:

- Enduring Power of Attorney
- Lasting Power of Attorney for Property and Affairs

- Lasting Power of Attorney for Health and Welfare
- Property and Affairs Deputyship under the Court of Protection
- Any other person/organisation dealing with the resident's affairs e.g. DWP appointee to receive benefit payments

7. DEPRIVATION OF ASSETS

There are some cases where a resident may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income.

Where the council believes they have evidence to support this, the council may either charge the resident as if they still possessed the asset or, if the asset has been transferred to someone else, seek to recover the lost income from that person. However, the council cannot recover more than the person gained from the transfer.

Where a person has accrued a debt, the council may use its powers under the Care Act to recover that debt. In deciding how to proceed, the council will consider the circumstances of the case before deciding a course of action. For example, the council will consider whether this was a deliberate avoidance of payment or due to circumstances beyond the resident's control.

Deprivation of assets means where a person has intentionally deprived or decreased their overall assets in order to reduce the amount they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

Deprivation of capital

It is up to the person to prove to the council that they no longer have the asset. If they are not able to, the council will assess them as if they still had the asset. For capital assets, acceptable evidence of their disposal would be:

- (a) A trust deed;
- (b) Deed of gift;
- (c) Receipts for expenditure;
- (d) Proof that debts have been repaid.

A person can deprive themselves of capital in many ways, but common approaches may be:

- (a) A lump-sum payment to someone else, for example as a gift;
- (b) Substantial expenditure has been incurred suddenly and is out of character with previous spending
- (c) The title deeds of a property have been transferred to someone else;
- (d) Assets have been put in to a trust that cannot be revoked;
- (e) Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions;
- (f) Assets have been reduced by living extravagantly, for example gambling;
- (g) Assets have been used to purchase an investment bond with life insurance.

Questions of deprivation will be considered where the person ceases to possess assets that would have otherwise been taken into account for the purposes of the financial assessment or where the asset has been moved to an area that is now disregarded.

Deprivation of income

It is possible for a person to deliberately deprive themselves of income. For example, they could give away or sell the right to an income from an occupational pension.

It is up to the person to prove to the council that they no longer have the income. Where the council considers that a person may have deprived themselves of income, we will treat them as possessing notional income.

The council will determine whether deliberate deprivation of income has occurred. In doing so we will consider:

- (a) Was it the person's income?
- (b) What was the purpose of the disposal of the income?
- (c) The timing of the disposal of the income?

In some circumstances the income may have been converted into capital. The council will consider what tariff income may be applied to the capital and whether the subsequent charge is less or more than the person would have paid without the change.

If the council decides that a person has deliberately deprived themselves of assets in order to avoid or reduce a charge for care and support, we will decide whether to treat that person as still having the asset for the purposes of the financial assessment and charge them accordingly.

The council will seek to charge the person as if the deprivation had not occurred. This means assuming they still own the asset and treating it as notional capital or notional income.

If the person in depriving themselves of an actual resource has converted that resource into another of lesser value, the person should be treated as notionally possessing the difference between the value of the new resources and the one which it replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference should be treated as notional resource.

Recovering charges from a third party

Where the person has transferred the asset to a third party to avoid the charge, the third party is liable to pay the council the difference between what it would have charged and did charge the person receiving care. However, the third party is not liable to pay anything which exceeds the benefit they have received from the transfer.

If the person has transferred funds to more than one third party, each of those people is liable to pay the council the difference between what it would have charged or did charge the person receiving care in proportion to the amount they received.

8. CHOICE OF ACCOMMODATION AND ADDITIONAL PAYMENTS

In some cases, a person may actively choose a service that is more expensive than the amount identified for the provision of the care and support in the personal budget. Where the person has chosen care and support that costs more than the personal budget, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' payment and is the difference between the amount specified in the personal budget and the actual cost.

For further information please refer to the council's Choice of Accommodation and Third-Party Payments or Top Ups policy.

9. CHARGING FOR CARE AND SUPPORT IN THE COMMUNITY INCLUDING IN A PERSON'S OWN HOME.

These charging arrangements cover any setting for meeting care and support needs outside of a care home. For example, care and support received in a person's own home, and in other accommodation settings such as in extra care housing, supported living accommodation or shared lives arrangements.

Because a person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities. The council will disregard the minimum income guarantee (MIG), as set out in the Care and Support (Charging and Assessment of Resources) Regulation 2014 to meet such living costs.

In addition, where a person receives benefits to meet their disability needs that do not meet the eligibility criteria for care and support, the charging arrangements should ensure that they keep enough money to cover the cost of meeting these disability-related costs.

The financial assessment of a resident's capital must exclude the value of the property which they occupy as their main or only home. Beyond this, the rules on what capital must be disregarded are the same for all types of care and support.

The amount of chargeable income counted following the financial assessment calculation is 100%.

The higher rate of Attendance Allowance or Disability Living Allowance Care is only be taken into account when care services are provided or assessed as required in the support plan either on a 24-hour basis or during day and night. Where services are provided only during the day or only during the night, and where higher rates of Attendance Allowance or Disability Living Allowance is in payment, the difference between the higher/enhanced rate and the middle/standard rate is disregarded.

All rates of Personal Independence Payment Daily Living are taken fully into account regardless of whether services provided in the day or at night.

The Mobility Component of Disability Living Allowance or Personal Independence Payment is not included in the financial assessment. This also applies to the Mobility Supplement of a War Pension.

10. CHARGING FOR SUPPORT TO CARERS

The Care Act also gives local authorities the power to charge for services directly provided to carers who meet the Care Act eligibility levels. The accompanying guidance states that when deciding whether to charge, and in determining what an appropriate charge is, "a local authority should consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution carers make".

Cheshire East Council does not charge for carer's services but would charge for any replacement care provided to the individual requiring care and support.

Services to support carers will usually be paid as a Direct Payment and will not attract a charge. Replacement care where a carer requires a break from their caring duty or faces an emergency/unplanned need would attract a charge applied to the individual requiring the care and support, following the Care Act charging guidelines.

11. TREATMENT OF CAPITAL

The financial assessment will look across all of a person's assets – both capital and income to decide which is capital and which is income and assess those assets according to the regulations and guidance. The treatment of income will vary depending on the type of setting a person is receiving care in. The treatment of capital is broadly the same for all settings. Where there is a distinction between care homes and all other settings, this is clearly set out.

In assessing what a person can afford to contribute the council will apply the upper and lower capital limits. The upper capital limit is currently set at £23,250 and the lower capital limit at £14,250.

A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Those with capital between the lower and upper capital limit will be deemed as able to make a contribution, known as "tariff income", from their capital. Any capital below the lower capital limit will be disregarded.

The following list gives examples of capital. This list is intended as a guide and is not exhaustive.

- (a) buildings
- (b) land
- (c) National Savings Certificates and Ulster Savings Certificates
- (d) Premium Bonds
- (e) stocks and shares

(f) capital held by the Court of Protection or a Deputy appointed by that Court

(g) any savings held in:

(i) building society accounts

(ii) bank current accounts, deposit accounts or special investment accounts. This includes savings held in the National Savings Bank, Girobank and Trustee Savings Bank.

(iii) SAYE schemes

(iv) unit trusts

(v) co-operatives share accounts.

(vi) cash

(h) trust funds

It is important that people are not charged twice on the same resources. Therefore, resources should only be treated as income or capital but not both. If a person has saved money from their income then those savings should normally be treated as capital. However, they should not be assessed as both income and capital in the same period. Therefore, in the period when they are received as income, the resource should be disregarded as capital.

In assessing a person's assets it may not be immediately clear where a resource is capital or income, particularly where a person is due to receive planned payments. In order to guide the decision, in general, a planned payment of capital is one which is:

(a) not in respect of a specified period; and

(b) not intended to form part of a series of payments.

A capital asset is normally defined as belonging to the person in whose name it is held, the legal owner. However, in some cases this may be disputed and/or beneficial ownership argued. Beneficial ownership is where someone enjoys the benefits of ownership, even though the title of the asset is held by someone else or where they directly or indirectly have the power to vote or influence a transaction regarding a particular asset. In most cases the person will be both the legal and beneficial owner.

Where ownership is disputed, the council will seek written evidence to prove where the ownership lies. If a person states they are holding capital for someone else, the council will obtain evidence of the arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.

Where a person has joint beneficial ownership of capital, except where there is evidence that the person's own an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.

In some cases a person may be the legal owner of a property but not the beneficial owner of a property. In other words, they have no rights to the proceeds of any sale. In such circumstances the property must not be taken into account.

The council will work out what value a capital asset has in order to take account of it in the financial assessment. Other than National Savings Certificates, valuation must be the current market or surrender value of the capital asset, for example, property, whichever is higher, minus the following:

- (a) 10% of the value if there will be any actual expenses involved in selling the asset. This must be expenses connected with the actual sale and not simply the realisation of the asset. For example the costs to withdraw funds from a bank account are not expenses of sale, but legal fees to sell a property would be
- (b) any outstanding debts secured on the asset, for example a mortgage

A capital asset may have a current market value, for example stocks or shares, or a surrender value, for example premium bonds. The current market value will be the price a willing buyer would pay to a willing seller. The way the market value is obtained will depend on the type of asset held.

If the resident and the financial co-ordinator both agree that after deducting any relevant amounts (as set out above) that the total value of the person's capital is more than the upper capital limit of £23,250, or less than the lower capital limit of £14,250, then it is not necessary to obtain a precise valuation. If there are any disputes, a precise valuation should be obtained. However, the council will bear in mind how close a resident is to the upper capital limit when deciding whether or not to obtain a precise valuation.

Where a precise valuation is required, a professional valuer should be asked to provide a current market valuation. Once the asset is sold, the capital value to be taken into account is the actual amount realised from the sale, minus any actual expenses of the sale.

Where the value of a property is disputed, the aim should be to resolve this as quickly as possible. The council will try to obtain an independent valuation of the person's beneficial share of the property within the 12-week disregard period where a person is in a care home. This will enable the council to work out what charges a resident should pay and enable the resident, or their representative, to consider whether to seek a deferred payment agreement.

The value of National Savings Certificates (and Ulster Savings Certificates) (Premium Bonds) is assessed in the same way as other capital assets. A valuation for savings certificates can be obtained by contacting the NS&I helpline on 0845 964 5000. An alternative method to get the value of National Savings Certificates is to use the NS&I online calculator. To enable an accurate value for the savings certificates the person must provide details of the:

- certificate issue number(s);
- purchase price;
- date of purchase.

Assets held abroad

Where capital is held abroad and all of it can be transferred to the UK, its value in the other country should be obtained and taken into account. Where capital is held jointly, it should be treated the same as if it were held jointly within the UK. The detail will depend on the conditions for transfer to the UK.

Where the capital cannot be wholly transferred to the UK due to the rules of that country, for example currency restrictions, the council will require evidence confirming this fact. Examples of acceptable evidence could include documentation from a bank, Government official or solicitor in either this country or the country where the capital is held.

Where some restriction is in place, the council will seek evidence showing what the asset is, what its value is and to understand the nature and terms of the restriction so that should this change, the amount can be taken into account. It should also take into account the value that a willing buyer would pay in the UK for those assets, but be aware that it may be less than the market or surrender value in the foreign country.

Capital not immediately realisable

Capital which is not immediately realisable due to notice periods, for example National Savings Bank investment accounts or Premium Bonds, should be taken into account in the normal way at its face value.

This will be the value at the time of the financial assessment. It may need to be confirmed and adjusted when the capital is realised. If the person chooses not to release the capital, the value at the time of assessment should be used and it should be reassessed at intervals in the normal way.

Tariff income

Where a person has assets between the lower and upper capital limits the council must apply tariff income. In a financial assessment for non-residential care services, this assumes that for every £500 of capital, or part thereof, a person is able to afford to contribute £1 per week towards the cost of their eligible care needs.

In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital. Notional capital may be capital which:

- (a) would be available to the person if they applied for it;
- (b) is paid to a third party in respect of the person;
- (c) the person has deprived themselves of in order to reduce the amount of charge they have to pay for their care.

A person's capital should therefore be the total of both actual and notional capital. However, if a person has actual capital above the upper capital limit, it may not be necessary to consider notional capital.

Where a person has been assessed as having notional capital, the value of this must be reduced over time. The rule is that the value of notional capital must be reduced weekly by the difference between the weekly rate the person is paying for their care and the weekly rate they would have paid if notional capital did not apply.

Where a person is benefiting from the 12-week property disregard and has chosen to pay a "top-up" fee from their capital resources between the upper and lower capital limits, the level

of tariff income that applies during those 12 weeks is the same as it would be if the person were not using the capital to “top-up”.

Capital disregarded

The following capital assets must be disregarded:

- a) Property in specified circumstances;
- b) The surrender value of any:
 - a. Life insurance policy;
 - b. Annuity.
- c) Payments of training bonuses of up to £200;
- d) Payments in kind from a charity;
- e) Any personal possessions such as paintings or antiques, unless they were purchased with the intention of reducing capital in order to avoid care and support charges
- f) Any capital which is to be treated as income or student loans;
- g) Any payment that may be derived from:
 - (i) The Macfarlane Trust;
 - (ii) The Macfarlane (Special Payments) Trust;
 - (iii) The Macfarlane (Special Payment) (No 2) Trust;
 - (iv) The Caxton Foundation;
 - (v) The Fund (payments to non-haemophiliacs infected with HIV);
 - (vi) The Eileen Trust;
 - (vii) The MFET Trust;
 - (viii) The Independent Living Fund (2006);
 - (ix) The Skipton Fund;
 - (x) The London Bombings Relief Charitable Fund.
 - (xi) Scottish Infected Blood Support Scheme
 - (xii) an approved blood scheme (this is a scheme approved by the Secretary of State, or trust established with funds provided by the Secretary of State, to provide compensation in respect of a person having been infected from contaminated blood products)
 - (xiii) London Emergencies Trust
 - (xiv) We Love Manchester Emergency Fund
 - (xiv) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State (the Thalidomide Trust)
 - (xv) the scheme established by the government for former British child migrants in response to the Investigation Report on Child Migration Programmes by the Independent Inquiry into Child Sexual Abuse published on 1 March 2018, made to a former child migrant
- h) The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds;

- i) The value of a right to receive:
 - (i) Income under an annuity
 - (ii) Outstanding instalments under an agreement to repay a capital sum
 - (iii) Payment under a trust where the funds derive from a personal injury
 - (iv) Income under a life interest or a life-rent
 - (v) Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK
 - (vi) An occupational pension
 - (vii) any rent. Please note however that this does not necessarily mean the income is disregarded. Please see Annex C for guidance on the treatment of income.
- (j) capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction
- (k) the value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity
- (l) periodic payments in consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income)
- (m) any Social Fund payment
- (n) refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home
- (o) any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age
- (p) payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit or Housing Benefit Supplement
- (q) the amount of any bank charges or commission paid to convert capital from foreign currency to sterling
- (r) payments to jurors or witnesses for court attendance (but not compensation for loss of earnings or benefit)
- (s) community charge rebate/council tax rebate
- (t) money deposited with a Housing Association as a condition of occupying a dwelling
- (u) any Child Support Maintenance Payment
- (v) the value of any ex-gratia payments made on or after 1 February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War
- (w) any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(b)(b) or 3 of this act)
- (x) the value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products
- (y) payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim)

(z) any payments under Section 2, 3 or 7 of the Age-Related Payments Act 2004 or Age Related Payments Regulations 2005 (SI No 1983)

(aa) any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section

(bb) any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital

26-week disregard

The following capital assets must be disregarded for at least 26 weeks in a financial assessment.

(a) Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement but intends to take up work again when they are fit to do so. Where the person is in a care home, this should apply from the date they first took up residence.

(b) Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. This should apply from the date the funds were received.

(c) Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This should be from the date legal advice was first sought or proceedings first commenced.

(d) Premises which the person intends to occupy as their home where essential repairs or alterations are required. This should apply from the date the person takes action to effect the repairs.

(e) Capital received from the sale of a former home where the capital is to be used by the person to buy another home. This should apply from the date of completion of the sale.

(f) Money deposited with a Housing Association which is to be used by the person to purchase another home. This should apply from the date on which the money was deposited.

(g) Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. This should apply from the date the grant is received.

52 week disregard

The following payments of capital must be disregarded for a maximum of 52 weeks from the date they are received.

(a) The balance of any arrears of or any compensation due to non-payment of:

(i) Mobility supplement

(ii) Attendance Allowance

(iii) Constant Attendance Allowance

(iv) Disability Living Allowance / Personal Independence Payment

(v) Exceptionally Severe Disablement Allowance

(vi) Severe Disablement Occupational Allowance

(vii) Armed forces service pension based on need for attendance

- (viii) Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance
- (ix) Income Support/Pension Credit
- (x) Minimum Income Guarantee
- (xi) Working Tax Credit
- (xii) Child Tax Credit
- (xiii) Housing Benefit
- (xiv) Universal Credit
- (xv) Special payments to pre-1973 war widows.

As the above payments will be paid for specific periods, they should be treated as income over the period for which they are payable. Any money left over after the period for which they are treated as income has elapsed should be treated as capital.

- (b) Payments or refunds for:
 - (i) NHS glasses, dental treatment or patient's travelling expenses;
 - (ii) Cash equivalent of free milk and vitamins;
 - (iii) Expenses in connection with prison visits.
- (c) Personal Injury Payments.

2 year disregard

The council must disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of vCJD to:

- (a) A member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or
- (b) A dependent child or young person until they turn 18.

Other disregards

There may be instances where a person's assets may be tied up in a business that they own or part own. As per the Care and Support Statutory Guidance, where a person is taking steps to realise their share of the assets, these should be disregarded during the process. However, the person will be required to show that it is their clear intention to realise the asset as soon as practicable.

Where the person has no immediate intention of attempting to realise the business asset, its capital value will be taken into account in the financial assessment. Where a business is jointly owned, this should apply only to the person's share.

Treatment of investment bonds

The treatment of investment bonds is currently complex. This is in part because of the differing products that are on offer. As such, the council will seek advice from its legal department.

Where an investment bond includes one or more element of life insurance policies that contain cashing-in rights by way of options for total or partial surrender, then the value of those rights will be disregarded as a capital asset in the financial assessment.

Capital treated as income

The following capital payments should be treated as income.

- (a) Any payment under an annuity.
- (b) Capital paid by instalment where the total of:
 - (i) the instalments outstanding at the time the person first becomes liable to pay for their care, or in the case of a person in temporary care whom the local authority had previously decided not to charge, the first day on which the local authority decided to charge; and
 - (ii) the amount of other capital held by the resident is over £16,000. If it is £16,000 or less, each instalment should be treated as capital.

Earnings

Any income of the person derived from employment must be treated as earnings and not taken into account in the financial assessment.

Income treated as capital

The following types of income should be treated as capital:

- (a) Any refund of income tax charged on profits of a business or earnings of an employed earner; Any holiday pay payable by an employer more than 4 weeks after the termination or interruption of employment;
- (b) Income derived from a capital asset, for example, building society interest or dividends from shares. This should be treated as capital from the date it is normally due to be paid to the person. This does not apply to income from certain disregarded capital;
- (c) Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is as the payment does not form part of the employee's regular income and would have to be repaid;
- (d) Any bounty payment paid at intervals of at least one year from employment as:
 - (i) A part time fireman;
 - (ii) An auxiliary coastguard;
 - (iii) A part time lifeboat man;
 - (iv) A member of the territorial or reserve forces.
- (e) Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a third party to the person to support the clearing of charges for accommodation.
- (f) Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child.

Capital available on application

In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital should be treated as already belonging to the person except in the following instances:

- (a) Capital held in a discretionary trust;
- (b) Capital held in a trust derived from a payment in consequence of a personal injury;
- (c) Capital derived from an award of damages for personal injury which is administered by a court;
- (d) Any loan which could be raised against a capital asset which is disregarded, for example the home.

The council should distinguish between:

(a) Capital already owned by the person but which in order to access they must make an application for. For example:

- (i) Money held by the person's solicitor;
 - (ii) Premium Bonds;
 - (iii) National Savings Certificates;
 - (iv) Money held by the Registrar of a County Court which will be released on application;
- And

(b) Capital not owned by the person that will become theirs on application, for example an unclaimed Premium Bond win. This should be treated as notional capital.

When a council treats capital available on application as notional capital they should do so only from the date at which it could be acquired by the person.

In respect of defined contribution pensions, the council will calculate this as the maximum income that would be available if the person had taken out an annuity.

12. TREATMENT OF INCOME

The following section outlines the treatment of income in the financial assessment.

The income of the cared-for person will be taken into account in the financial assessment of what they can afford to pay for their care and support. Where this person receives income as one of a couple, the starting presumption is that the cared-for person has an equal share of the income. The council will also consider the implications for the cared-for resident's partner.

Income is net of any tax or National Insurance contributions.

Income will always be taken into account unless it is disregarded under the charging regulations. Income that is disregarded will either be:

- (a) Partially disregarded; or
- (b) Fully disregarded.

In all cases, irrespective of setting, employed and self-employed earnings are fully disregarded.

Earnings in relation to an employed earner are any remuneration or profit from employment. The council will refer to Annex B: Treatment of income of the Care and Support Statutory Guidance for appropriate disregard.

Benefits

Any income from the following sources will be fully disregarded:

- (a) Direct Payments;
- (b) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme;
- (c) War Pension Scheme payments made to veterans with the exception of Constant Attendance Allowance payments
- (d) the mobility component of Disability Living Allowance
- (e) the mobility component of Personal Independence Payments

Any income from the following benefits will be taken fully into account when considering what a person can afford to pay towards their care from their income:

- (a) Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
- (b) Bereavement Allowance
- (c) Carers Allowance
- (d) Disability Living Allowance (Care component)
- (e) Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
- (f) Income Support
- (g) Industrial Injuries Disablement Benefit or equivalent benefits
- (h) Jobseeker's Allowance
- (i) Maternity Allowance
- (j) Pension Credit
- (k) Personal Independence Payment (Daily Living component)
- (l) State Pension
- (m) Universal Credit

Working Tax Credits must be taken into account when considering what a person can afford to pay from their income towards the cost of their care in a care home. However, they should be disregarded in the calculation of income for care and support arranged other than in a care home.

Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

Annuity and pension income

An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity will be taken fully into account except where it is:

- (a) purchased with a loan secured on the person's main or only home; or
- (b) a gallantry award such as the Victoria Cross Annuity or George Cross Annuity.

For those who have purchased an annuity with a loan secured on their main or only home, this is known as a 'home income plan'. Under these schemes, a person has purchased the annuity against the value of their home – similarly to a Deferred Payment Agreement.

In order to qualify for the disregard, one of the annuitants must still be occupying the property as their main or only home. This may happen where a couple has jointly purchased an annuity and only one of them has moved into a care home. If this is not the case, the disregard will not be applied.

Where the disregard is applied, only the following aspects will be disregarded:

- (a) the net weekly interest on the loan where income tax is deductible from the interest; or
- (b) the gross weekly interest on the loan in any other case.

The council will apply a disregard for 'home income plans' appropriately in line with the conditions set out in Annex B: Treatment of income.

In respect of defined contribution pensions, the council will assess pension income for the purposes of charging as follows:

- (a) If a person has removed the funds and placed them in another product or savings account, they should be treated according to the rules for that product;
- (b) If a person is only drawing a minimal income, then a local authority can apply notional income choosing not to draw income, or according to the maximum income that could be drawn under an annuity product. If applying maximum notional income, the actual income should be disregarded to avoid double counting;
- (c) If a person is drawing down an income that is higher than the maximum available under an annuity product, the actual income that is being drawn down should be taken into account.

Mortgage protection insurance policies

Any income from an insurance policy is usually taken into account. In the case of mortgage protection policies where the income is specifically intended to support the person to acquire or retain an interest in their main or only home or to support them to make repairs or improvements to their main or only home it will be disregarded. However, the income must be being used to meet the repayments on the loan. The amount of income from a mortgage protection insurance policy that should be disregarded is the weekly sum of:

- (a) The amount which covers the interest on the loan; plus
- (b) The amount of the repayment which reduced the capital outstanding; plus
- (c) The amount of the premium due on the policy.

Income Support and Pension Credit may be adjusted to take account of the income from the policy.

Other income that will be fully disregarded

Any income from the following sources will be fully disregarded:

- (a) Armed Forces Independence Payments and Mobility Supplement
- (b) Child Support Maintenance Payments and Child Benefit, except where the accommodation is arranged under the Care Act in which the adult and child both live
- (c) Child Tax Credit
- (d) Council Tax Reduction Schemes where this involves a payment to the person
- (e) Disability Living Allowance (Mobility Component) and Mobility Supplement
- (f) Christmas bonus
- (g) dependency increases paid with certain benefits
- (h) Discretionary Trust
- (i) Gallantry Awards
- (j) Guardian's Allowance
- (k) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
- (l) Payments made to Veterans under the War Pension Scheme with the exception of Constant Attendance Allowance
- (m) Income frozen abroad
- (n) income in kind
- (o) pensioners Christmas payments
- (p) Personal Independence Payment (Mobility Component) and Mobility Supplement
- (q) personal injury trust, including those administered by a Court
- (r) resettlement benefit
- (s) savings credit disregard
- (t) Social Fund payments (including winter fuel payments)
- (u) war widows and widowers special payments
- (v) any payments received as a holder of the Victoria Cross, George Cross or equivalent
- (w) any grants or loans paid for the purposes of education; and
- (x) payments made in relation to training for employment.
- (y) any payment from:
 - (i) Macfarlane Trust
 - (ii) Macfarlane (Special Payments) Trust
 - (iii) Macfarlane (Special Payment) (No 2) Trust
 - (iv) Caxton Foundation
 - (v) The Fund (payments to non-haemophiliacs infected with HIV)
 - (vi) Eileen Trust
 - (vii) MFET Limited
 - (viii) Independent Living Fund (2006)
 - (ix) Skipton Fund
 - (x) London Bombings Relief Charitable Fund

- (xi) Scottish Infected Blood Support Scheme
- (xii) an approved blood scheme (this is a scheme approved by the Secretary of State, or trust established with funds provided by the Secretary of State, to provide compensation in respect of a person having been infected from contaminated blood products)
- (xiii) London Emergencies Trust
- (xiv) We Love Manchester Emergency Fund

Savings Credit

Qualifying income for Pension Credit Savings Credit equivalent to the amount of Savings Credit received is disregarded up to a maximum set by Department of Health and Social Care.

Charitable and voluntary payments

Charitable payments are not necessarily made by recognised charity, but could come from charitable motives. The individual circumstances of the payment will need to be taken into account before making a decision. In general a charitable or voluntary payment which is not made regularly is treated as capital.

Charitable and voluntary payments that are made regularly must be fully disregarded.

Partially disregarded income

The following income is partially disregarded:

- (a) The first £10 per week of War Widows and War Widowers pension, survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme, Civilian War Injury pension, War Disablement pension and payments to victims of National Socialist persecution (paid under German or Austrian law).
- (b) A savings disregard based on qualifying income is made to people in care homes as follows:

For individuals

Where a person is in receipt of qualifying income of less than £133.82 per week there will be no Savings Disregard made.

Where a person is in receipt of qualifying income between £133.82 and £155.60 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of £6.95 whichever is less.

Where a person is in receipt of qualifying income in excess of £155.60 per week, and a savings credit reward is in payment, a flat rate savings disregard of £6.95 per week is made irrespective of how much the savings credit payment is.

Where a person has qualifying income above the limit for receiving a savings credit reward (around £190.00 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £6.95 is made.

For couples

Where a person is part of a couple (including a civil partnership) and is in receipt of qualifying income of less than £212.97 per week there will be no savings disregard made.

Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income between £212.97 and £237.55 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of £9.75 whichever is less.

Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income in excess of £237.55 per week, and a savings credit reward is in payment, a flat rate savings disregard of £9.75 per week is made irrespective of how much the savings credit payment is.

Where a person who is part of a couple (including a civil partnership) and has qualifying income above the limit for receiving savings credit (around £278.00 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £9.75 is made.

Notional income

In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include for example income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. In all cases the council will satisfy itself that the income would or should have been available to the person.

Notional income should also be applied where a person who has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan. Estimates of the notional income can be received from the pension provider or from estimates provided by the Government Actuary's Department.

Where notional income is included in a financial assessment, it should be treated the same way as actual income. Therefore any income that would usually be disregarded should continue to be so.

Notional income should be calculated from the date it could be expected to be acquired if an application had been made. In doing so, the council will assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears.

However, there are some exemptions and the following sources of income must not be treated as notional income:

- (a) Income payable under a discretionary trust;
- (b) Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
- (c) Income from capital resulting from an award of damages for personal injury that is administered by a court;
- (d) Occupational pension which is not being paid because:
 - (i) The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or
 - (ii) The trustees or managers of the scheme have insufficient resources available to them to meet the scheme's liabilities in full.
- (e) Working Tax Credit.

13. EXPENDITURE

Disability-related expenditure

Where disability-related benefits are taken into account, the council will make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the council.

In assessing disability-related expenditure, the council will make an appropriate allowance where supporting evidence is supplied, in line with the Care and Support Statutory Guidance, Annex B: Treatment of income. The care and support plan for a resident will be considered when assessing the need for any disability-related expenditure and respective allowance.

The assessment will use the National Association of Financial Assessment Officer Disability Expenditure Framework and data obtained by the Office of National Statistics for the Family Spending Surveys. Disability Expenditure Allowance of up to a maximum that is equivalent to an individual's disability benefit payment will be applied.

Expenditure for night care is only taken into account if services are provided by the council during the night.

A disability expenditure assessment will not be offered to residents who are not in receipt of disability benefits.

Income Disregards

The council will ensure that a person's income is not reduced below a specified level after charges have been deducted. This will be the value of the minimum income guarantee set by the Department of Health.

The purpose of the minimum income guarantee is to promote independence and social inclusion and ensure that service users have sufficient funds to meet basic needs such as purchasing food, utility costs or insurance. This will be after any housing costs such as rent and council tax net of any benefits provided to support these costs, and after any disability

related expenditure. An appropriate disregard will be given in the resident's financial assessment for household costs such as rent, council tax and mortgage payments whereby the resident is a liable party for those payments and evidence to support this will be required at the time of the financial assessment.

Please refer to Appendix 1 for annual Minimum Income Guarantee/Income Disregard amounts.

14. INCOME COLLECTION METHODS

The Care Act supports that councils may recover such charges as they consider reasonable in respect of relevant services.

Invoices will be sent to residents or their authorised person every 4 weeks via post or email. Payment of care invoices can be made via a range of methods, including Direct Debit, bankers' Standing Order, online payments, telephone payments.

A billing week runs from Saturday to Friday.

The council will charge the resident's full weekly contribution unless the cost of the care delivered in a week is less than their weekly contribution. In this instance the resident would be charged by the unit.

Direct Payments are paid net of the resident's weekly contribution, and the individual is expected to pay their charge into the direct payment account first with the council adding funds to make up the direct payment to afford the required care. The individual's weekly Direct Payment contribution must be paid in full every week even where care is not provided for a full week. Should services be suspended during a full week (Saturday to Friday) then charges are not levied to the customer. Direct Payments will be audited and more information can be found in the council's all age Direct Payment policy.

15. RECOVERY OF DEBTS

Social Care Business Support and Finance (SCBSF) will ensure charges for Adult Social Care services are raised every 4 weeks in arrears of the care services being delivered. If a resident is in receipt of a Direct Payment their charge will be deducted from the Direct Payment – payment will be net of the resident's charge.

The due date for all care invoices will be 21 days from the date of the invoice. If payment is not made by the appropriate due date the council will issue reminders as follows:

1st reminder – issued after no payment is received within 21 days, giving 14 days to pay the invoice balance

2nd reminder – issued after no payment is received within 35 days of the invoice date, giving 7 days to pay the invoice balance

If a resident does not pay their charges for care and support the council will try to establish the reason for non-payment and take the appropriate action to resolve any problems that have prevented payment. The debt recovery process includes letters and telephone calls to attempt to resolve the issue. Visits from Adult Social Care and SCBSF officers will also be used as appropriate.

If invoices remain unpaid after initial engagement has been attempted, cases will be escalated through Adult Social Care and SCBSF. Escalated debt cases will be referred to debt recovery officers and Sundry Debt who will work in liaison with Legal services.

If the council decides to pursue court action this will be done via the County Court. The Council will have regard to Practice Direction - Pre-Action Conduct guidance published by the Ministry of Justice. However, this will only be done after all other reasonable alternatives for recovering the debt have been exhausted. The council will follow debt recovery guidance as set out in Annex D (Recovery of debt) in the Care and Support Statutory Guidance.

The council reserves the right to levy interest on debts not settled within 28 days at 5% + base rate, capped at 8%. Any costs incurred through the recovery of charges will be added to the debt.

Where the council has obtained a court order or judgment for payment, but the person has not complied with it, the council will seek to enforce the order. There are various methods of enforcement at the council's disposal which will be carefully considered on a case by case basis. The most common enforcement options that are likely to be used are:

- A warrant or writ of control
- An attachment of earnings order
- A third party debt order
- A charging order

The council will also consider any other options that may be available to support the recovery of debts including section 423 of the Insolvency Act 1986. This provides additional routes to recover debts where a person may have transferred or sold their assets to a third party at a price that is lower than the market value with the intention of putting those out of reach or prejudicing the interests of someone who may wish to bring a claim against that person.

16. TRANSPORT

Cheshire East Council does not commission transport but may offer a direct payment to meet eligible unmet need.

Additional costs associated with eligible transport needs will be assessed within the personal budget and may in some cases be disregarded as a disability related expense.

More information is provided in the council's ASC - Assisted Transport Policy.

17. Flat Rate Fees

There are a number of adult social care services which are charged as a flat rate fee. Please refer to Appendix 2: Standard Charge Summary from 06th April 2024 - for relevant flat rate fees.

A flat rate fee is to be paid by anyone receiving that service. It is not subject to financial assessment unless the fee brings financial hardship and, in such cases, a financial assessment will determine whether the fee is affordable and does not affect the individual's protected income.

18. Fees and charges

The council will review all fees and charges annually and any charges will be communicated each March/April.

19. Appeals

Appeals against the assessed charge are dealt with under Adult Social Care's Complaints Procedure.

Complaints can be logged via the following methods:

- Online: www.cheshireeast.gov.uk
- Email: socialcarecomplaintsmanager@cheshireeast.gov.uk
- In writing: Customer Relations Team, 1st Floor Macclesfield Town Hall, c/o Delamere House, Delamere St, Crewe, CW1 2LL

Appeals against the amount of disability related expenditure allowed in the financial assessment will be dealt with by the Social Business Support & Finance Team Manager and Service Manager and will require documentary evidence of additional customer expenditure. Where there remains an impasse, with the customer's consent, an external organisation may be approached for an independent assessment of the situation.

Appendix 1: Non-residential Income Disregards 2024-2025

Income Disregards 2024-2025

Single Person at Pensionable Age	£214.35
Couples at Pensionable Age	£327.30
Single Adult Aged 18-24 Low	£82.15
Single Adult Aged 18-24 Mid	£127.90
Single Adult Aged 18-24 High	£150.25
Single Adult Aged 25-59 Low	£103.65
Single Adult Aged 25-60 Mid	£149.40
Single Adult Aged 25-61 High	£171.75
Couple Adult Aged 18+ Low	£162.80
Couple Adult Aged 18+ Mid	£228.00
Couple Adult Aged 18+ High	£260.10

Appendix 2: Standard Charge Summary from 06th April 2024Cheshire East Council - Standard Charge Summary from 6th April 2024

Prices for Commissioned Community Services, subject to an assessment of your ability to contribute:		
Service	Rate	Per Item
Domiciliary Home Care	£23.40	Hour
45 min Domiciliary Home Care call	£17.55	Call
30 min Domiciliary Home Care call	£11.70	Call
Waking Night	£95.28	Night
Extra Care Monitoring and Response	£25.00	Per week/Part week
Extra Care Housing Care Call	£22.15	Hour
Day Care	£50.43	Day
Complex Day Care	£62.91	Day
Shared Lives Sessional Support carer home	£35.35	Per 3 hr session
Shared Lives Sessional Support	£35.35	Per 3 hr session
Personal Support and 24 hr supported living	£19.07	Hour

Prices for respite/overnight care subject to an assessment of your ability to contribute:	
Long or Short Stay Residential/Nursing care	Rate per week
Residential Care	£840.00
Residential Dementia Care	£890.00
Nursing Care	£940.00
Nursing Dementia Care	£1030.00
Carer Respite	£750.00
Shared Lives Long Term Placement	£388.50
Shared Lives Long Term Placement Enhanced	£416.50

The rate charged may differ depending on the cost of the service you receive.

Flat Rate Fees (not subject to an assessment of means):

Deferred Payment Fees - £850.00 set-up fee per agreement and an annual administration fee of £100 per annum

Money Management Fee - £12.00 per week

Full cost payer (people who choose to access Council commissioned care) –
£100 care arrangement fee
£5.00 per week administration fee

Telecare/Assistive Technology Fee - £7.50 per week

Interim Charges

Residential	Rate per week
18 - 24	£41.55
25 – Pensionable Age	£60.35
Over Pensionable Age	£188.00
Non-Residential	£1030.00
18+	£10.00

PROCEDURE TITLE	Charging Policy for Residential Care Services
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PURPOSE	Charging Policy for Adult Social Care Residential care services
SCOPE	Adult Social Care services in long and short-term residential care, deferred payments and services for those deemed as full cost payers.
POLICY SUPPORTED	Top up Policy, Deferred Payment Policy
RESPONSIBILITIES	Executive Director of Adults, Health and Integration
ENQUIRY POINT	Danielle Brooks and Lee Hudson, Service Manager, Social Care Business Support and Finance
KEYWORDS	Charging, The Care Act 2014, Fees

PROCEDURE APPROVAL			
APPROVED BY	Adults & Health Committee	POSITION	Executive Director of Adults, Health and Integration
SIGNATURE		DATE APPROVED	March 2024

REVIEW			
REVIEW DATE & BY			
POSITION		APPROVED BY	
SIGNATURE		DATE APPROVED	

DEFINITIONS

Charge	The amount of personal contribution required from a resident for a particular council-provided service, dependent on their assessed ability to pay
Price	In the context of council-provided services, this is the amount required from a resident's Personal Budget to purchase a service, regardless of their ability to pay through a financial assessment
Personal Budget	Money that is allocated to you by the council to pay for care or support to meet your assessed needs. You can take your personal budget as a direct payment, or choose to leave the council to arrange services.
Care and Support Plan	A written plan after you have had an assessment, setting out what your care and support needs are, how they will be met (including what you or anyone who cares for you will do) and what services you will receive.
Carer	A person who provides unpaid support to a partner, family member, friend or neighbour who is ill, struggling or disabled and could not manage without this help. This is distinct from a care worker, who is paid to support people.
Client Contribution	The amount you may need to pay towards the cost of the social care services you receive.
Deferred	With a deferred payment agreement, a person can 'defer' or delay paying the costs of their residential care and support until a later date. Deferring payment can help people to delay the need to sell their home.
Department of Health and Social Care	The Department of Health and Social Care is a department responsible for developing the government's policies for health and adult social care matters in England.
Direct Payments	Money that is paid to you (or someone acting on your behalf) on a regular basis by the council so you can arrange your own support, instead of receiving social care services arranged by the council. Direct payments are available to people who have been assessed as being eligible for council-funded social care.
Minimum Income Guarantee	Amount set by the Department of Health and Social Care that you must be allowed to keep to cover daily living costs.
Non-residential care	Social care services that can help you live a full, independent life and to remain in your own home for as long as possible.
Residential Care	Care in a care home, with or without nursing, for people who require 24-hour care.
Respite	A service giving carers a break, by providing short-term care for the person with care needs in their own home or in a residential setting. It can mean a few hours during the day or evening, 'night sitting', or a longer-term break. It can also

	benefit the person with care needs by giving them the chance to try new activities and meet new people.
Self-funding	When you arrange and pay for your own care services and do not receive financial help from the council.
Social Care Business Support and Finance	Council's department responsible for the completion of financial assessments, adult social income collection and debt recovery.
Telecare	Technology that enables you to remain independent and safe in your own home, by linking your home with a monitoring centre that can respond to problems. Examples are pendant alarms that you wear round your neck, automatic pill dispensers, and sensors placed in your home to detect if you have fallen or to recognise risks such as smoke, floods or gas-leaks. The monitoring centre is staffed by trained operators who can arrange for someone to come to your home or contact your family, doctor or emergency services.
Top-Up	A top-up fee is usually applied when the care and support you chose costs more than your personal budget (this is the amount the council is prepared to pay).

APPENDICES

Appendix 1: Income Disregards 2024-2025

Appendix 2: Standard Charge Summary from 06th April 2024

1. INTRODUCTION

This policy explains how Cheshire East Council calculates the amount a person is required to pay towards residential care services. Residential care refers to care and support delivered in a residential or nursing care setting.

This policy commences from the XXXX and supersedes the council's previous adult social care charging policies. Any figures contained within this policy will be updated annually in accordance with any changes to legislation/benefit rates. The Council has a scheme of delegated fees and charges which are normally subject to annual inflationary increases.

2. CHARGING FRAMEWORK

The Department of Health and Social Care requires Local Authorities to agree a charging policy in relation to Adult Social Care fees for chargeable services. This relates to Residential and Nursing Care Home fees and non-residential charges for those living independently in the community.

This policy reflects the requirements of the Care and Support Statutory guidance issued under the Care Act 2014 and the Care and Support Charging and Assessment Regulations 2014.

The Care Act provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.

The overarching principle is that people should only be required to pay what they can afford. People will be entitled to funding from their local authority based on a means-test which may result in some people being entitled to free care. The accompanying Department of Health guidance includes the principles to be adopted by local authorities when deciding when to charge, the requirements for appropriate information and advice and the financial assessment process.

3. CAPITAL LIMITS

For individuals with assessed eligible needs, the amount of funding they are entitled to from the council is means tested. The amount a person will pay depends on the type of care and support services they require and the savings and income that they have:

- If a person has income and savings of more than £23,250 they would need to pay the full cost of the care and support they receive.
- If a person has less than £23,250 in income and savings, they may be entitled to financial support from Cheshire East Council.

A financial assessment would need to be completed to check this.

A person with capital and savings above the upper capital limit will be deemed as a full cost payer and can choose to access services through the council. An arrangement fee will be applicable to any care or support sourced by the council and a weekly administration fee will be levied to full cost payers who wish to continue with services commissioned by the council.

Termination of the contract between the council and care provider will be considered in cases whereby the person is deemed as a full cost payer and does not settle the invoices for their care charges.

4. INTERIM CHARGING

The council will levy an interim charge from the start of services for up to a 6-week period. The interim charge is a nominal fee which would be adjusted and backdated to the start of the care service once a full financial assessment has been completed.

The person's final charge may be higher or lower than the interim charge and will be reflected in their billing. Residents should ensure that payment is made for any interim charges applied and if necessary, the council will refund monies or apply a credit on account should an overpayment occur.

Whilst the interim charge is in place the resident should comply with the financial assessment process as per section 6 of this policy.

5. NON-CHARGEABLE SERVICES

The council will not charge for certain types of care and support which will be arranged and provided for free. These are:

- **Intermediate Care including Reablement:** intensive support with a duration agreed as part of the discharge planning process to enable an individual to recover from an acute episode and be independent.
- **Community Equipment (aids and minor adaptations).** Aids must be provided free of charge whether provided to meet or prevent/delay needs. A minor adaptation is one costing £1,000 or less.
- **Care and support provided to people with Creutzfeldt-Jacob Disease.**
- **After-care services/support provided under section 117 of the Mental Health Act 1983.**
- **Any service or part of service which the NHS is under a duty to provide.** This includes Continuing Health Care and the NHS contribution to Registered Nursing Care.
- **More broadly,** any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014.

- **Supported Employment** - free of charge.
- **Continence Services:** The NHS is responsible for providing and meeting the cost of any continence supplies and services that individuals are assessed as requiring, including any equipment needed.
- **Specialist Medical Equipment in Care Homes:** A care home providing nursing must produce a Statement of Purpose, which explains what equipment and facilities it will provide. It should also make general alterations and adaptations to allow appropriate access to facilities for its residents.

6. FINANCIAL ASSESSMENT

The financial assessment is a means test to calculate if a person can afford to contribute towards their care and support.

A financial assessment is required for all residents receiving care and support other than those types of care and support that are not chargeable.

Once an individual has been found to have eligible needs for care services a referral for a financial assessment will be made. Financial assessments can be completed online or via paper forms. Support will be given from Social Care Business Support and Finance to complete the financial assessment if required.

The financial assessment is conducted by a Financial Co-ordinator who will gather financial information from a range of sources including, information previously shared with the council, data held by The Department for Work and Pensions and completion of the financial assessment forms.

The outcome of the financial assessment will be shared in writing and residents will be offered the opportunity to provide further evidence to ensure the accuracy of the assessment.

During the financial assessment process Social Care Business Support and Finance will check that residents are in receipt of their correct and full benefit entitlement. For those that are not in receipt of full benefit entitlement, help and advice will be provided to claim the appropriate benefits.

Where an individual is considering deferring charges against their property, the allocated Financial Co-ordinator will offer a face-to-face discussion and the resident is always recommended to seek independent financial advice.

In some circumstances the council may choose to treat a resident as if a financial assessment had been carried out. To do so the council must be satisfied on the basis of evidence provided by the resident that they can afford, and will continue to be able to afford, any charges due. This is known as a 'light-touch' financial assessment.

The main circumstances in which the council may consider carrying out a light-touch financial assessment are:

- a) Where a resident has significant financial resources and does not wish to undergo a full financial assessment but wishes to access care and supported arranged by the council.
- b) Where the council charges a small or nominal amount for a particular service and the resident is clearly able to meet the cost
- c) When a resident is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs.

The value of a resident's property may be counted as capital and considered when calculating care charges.

Where a resident has an interest in a second property which they do not live in, the asset will be taken into consideration as capital and the resident is likely to be deemed to be a full cost payer.

The charging start date will always be the day that the care and support commenced. When the financial circumstances of a resident change they should inform the council so that their contribution can be re-calculated. If full information is delayed or not disclosed the council can backdate the change in contribution to the appropriate effective date.

Failure to comply with the financial assessment process would result in full cost charges being levied to a resident for the care and support they receive. The council will allow 21 days for the completion of financial assessment forms from the point that the forms are received.

At the time of the assessment of care and support needs it will be established whether the resident has the capacity to take part in the financial assessment. If the resident lacks the capacity to undertake the financial assessment, then the council will establish if the resident has the support of any of the following:

- Enduring Power of Attorney
- Lasting Power of Attorney for Property and Affairs
- Lasting Power of Attorney for Health and Welfare
- Property and Affairs Deputyship under the Court of Protection
- Any other person/organisation dealing with the resident's affairs e.g. DWP appointee to receive benefit payments

7. DEPRIVATION OF ASSETS

There are some cases where a resident may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income.

Where the council believes they have evidence to support this, the council may either charge the resident as if they still possessed the asset or, if the asset has been transferred to someone else, seek to recover the lost income from that person. However, the council cannot recover more than the person gained from the transfer.

Where a person has accrued a debt, the council may use its powers under the Care Act to recover that debt. In deciding how to proceed, the council will consider the circumstances of the case before deciding a course of action. For example, the council will consider whether this was a deliberate avoidance of payment or due to circumstances beyond the resident's control.

Deprivation of assets means where a person has intentionally deprived or decreased their overall assets in order to reduce the amount they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

Deprivation of capital

It is up to the person to prove to the council that they no longer have the asset. If they are not able to, the council will assess them as if they still had the asset. For capital assets, acceptable evidence of their disposal would be:

- (a) A trust deed;
- (b) Deed of gift;
- (c) Receipts for expenditure;
- (d) Proof that debts have been repaid.

A person can deprive themselves of capital in many ways, but common approaches may be:

- (a) A lump-sum payment to someone else, for example as a gift;
- (b) Substantial expenditure has been incurred suddenly and is out of character with previous spending
- (c) The title deeds of a property have been transferred to someone else;
- (d) Assets have been put in to a trust that cannot be revoked;
- (e) Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions;
- (f) Assets have been reduced by living extravagantly, for example gambling;
- (g) Assets have been used to purchase an investment bond with life insurance.

Questions of deprivation will be considered where the person ceases to possess assets that would have otherwise been taken into account for the purposes of the financial assessment or where the asset has been moved to an area that is now disregarded.

Deprivation of income

It is possible for a person to deliberately deprive themselves of income. For example, they could give away or sell the right to an income from an occupational pension.

It is up to the person to prove to the council that they no longer have the income. Where the council considers that a person may have deprived themselves of income, we will treat them as possessing notional income.

The council will determine whether deliberate deprivation of income has occurred. In doing so we will consider:

- (a) Was it the person's income?
- (b) What was the purpose of the disposal of the income?
- (c) The timing of the disposal of the income?

In some circumstances the income may have been converted into capital. The council will consider what tariff income may be applied to the capital and whether the subsequent charge is less or more than the person would have paid without the change.

If the council decides that a person has deliberately deprived themselves of assets in order to avoid or reduce a charge for care and support, we will decide whether to treat that person as still having the asset for the purposes of the financial assessment and charge them accordingly.

The council will seek to charge the person as if the deprivation had not occurred. This means assuming they still own the asset and treating it as notional capital or notional income.

If the person in depriving themselves of an actual resource has converted that resource into another of lesser value, the person should be treated as notionally possessing the difference between the value of the new resources and the one which it replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference should be treated as notional resource.

Recovering charges from a third party

Where the person has transferred the asset to a third party to avoid the charge, the third party is liable to pay the council the difference between what it would have charged and did charge the person receiving care. However, the third party is not liable to pay anything which exceeds the benefit they have received from the transfer.

If the person has transferred funds to more than one third party, each of those people is liable to pay the council the difference between what it would have charged or did charge the person receiving care in proportion to the amount they received.

8. CHARGING FOR CARE AND SUPPORT IN A CARE HOME

People in a care home will contribute most of their income (excluding their earnings) towards the cost of their care and support. The council will leave the resident with a specified amount of their own income so that the individual has money to spend on personal items such as clothes and other items that are not part of their care. This is known as the personal expenses allowance (PEA). This is in addition to any income the person receives from earnings.

9. CHOICE OF ACCOMMODATION AND ADDITIONAL PAYMENTS

In some cases, a person may actively choose a service that is more expensive than the amount identified for the provision of the care and support in the personal budget. Where the person has chosen care and support that costs more than the personal budget, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' payment and is the difference between the amount specified in the personal budget and the actual cost.

For further information please refer to the council's Choice of Accommodation and Third-Party Payments or Top Ups policy.

10. CHARGING FOR SUPPORT TO CARERS

The Care Act also gives local authorities the power to charge for services directly provided to carers who meet the Care Act eligibility levels. The accompanying guidance states that when deciding whether to charge, and in determining what an appropriate charge is, "a local authority should consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution carers make". Cheshire East Council does not charge for carer's services but would charge for any replacement care provided to the individual requiring care and support.

Services to support carers will usually be paid as a Direct Payment and will not attract a charge. Replacement care where a carer requires a break from their caring duty or faces an emergency/unplanned need would attract a charge applied to the individual requiring the care and support, following the Care Act charging guidelines.

11. TREATMENT OF CAPITAL

The financial assessment will look across all of a person's assets – both capital and income to decide which is capital and which is income and assess those assets according to the regulations and guidance. The treatment of income will vary depending on the type of setting a person is receiving care in. The treatment of capital is broadly the same for all settings. Where there is a distinction between care homes and all other settings, this is clearly set out.

In assessing what a person can afford to contribute the council will apply the upper and lower capital limits. The upper capital limit is currently set at £23,250 and the lower capital limit at £14,250.

A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Those with capital between the lower and upper capital limit will be deemed as able to make a contribution, known as "tariff income", from their capital. Any capital below the lower capital limit will be disregarded.

The following list gives examples of capital. This list is intended as a guide and is not exhaustive.

- (a) buildings
- (b) land
- (c) National Savings Certificates and Ulster Savings Certificates
- (d) Premium Bonds
- (e) stocks and shares
- (f) capital held by the Court of Protection or a Deputy appointed by that Court
- (g) any savings held in:
 - (i) building society accounts
 - (ii) bank current accounts, deposit accounts or special investment accounts. This includes savings held in the National Savings Bank, Girobank and Trustee Savings Bank.
 - (iii) SAYE schemes
 - (iv) unit trusts
 - (v) co-operatives share accounts.
 - (vi) cash
- (h) trust funds

It is important that people are not charged twice on the same resources. Therefore, resources should only be treated as income or capital but not both. If a person has saved money from their income then those savings should normally be treated as capital. However, they should not be assessed as both income and capital in the same period. Therefore, in the period when they are received as income, the resource should be disregarded as capital.

In assessing a person's assets it may not be immediately clear where a resource is capital or income, particularly where a person is due to receive planned payments. In order to guide the decision, in general, a planned payment of capital is one which is:

- (a) not in respect of a specified period; and
- (b) not intended to form part of a series of payments.

A capital asset is normally defined as belonging to the person in whose name it is held, the legal owner. However, in some cases this may be disputed and/or beneficial ownership argued. Beneficial ownership is where someone enjoys the benefits of ownership, even though the title of the asset is held by someone else or where they directly or indirectly have the power to vote or influence a transaction regarding a particular asset. In most cases the person will be both the legal and beneficial owner.

Where ownership is disputed, the council will seek written evidence to prove where the ownership lies. If a person states they are holding capital for someone else, the council will obtain evidence of the arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.

Where a person has joint beneficial ownership of capital, except where there is evidence that the person's own an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.

In some cases a person may be the legal owner of a property but not the beneficial owner of a property. In other words, they have no rights to the proceeds of any sale. In such circumstances the property must not be taken into account.

The council will work out what value a capital asset has in order to take account of it in the financial assessment. Other than National Savings Certificates, valuation must be the current market or surrender value of the capital asset, for example, property, whichever is higher, minus the following:

- (a) 10% of the value if there will be any actual expenses involved in selling the asset. This must be expenses connected with the actual sale and not simply the realisation of the asset. For example the costs to withdraw funds from a bank account are not expenses of sale, but legal fees to sell a property would be
- (b) any outstanding debts secured on the asset, for example a mortgage

A capital asset may have a current market value, for example stocks or shares, or a surrender value, for example premium bonds. The current market value will be the price a willing buyer would pay to a willing seller. The way the market value is obtained will depend on the type of asset held.

If the resident and the financial co-ordinator both agree that after deducting any relevant amounts (as set out above) that the total value of the person's capital is more than the upper capital limit of £23,250, or less than the lower capital limit of £14,250, then it is not necessary to obtain a precise valuation. If there are any disputes, a precise valuation should be obtained. However, the council will bear in mind how close a resident is to the upper capital limit when deciding whether or not to obtain a precise valuation.

Where a precise valuation is required, a professional valuer should be asked to provide a current market valuation. Once the asset is sold, the capital value to be taken into account is the actual amount realised from the sale, minus any actual expenses of the sale.

Where the value of a property is disputed, the aim should be to resolve this as quickly as possible. The council will try to obtain an independent valuation of the person's beneficial share of the property within the 12-week disregard period where a person is in a care home. This will enable the council to work out what charges a resident should pay and enable the resident, or their representative, to consider whether to seek a deferred payment agreement.

The value of National Savings Certificates (and Ulster Savings Certificates) (Premium Bonds) is assessed in the same way as other capital assets. A valuation for savings certificates can be obtained by contacting the NS&I helpline on 0845 964 5000. An alternative method to get the value of National Savings Certificates is to use the NS&I online calculator. To enable an accurate value for the savings certificates the person must provide details of the:

- certificate issue number(s);
- purchase price;
- date of purchase.

Assets held abroad

Where capital is held abroad and all of it can be transferred to the UK, its value in the other country should be obtained and taken into account. Where capital is held jointly, it should be treated the same as if it were held jointly within the UK. The detail will depend on the conditions for transfer to the UK.

Where the capital cannot be wholly transferred to the UK due to the rules of that country, for example currency restrictions, the council will require evidence confirming this fact. Examples of acceptable evidence could include documentation from a bank, Government official or solicitor in either this country or the country where the capital is held.

Where some restriction is in place, the council will seek evidence showing what the asset is, what its value is and to understand the nature and terms of the restriction so that should this change, the amount can be taken into account. It should also take into account the value that a willing buyer would pay in the UK for those assets, but be aware that it may be less than the market or surrender value in the foreign country.

Capital not immediately realisable

Capital which is not immediately realisable due to notice periods, for example National Savings Bank investment accounts or Premium Bonds, should be taken into account in the normal way at its face value.

This will be the value at the time of the financial assessment. It may need to be confirmed and adjusted when the capital is realised. If the person chooses not to release the capital, the value at the time of assessment should be used and it should be reassessed at intervals in the normal way.

Tariff income

Where a person has assets between the lower and upper capital limits the council must apply tariff income. In a financial assessment for residential care services, this assumes that for every £250 of capital, or part thereof, a person is able to afford to contribute £1 per week towards the cost of their eligible care needs.

In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital. Notional capital may be capital which:

- (a) would be available to the person if they applied for it;
- (b) is paid to a third party in respect of the person;
- (c) the person has deprived themselves of in order to reduce the amount of charge they have to pay for their care.

A person's capital should therefore be the total of both actual and notional capital. However, if a person has actual capital above the upper capital limit, it may not be necessary to consider notional capital.

Where a person has been assessed as having notional capital, the value of this must be reduced over time. The rule is that the value of notional capital must be reduced weekly by the difference between the weekly rate the person is paying for their care and the weekly rate they would have paid if notional capital did not apply.

Where a person is benefiting from the 12-week property disregard and has chosen to pay a “top-up” fee from their capital resources between the upper and lower capital limits, the level of tariff income that applies during those 12 weeks is the same as it would be if the person were not using the capital to “top-up”.

Capital disregarded

The following capital assets must be disregarded:

- a) Property in specified circumstances;
- b) The surrender value of any:
 - a. Life insurance policy;
 - b. Annuity.
- c) Payments of training bonuses of up to £200;
- d) Payments in kind from a charity;
- e) Any personal possessions such as paintings or antiques, unless they were purchased with the intention of reducing capital in order to avoid care and support charges
- f) Any capital which is to be treated as income or student loans;
- g) Any payment that may be derived from:
 - (i) The Macfarlane Trust;
 - (ii) The Macfarlane (Special Payments) Trust;
 - (iii) The Macfarlane (Special Payment) (No 2) Trust;
 - (iv) The Caxton Foundation;
 - (v) The Fund (payments to non-haemophiliacs infected with HIV);
 - (vi) The Eileen Trust;
 - (vii) The MFET Trust;
 - (viii) The Independent Living Fund (2006);
 - (ix) The Skipton Fund;
 - (x) The London Bombings Relief Charitable Fund.
 - (xi) Scottish Infected Blood Support Scheme
 - (xii) an approved blood scheme (this is a scheme approved by the Secretary of State, or trust established with funds provided by the Secretary of State, to provide compensation in respect of a person having been infected from contaminated blood products)
 - (xiii) London Emergencies Trust
 - (xiv) We Love Manchester Emergency Fund
 - (xv) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State (the Thalidomide Trust)
 - (xvi) the scheme established by the government for former British child migrants in response to the Investigation Report on Child Migration Programmes by the

Independent Inquiry into Child Sexual Abuse published on 1 March 2018, made to a former child migrant

- h) The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds;
- i) The value of a right to receive:
 - (i) Income under an annuity
 - (ii) Outstanding instalments under an agreement to repay a capital sum
 - (iii) Payment under a trust where the funds derive from a personal injury
 - (iv) Income under a life interest or a life-rent
 - (v) Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK
 - (vi) An occupational pension
 - (vii) any rent. Please note however that this does not necessarily mean the income is disregarded. Please see Annex C for guidance on the treatment of income.
- (j) capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction
- (k) the value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity
- (l) periodic payments in consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income)
- (m) any Social Fund payment
- (n) refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home
- (o) any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age
- (p) payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit or Housing Benefit Supplement
- (q) the amount of any bank charges or commission paid to convert capital from foreign currency to sterling
- (r) payments to jurors or witnesses for court attendance (but not compensation for loss of earnings or benefit)
- (s) community charge rebate/council tax rebate
- (t) money deposited with a Housing Association as a condition of occupying a dwelling
- (u) any Child Support Maintenance Payment
- (v) the value of any ex-gratia payments made on or after 1 February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War
- (w) any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(b)(b) or 3 of this act)

- (x) the value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products
- (y) payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim)
- (z) any payments under Section 2, 3 or 7 of the Age-Related Payments Act 2004 or Age Related Payments Regulations 2005 (SI No 1983)
- (aa) any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section
- (bb) any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital

Property disregards

In the following circumstances the value of the person's *main or only* home must be disregarded:

- (a) Where the person is receiving care in a setting that is not a care home;
- (b) If the person's stay in a care home is temporary and they:
 - (i) intend to return to that property and that property is still available to them; or
 - (ii) are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to
- (c) Where the person no longer occupies the property but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home (for discretionary disregards see below):
 - (i) the person's partner, former partner or civil partner, except where they are estranged;
 - (ii) a lone parent who is the person's estranged or divorced partner;
 - (iii) a relative as defined in paragraph 35 of the person or member of the person's family who is:
 - (1) Aged 60 or over, or
 - (2) Is a child of the resident aged under 18, or
 - (3) Is incapacitated.

For the purposes of the disregard, the definition of a relative can be sought from the Care and Support Statutory Guidance, Annex B: Treatment of capital.

A member of the person's family is defined as someone who is living with the qualifying relative as part of an unmarried couple, married to or in a civil partnership.

For the purposes of the disregard the meaning of "incapacitated" is reasonably defined as, that a relative is incapacitated if either of the following conditions apply:

- (a) the relative is receiving one (or more) of the following benefits: incapacity benefit, severe

disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant attendance allowance, or a similar benefit; or

(b) the relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit. Medical or other evidence will be needed before a decision is reached.

In most cases it will be obvious whether or not the property is occupied by a qualifying relative as their main or only home. Where occupancy is not clear the council will undertake a factual inquiry weighing up all relevant factors in order to reach a decision. An emotional attachment to the property alone is not sufficient for the disregard to apply.

The council will need to take account of the individual circumstances of each case. However, it may be helpful to consider the following factors in making a decision:

- does the relative currently occupy another property?
- if the relative has somewhere else to live do they own or rent the property (for example, how secure/permanent is it?)
- if the relative is not physically present is there evidence of a firm intention to return to or live in the property
- where does the relative pay council tax?
- where is the relative registered to vote?
- where is the relative registered with a doctor?
- are the relatives belongings located in the property?
- is there evidence that the relative has a physical connection with the property?

Discretionary disregard

The council may also use its discretion to apply a property disregard in other circumstances. However, the council will need to balance this discretion with ensuring a person's assets are not maintained at public expense.

12-week property disregard

The council must disregard the value of a resident's *main or only* home when the value of their non-housing assets is below the upper capital limit for 12 weeks in the following circumstances:

(a) when they first enter a care home as a permanent resident; or

(b) when a property disregard other than the 12-week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.

26-week disregard

The following capital assets must be disregarded for at least 26 weeks in a financial assessment.

- (a) Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement but intends to take up work again when they are fit to do so. Where the person is in a care home, this should apply from the date they first took up residence.
- (b) Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. This should apply from the date the funds were received.
- (c) Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This should be from the date legal advice was first sought or proceedings first commenced.
- (d) Premises which the person intends to occupy as their home where essential repairs or alterations are required. This should apply from the date the person takes action to effect the repairs.
- (e) Capital received from the sale of a former home where the capital is to be used by the person to buy another home. This should apply from the date of completion of the sale.
- (f) Money deposited with a Housing Association which is to be used by the person to purchase another home. This should apply from the date on which the money was deposited.
- (g) Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. This should apply from the date the grant is received.

52 week disregard

The following payments of capital must be disregarded for a maximum of 52 weeks from the date they are received.

- (a) The balance of any arrears of or any compensation due to non-payment of:
 - (i) Mobility supplement
 - (ii) Attendance Allowance
 - (iii) Constant Attendance Allowance
 - (iv) Disability Living Allowance / Personal Independence Payment
 - (v) Exceptionally Severe Disablement Allowance
 - (vi) Severe Disablement Occupational Allowance
 - (vii) Armed forces service pension based on need for attendance
 - (viii) Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance
 - (ix) Income Support/Pension Credit
 - (x) Minimum Income Guarantee
 - (xi) Working Tax Credit
 - (xii) Child Tax Credit
 - (xiii) Housing Benefit
 - (xiv) Universal Credit
 - (xv) Special payments to pre-1973 war widows.

As the above payments will be paid for specific periods, they should be treated as income over the period for which they are payable. Any money left over after the period for which they are treated as income has elapsed should be treated as capital.

- (b) Payments or refunds for:
 - (i) NHS glasses, dental treatment or patient's travelling expenses;

- (ii) Cash equivalent of free milk and vitamins;
 - (iii) Expenses in connection with prison visits.
- (c) Personal Injury Payments.

2 year disregard

The council must disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of vCJD to:

- (a) A member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or
- (b) A dependent child or young person until they turn 18.

Other disregards

There may be instances where a person's assets may be tied up in a business that they own or part own. As per the Care and Support Statutory Guidance, where a person is taking steps to realise their share of the assets, these should be disregarded during the process.

However, the person will be required to show that it is their clear intention to realise the asset as soon as practicable.

Where the person has no immediate intention of attempting to realise the business asset, its capital value will be taken into account in the financial assessment. Where a business is jointly owned, this should apply only to the person's share.

Treatment of investment bonds

The treatment of investment bonds is currently complex. This is in part because of the differing products that are on offer. As such, the council will seek advice from its legal department.

Where an investment bond includes one or more element of life insurance policies that contain cashing-in rights by way of options for total or partial surrender, then the value of those rights will be disregarded as a capital asset in the financial assessment.

Capital treated as income

The following capital payments should be treated as income.

- (a) Any payment under an annuity.
- (b) Capital paid by instalment where the total of:
 - (i) the instalments outstanding at the time the person first becomes liable to pay for their care, or in the case of a person in temporary care whom the local authority had previously decided not to charge, the first day on which the local authority decided to charge; and
 - (ii) the amount of other capital held by the resident is over £16,000. If it is £16,000 or less, each instalment should be treated as capital.

Earnings

Any income of the person derived from employment must be treated as earnings and not taken into account in the financial assessment.

Income treated as capital

The following types of income should be treated as capital:

- (a) Any refund of income tax charged on profits of a business or earnings of an employed earner; Any holiday pay payable by an employer more than 4 weeks after the termination or interruption of employment;
- (b) Income derived from a capital asset, for example, building society interest or dividends from shares. This should be treated as capital from the date it is normally due to be paid to the person. This does not apply to income from certain disregarded capital;
- (c) Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is as the payment does not form part of the employee's regular income and would have to be repaid;
- (d) Any bounty payment paid at intervals of at least one year from employment as:
 - (i) A part time fireman;
 - (ii) An auxiliary coastguard;
 - (iii) A part time lifeboat man;
 - (iv) A member of the territorial or reserve forces.
- (e) Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a third party to the person to support the clearing of charges for accommodation.
- (f) Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child.

Capital available on application

In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital should be treated as already belonging to the person except in the following instances:

- (a) Capital held in a discretionary trust;
- (b) Capital held in a trust derived from a payment in consequence of a personal injury;
- (c) Capital derived from an award of damages for personal injury which is administered by a court;
- (d) Any loan which could be raised against a capital asset which is disregarded, for example the home.

The council should distinguish between:

- (a) Capital already owned by the person but which in order to access they must make an application for. For example:
 - (i) Money held by the person's solicitor;
 - (ii) Premium Bonds;
 - (iii) National Savings Certificates;
 - (iv) Money held by the Registrar of a County Court which will be released on application;

And

(b) Capital not owned by the person that will become theirs on application, for example an unclaimed Premium Bond win. This should be treated as notional capital.

When a council treats capital available on application as notional capital they should do so only from the date at which it could be acquired by the person.

In respect of defined contribution pensions, the council will calculate this as the maximum income that would be available if the person had taken out an annuity.

12. TREATMENT OF INCOME

The following section outlines the treatment of income in the financial assessment.

The income of the cared-for person will be taken into account in the financial assessment of what they can afford to pay for their care and support. Where this person receives income as one of a couple, the starting presumption is that the cared-for person has an equal share of the income. The council will also consider the implications for the cared-for resident's partner.

Income is net of any tax or National Insurance contributions.

Income will always be taken into account unless it is disregarded under the charging regulations. Income that is disregarded will either be:

- (a) Partially disregarded; or
- (b) Fully disregarded.

In all cases, irrespective of setting, employed and self-employed earnings are fully disregarded.

Earnings in relation to an employed earner are any remuneration or profit from employment. The council will refer to Annex B: Treatment of income of the Care and Support Statutory Guidance for appropriate disregard.

Benefits

Any income from the following sources will be fully disregarded:

- (a) Direct Payments;
- (b) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme;
- (c) War Pension Scheme payments made to veterans with the exception of Constant Attendance Allowance payments
- (d) the mobility component of Disability Living Allowance
- (e) the mobility component of Personal Independence Payments

Any income from the following benefits will be taken fully into account when considering what a person can afford to pay towards their care from their income:

- (a) Attendance Allowance, including Constant Attendance Allowance and Exceptionally

Severe Disablement Allowance

(b) Bereavement Allowance

(c) Carers Allowance

(d) Disability Living Allowance (Care component)

(e) Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit

(f) Income Support

(g) Industrial Injuries Disablement Benefit or equivalent benefits

(h) Jobseeker's Allowance

(i) Maternity Allowance

(j) Pension Credit

(k) Personal Independence Payment (Daily Living component)

(l) State Pension

(m) Universal Credit

Working Tax Credits must be taken into account when considering what a person can afford to pay from their income towards the cost of their care in a care home. However, they should be disregarded in the calculation of income for care and support arranged other than in a care home.

Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

Annuity and pension income

An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity will be taken fully into account except where it is:

(a) purchased with a loan secured on the person's main or only home; or

(b) a gallantry award such as the Victoria Cross Annuity or George Cross Annuity.

Where a person is in a care home and has a spouse or civil partner who is not living in the same care home and is paying half of the value of their occupational pension, personal pension or retirement annuity to their spouse or civil partner, the council will disregard this proportion of the payment.

For those who have purchased an annuity with a loan secured on their main or only home, this is known as a 'home income plan'. Under these schemes, a person has purchased the annuity against the value of their home – similarly to a Deferred Payment Agreement.

In order to qualify for the disregard, one of the annuitants must still be occupying the property as their main or only home. This may happen where a couple has jointly purchased an annuity and only one of them has moved into a care home. If this is not the case, the disregard will not be applied.

Where the disregard is applied, only the following aspects will be disregarded:

- (a) the net weekly interest on the loan where income tax is deductible from the interest; or
- (b) the gross weekly interest on the loan in any other case.

The council will apply a disregard for 'home income plans' appropriately in line with the conditions set out in Annex B: Treatment of income.

In respect of defined contribution pensions, the council will assess pension income for the purposes of charging as follows:

- (a) If a person has removed the funds and placed them in another product or savings account, they should be treated according to the rules for that product;
- (b) If a person is only drawing a minimal income, then a local authority can apply notional income choosing not to draw income, or according to the maximum income that could be drawn under an annuity product. If applying maximum notional income, the actual income should be disregarded to avoid double counting;
- (c) If a person is drawing down an income that is higher than the maximum available under an annuity product, the actual income that is being drawn down should be taken into account.

Mortgage protection insurance policies

Any income from an insurance policy is usually taken into account. In the case of mortgage protection policies where the income is specifically intended to support the person to acquire or retain an interest in their main or only home or to support them to make repairs or improvements to their main or only home it will be disregarded. However, the income must be being used to meet the repayments on the loan. The amount of income from a mortgage protection insurance policy that should be disregarded is the weekly sum of:

- (a) The amount which covers the interest on the loan; plus
- (b) The amount of the repayment which reduced the capital outstanding; plus
- (c) The amount of the premium due on the policy.

Income Support and Pension Credit may be adjusted to take account of the income from the policy.

Other income that will be fully disregarded

Any income from the following sources will be fully disregarded:

- (a) Armed Forces Independence Payments and Mobility Supplement
- (b) Child Support Maintenance Payments and Child Benefit, except where the accommodation is arranged under the Care Act in which the adult and child both live
- (c) Child Tax Credit
- (d) Council Tax Reduction Schemes where this involves a payment to the person
- (e) Disability Living Allowance (Mobility Component) and Mobility Supplement
- (f) Christmas bonus
- (g) dependency increases paid with certain benefits

- (h) Discretionary Trust
- (i) Gallantry Awards
- (j) Guardian's Allowance
- (k) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
- (l) Payments made to Veterans under the War Pension Scheme with the exception of Constant Attendance Allowance
- (m) Income frozen abroad
- (n) income in kind
- (o) pensioners Christmas payments
- (p) Personal Independence Payment (Mobility Component) and Mobility Supplement
- (q) personal injury trust, including those administered by a Court
- (r) resettlement benefit
- (s) savings credit disregard
- (t) Social Fund payments (including winter fuel payments)
- (u) war widows and widowers special payments
- (v) any payments received as a holder of the Victoria Cross, George Cross or equivalent
- (w) any grants or loans paid for the purposes of education; and
- (x) payments made in relation to training for employment.
- (y) any payment from:
 - (i) Macfarlane Trust
 - (ii) Macfarlane (Special Payments) Trust
 - (iii) Macfarlane (Special Payment) (No 2) Trust
 - (iv) Caxton Foundation
 - (v) The Fund (payments to non-haemophiliacs infected with HIV)
 - (vi) Eileen Trust
 - (vii) MFET Limited
 - (viii) Independent Living Fund (2006)
 - (ix) Skipton Fund
 - (x) London Bombings Relief Charitable Fund
 - (xi) Scottish Infected Blood Support Scheme
 - (xii) an approved blood scheme (this is a scheme approved by the Secretary of State, or trust established with funds provided by the Secretary of State, to provide compensation in respect of a person having been infected from contaminated blood products)
 - (xiii) London Emergencies Trust
 - (xiv) We Love Manchester Emergency Fund

Savings Credit

Qualifying income for Pension Credit Savings Credit equivalent to the amount of Savings Credit received is disregarded up to a maximum set by Department of Health and Social Care.

Charitable and voluntary payments

Charitable payments are not necessarily made by recognised charity, but could come from charitable motives. The individual circumstances of the payment will need to be taken into account before making a decision. In general a charitable or voluntary payment which is not made regularly is treated as capital.

Charitable and voluntary payments that are made regularly must be fully disregarded.

Partially disregarded income

The following income is partially disregarded:

- (a) The first £10 per week of War Widows and War Widowers pension, survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme, Civilian War Injury pension, War Disablement pension and payments to victims of National Socialist persecution (paid under German or Austrian law).
- (b) A savings disregard based on qualifying income is made to people in care homes as follows:

For individuals

Where a person is in receipt of qualifying income of less than £133.82 per week there will be no Savings Disregard made.

Where a person is in receipt of qualifying income between £133.82 and £155.60 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of £6.95 whichever is less.

Where a person is in receipt of qualifying income in excess of £155.60 per week, and a savings credit reward is in payment, a flat rate savings disregard of £6.95 per week is made irrespective of how much the savings credit payment is.

Where a person has qualifying income above the limit for receiving a savings credit reward (around £190.00 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £6.95 is made.

For couples

Where a person is part of a couple (including a civil partnership) and is in receipt of qualifying income of less than £212.97 per week there will be no savings disregard made.

Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income between £212.97 and £237.55 per week the savings disregard is

made, which will equal the actual amount of the savings credit received or a sum of £9.75 whichever is less.

Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income in excess of £237.55 per week, and a savings credit reward is in payment, a flat rate savings disregard of £9.75 per week is made irrespective of how much the savings credit payment is.

Where a person who is part of a couple (including a civil partnership) and has qualifying income above the limit for receiving savings credit (around £278.00 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £9.75 is made.

Notional income

In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include for example income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. In all cases the council will satisfy itself that the income would or should have been available to the person.

Notional income should also be applied where a person who has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan. Estimates of the notional income can be received from the pension provider or from estimates provided by the Government Actuary's Department.

Where notional income is included in a financial assessment, it should be treated the same way as actual income. Therefore any income that would usually be disregarded should continue to be so.

Notional income should be calculated from the date it could be expected to be acquired if an application had been made. In doing so, the council will assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears.

However, there are some exemptions and the following sources of income must not be treated as notional income:

- (a) Income payable under a discretionary trust;
- (b) Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
- (c) Income from capital resulting from an award of damages for personal injury that is administered by a court;
- (d) Occupational pension which is not being paid because:
 - (i) The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or

(ii) The trustees or managers of the scheme have insufficient resources available to them to meet the scheme's liabilities in full.

(e) Working Tax Credit.

13. EXPENDITURE

Disability-related expenditure

Where disability-related benefits are taken into account, the council will make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the council.

In assessing disability-related expenditure, the council will make an appropriate allowance where supporting evidence is supplied, in line with the Care and Support Statutory Guidance, Annex B: Treatment of income. The care and support plan for a resident will be considered when assessing the need for any disability-related expenditure and respective allowance.

The assessment will use the National Association of Financial Assessment Officer Disability Expenditure Framework and data obtained by the Office of National Statistics for the Family Spending Surveys. Disability Expenditure Allowance of up to a maximum that is equivalent to an individual's disability benefit payment will be applied.

Expenditure for night care is only taken into account if services are provided by the council during the night.

A disability expenditure assessment will not be offered to residents who are not in receipt of disability benefits.

Personal expenses allowance

The council will leave the person with a minimum amount of income. This is known as the Personal Expenses Allowance (PEA) and the amount is set out in regulations and updates sent via a local authority circular. Anything above this may be taken into account in determining charges.

The PEA is not a benefit but the amount of a person's own income that they must be left with after charges have been deducted. However, where a person has no income, the council is not responsible for providing one. In this instance the council would support the resident to access any relevant state benefits or independent advocacy service.

There may be some circumstances where it would not be appropriate for the council to leave a resident only with the personal expenses allowance after charges. The council will ensure additional allowances are made in line with the Care and Support Statutory Guidance, Annex B: Treatment of income.

14. TEMPORARY AND SHORT-TERM RESIDENTS IN CARE HOMES

Following an assessment of a person's eligible care and support needs a decision may be taken that the person would benefit from a temporary stay in a care home. This could be for a number of reasons such as providing respite care to a carer or to provide a period of more intense support owing to an additional, but temporary, care need.

A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time and where there is a plan to return home. The person's stay should not exceed 52 weeks.

Once it has been agreed that individual is a temporary resident, the council will undertake the financial assessment in accordance with the following guidance.

Capital

The person's main or only home will be disregarded where the person:

- (a) Intends to return to that property as their main or only home and it remains available to them; or
- (b) Has taken steps to dispose of the home in order to acquire one that is more suitable and intends to return to that property.

Any other capital assets will be treated in the same way as for permanent residents.

Income and earnings

Both income and earnings will be treated in the same way as for permanent residents. The council will also take into account the following additional points.

Where Attendance Allowance or Disability Living Allowance is being received, these will be completely disregarded.

Where a stay in a care home is temporary, the amount of Income Support or Pension Credit a person receives will usually remain the same as they will be treated as normally residing in their own home. However, any severe disability premium or enhanced disability premium that may have been included will no longer be paid if the Disability Living Allowance or Attendance Allowance has ceased. There are special rules for Income Support and income related Employment Support Allowance where one member of a couple enters a care home for a temporary period. This will be taken into account in considering what a person can afford to pay.

If Housing Benefit is paid to the person, this will be disregarded as they will still be responsible for meeting any costs associated with their main or only home.

Where a person is sub-letting their property, this will be disregarded where the person occupies the property as their main or only home as they intend to return to the property.

Alternatively a person may have a boarder living in their property. A boarder is someone for whom at least one cooked meal is provided. Where a person has income from a boarder, the first £20 of the income should be ignored plus half of any balance over £20.

If someone wishes to access short-term 24-hour care services using a Direct Payment – they can be allocated up to 4 weeks direct payment funding. The community charge will automatically apply to the direct payment, unless the direct payment is only for short stay care and where this is the case the residential charge will be netted off the allocated amount for respite.

15. INCOME COLLECTION METHODS

The Care Act supports that councils may recover such charges as they consider reasonable in respect of relevant services.

Invoices will be sent to residents or their authorised person every 4 weeks via post or email. Payment of care invoices can be made via a range of methods, including Direct Debit, bankers' Standing Order, online payments, telephone payments.

A billing week runs from Saturday to Friday.

The council will charge the resident's full weekly contribution unless the cost of the care delivered in a week is less than their weekly contribution. In this instance the resident would be charged by the unit.

Direct Payments are paid net of the resident's weekly contribution, and the individual is expected to pay their charge into the direct payment account first with the council adding funds to make up the direct payment to afford the required care. The individual's weekly Direct Payment contribution must be paid in full every week even where care is not provided for a full week. Should services be suspended during a full week (Saturday to Friday) then charges are not levied to the customer. Direct Payments will be audited and more information can be found in the council's all age Direct Payment policy.

16. RECOVERY OF DEBTS

Social Care Business Support and Finance (SCBSF) will ensure charges for Adult Social Care services are raised every 4 weeks in arrears of the care services being delivered. If a resident is in receipt of a Direct Payment their charge will be deducted from the Direct Payment – payment will be net of the resident's charge.

The due date for all care invoices will be 21 days from the date of the invoice. If payment is not made by the appropriate due date the council will issue reminders as follows:

1st reminder – issued after no payment is received within 21 days, giving 14 days to pay the invoice balance

2nd reminder – issued after no payment is received within 35 days of the invoice date, giving 7 days to pay the invoice balance

If a resident does not pay their charges for care and support the council will try to establish the reason for non-payment and take the appropriate action to resolve any problems that have prevented payment. The debt recovery process includes letters and telephone calls to attempt to resolve the issue. Visits from Adult Social Care and SCBSF officers will also be used as appropriate.

If invoices remain unpaid after initial engagement has been attempted, cases will be escalated through Adult Social Care and SCBSF. Escalated debt cases will be referred to debt recovery officers and Sundry Debt who will work in liaison with Legal services.

If the council decides to pursue court action this will be done via the County Court. The Council will have regard to Practice Direction - Pre-Action Conduct guidance published by the Ministry of Justice. However, this will only be done after all other reasonable alternatives for recovering the debt have been exhausted. The council will follow debt recovery guidance as set out in Annex D (Recovery of debt) in the Care and Support Statutory Guidance.

The council reserves the right to levy interest on debts not settled within 28 days at 5% + base rate, capped at 8%. Any costs incurred through the recovery of charges will be added to the debt.

Where the council has obtained a court order or judgment for payment, but the person has not complied with it, the council will seek to enforce the order. There are various methods of enforcement at the council's disposal which will be carefully considered on a case by case basis. The most common enforcement options that are likely to be used are:

- A warrant or writ of control
- An attachment of earnings order
- A third party debt order
- A charging order

The council will also consider any other options that may be available to support the recovery of debts including section 423 of the Insolvency Act 1986. This provides additional routes to recover debts where a person may have transferred or sold their assets to a third party at a price that is lower than the market value with the intention of putting those out of reach or prejudicing the interests of someone who may wish to bring a claim against that person.

17. Deferred Payment Agreements

The universal deferred payment scheme means that people should not be forced to sell their home in their lifetime to pay for their care. By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging (or even a crisis point) for them and their loved ones as they make the transition into care.

A deferred payment agreement can provide additional flexibility for when and how someone pays for their care and support.

Please see the council's Deferred payment scheme policy.

18. TRANSPORT

Cheshire East Council does not commission transport but may offer a direct payment to meet eligible unmet need.

Additional costs associated with eligible transport needs will be assessed within the personal budget and may in some cases be disregarded as a disability related expense.

More information is provided in the council's ASC - Assisted Transport Policy.

19. Flat Rate Fees

There are a number of adult social care services which are charged as a flat rate fee. Please refer to Appendix X: Fee and Charges April 2024 for relevant flat rate fees.

A flat rate fee is to be paid by anyone receiving that service. It is not subject to financial assessment unless the fee brings financial hardship and, in such cases, a financial assessment will determine whether the fee is affordable and does not affect the individual's protected income.

20. Fees and charges

The council will review all fees and charges annually and any charges will be communicated each March/April.

21. Appeals

Appeals against the assessed charge are dealt with under Adult Social Care's Complaints Procedure.

Complaints can be logged via the following methods:

- Online: www.cheshireeast.gov.uk
- Email: socialcarecomplaintsmanager@cheshireeast.gov.uk
- In writing: Customer Relations Team, 1st Floor Macclesfield Town Hall, c/o Delamere House, Delamere St, Crewe, CW1 2LL

Appeals against the amount of disability related expenditure allowed in the financial assessment will be dealt with by the Social Business Support & Finance Team Manager and Service Manager and will require documentary evidence of additional customer

expenditure. Where there remains an impasse, with the customers consent, an external organisation may be approached for an independent assessment of the situation.

Appendix 1: Residential Income Disregards 2024-2025

Income Disregards 2024-2025

Personal Expenses Allowance	£30.15
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Appendix 2: Standard Charge Summary from 06th April 2024Cheshire East Council - Standard Charge Summary from 6th April 2024

Prices for Commissioned Community Services, subject to an assessment of your ability to contribute:		
Service	Rate	Per Item
Domiciliary Home Care	£23.40	Hour
45 min Domiciliary Home Care call	£17.55	Call
30 min Domiciliary Home Care call	£11.70	Call
Waking Night	£95.28	Night
Extra Care Monitoring and Response	£25.00	Per week/Part week
Extra Care Housing Care Call	£22.15	Hour
Day Care	£50.43	Day
Complex Day Care	£62.91	Day
Shared Lives Sessional Support carer home	£35.35	Per 3 hr session
Shared Lives Sessional Support	£35.35	Per 3 hr session
Personal Support and 24 hr supported living	£19.07	Hour

Prices for respite/overnight care subject to an assessment of your ability to contribute:	
Long or Short Stay Residential/Nursing care	Rate per week
Residential Care	£840.00
Residential Dementia Care	£890.00
Nursing Care	£940.00
Nursing Dementia Care	£1030.00
Carer Respite	£750.00
Shared Lives Long Term Placement	£388.50
Shared Lives Long Term Placement Enhanced	£416.50

The rate charged may differ depending on the cost of the service you receive.

Flat Rate Fees (not subject to an assessment of means):

Deferred Payment Fees - £850.00 set-up fee per agreement and an annual administration fee of £100 per annum

Money Management Fee - £12.00 per week

Full cost payer (people who choose to access Council commissioned care) –
£100 care arrangement fee
£5.00 per week administration fee

Telecare/Assistive Technology Fee - £7.50 per week

Interim Charges

Residential	Rate per week
18 - 24	£41.55
25 – Pensionable Age	£60.35
Over Pensionable Age	£188.00
Non-Residential	£1030.00
18+	£10.00

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A summary of responses to Cheshire East Council's

Adult Social Care Charging Policy Consultation

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Introduction

Purpose of the survey

Through November 2023 to January 2024, Cheshire East Council sought views on several proposed changes to its Adult Social Care charging policy. The last time a review of fees and charges for Adult Social care services took place was in 2015.

The proposed changes to the Adult Social Care charging policy aimed to ensure quality services can be provided to the residents of Cheshire East in a financially sustainable manner. The proposals for consideration were under the following sections:

1. Care at home
2. Extra Care Housing charges (including Monitoring and Response charge)
3. Income disregards (non-residential)
4. Interim charging
5. Charges for residential and nursing care
6. Telecare assistive technology
7. Full cost fee payers
8. Money management administration
9. Other changes

Survey responses

Both paper and online copies of the surveys were made available to respondents during the consultation period. A total of 284 online (including email) and 151 paper sectioned responses were received.

Please note respondents could complete each of the nine surveys so may not be distinct across these total counts, i.e., the total number of responses does not equal the total number of respondents. A total of 435 responses were received across all nine surveys with the following number of responses received for each survey individually:

Proposal	Total Response
Care at home	89
Extra Care Housing charges (including Monitoring and Response charge)	55
Income disregards (non-residential)	62
Interim charging	30
Charges for residential and nursing care	50
Telecare assistive technology	55
Full cost fee payers	41
Money management administration	28
Other changes	25

For demographics of respondents please see Appendix A.

Proposal 1: Care at home charges

The proposal

The council has recommissioned a number of social care services since 2015 and in addition has held charges at old rates without updating these to reflect cost or adding inflation. It was proposed that Cheshire East Council aligns charges to the rates paid for care services. This proposal was to introduce a standard charge inclusive of the policy 3% fee which reflects the true cost of care at home services provided to people in their own home.

The proposal was to move the hourly charge for care at home from the current £14.64 per hour to £23.40 per hour – this fee is based upon the average rate paid by the Council for care at home as of October 2023. It was also proposed that 30-minute and 45-minute calls will be charged as a division of the proposed hourly rate - £11.70 for a 30-minute call and £17.55 for a 45-minute call. This fee is to be reviewed if/when the price paid for care changes.

The number of people this proposal might affect:

- 462 people currently do not contribute towards their care at home services and therefore will be unaffected by this change.
- 570 people are receiving care which costs more than they are able to pay and therefore, these people will see no impact from this proposal.
- 310 people are likely to see their care costs increase because they pay the full cost of the care they receive or receive a low number of hours of home care and their financial assessment shows they have the means to pay more.

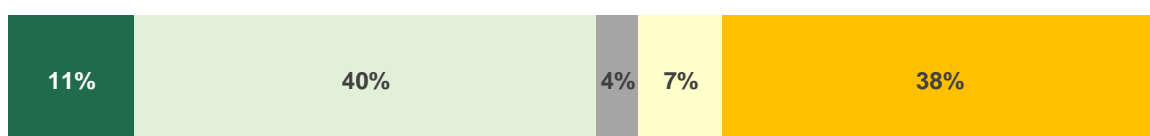
Overall views on the proposal

89 responses were received regarding this proposal with 10 being from individuals who receive care services from the council, 42 from carers or family members of someone who receives care from the council and 36 from other stakeholders.

21% of responses were from those who pay nothing for care, 65% who pay a contribution and 15% the full cost for their care.

Respondents were asked how strongly they agreed or disagreed with the care at home charges proposal, Figure 1 below presents a breakdown of responses to this question.

Figure 1: How strongly do you agree or disagree the council should introduce the "Care at home charges" proposal?



Total number of respondents 83

■ Strongly Agree ■ Tend to Agree ■ Neither Agree nor Disagree ■ Tend to Disagree ■ Strongly Disagree

42 of the 83 (51%) respondents who answered this question agreed to some degree that the council should introduce care at home charges with 33 respondents disagreeing (45%), making this proposal finely balanced among respondents.

Written comments about the proposal

Respondents were given the option to explain their reasoning and a total of 51 comments were left regarding this proposal a summary of which is presented below.

- Increase is too much, disagree with the proposal, couldn't afford to live and pay this (20 references)
- Agree this would be a fairer system, those who can afford to pay for care should do so (8 references)
- Standard of care is failing; Cheshire East should bring it in house to save money (4 references)
- Services not worth the money and ripping off Cheshire East Council, £23.40 hourly rate is too high, approach CCIL. Council rates should be competitive and commercially viable for both carer receivers and givers (5 references)
- Annual increase would be better rather than these large increases (3 references)
- Will increase risk for vulnerable people who don't want to pay the additional, increasing stress and strain on supporting family members and a heightened safeguarding concern (3 references)
- Social care should be funded by the government (3 references)
- Those that pay for care are subsidising the non-fee-paying majority which is not right or ethical (3 references)
- Paying for care that isn't being received/correct (2 references)
- The capital threshold of £23,500 has not been reviewed or increased for many years (2 references)
- Charges should be per apartment, not per person (1 reference)
- Benefits will not increase so couldn't meet the additional cost, disproportionately impacted by this (1 reference)
- Care at home is a valuable service which is appreciated (1 reference)
- Not sure how people will be affected, needs a fresh assessment (1 reference)
- Cost increases should lead to increased efficiency (1 reference)
- Given that a 2022 FOIA (freedom of information act) request by Cheshire DPAC (Cheshire Disabled People Against Cuts) revealed 1,623 residents were in arrears for non-residential or residential care charges, strongly oppose raising charges that could push more Disabled people into debt (1 reference)

Proposal 2: Extra Care Housing charges (including Monitoring and Response charge)

The proposal

Consultation within Extra Care Housing has already been undertaken in January 2019 to remove banded care charges and to move to an hourly rate charged based on actual delivery rather than planned care. The proposed hourly rate for Extra Care Housing is £22.15 this is based upon the actual cost to the Council for commissioning this care plus the policy 3% fee. In addition, the Wellbeing charge will end and a new Monitoring and Response charge will be introduced to each apartment at the rate of £25.00 subject to means. The Monitoring and Response charge supports the 24-hour on-site care provision.

The number of people this proposal might affect:

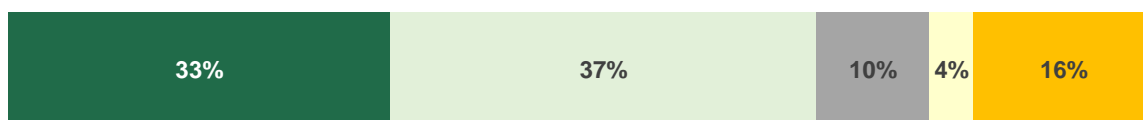
- All people who contribute towards their care through a banded system in Extra Care Housing will be affected by a move to an hourly provision charge and a monitoring and response charge per apartment, subject to means.

Overall views on the proposal

55 responses were received regarding this proposal with 15 being from individuals who receive care services from the council, 21 from carers or family members of someone who receives care from the council, 18 from other stakeholders, and 1 respondent who chose not to disclose this information. 11% of responses were from those who pay nothing for care, 80% who pay a contribution and 9% the full cost for their care.

Respondents were asked how strongly they agreed or disagreed that Cheshire East Council should charge for care in Extra Care Housing on an hourly rate, Figure 2 below presents a breakdown of responses to this question.

Figure 2: How strongly do you agree or disagree that Cheshire East Council should charge for care in Extra Care Housing on an hourly rate?



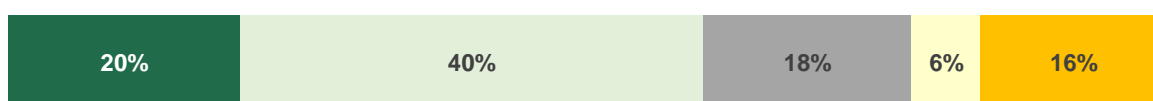
Total number of respondents 51

■ Strongly Agree ■ Tend to Agree ■ Neither Agree nor Disagree ■ Tend to Disagree ■ Strongly Disagree

36 of the 51 (70%) respondents who answered this question agreed to some degree that Cheshire East Council should charge for care in Extra Care Housing on an hourly rate with 10 respondents disagreeing (20%).

Respondents were asked how strongly they agreed or disagreed that Cheshire East Council should introduce a Monitoring and Response charge per apartment, Figure 3 below presents a breakdown of responses to this question.

Figure 3: How strongly do you agree or disagree that Cheshire East Council should introduce a Monitoring and Response charge per apartment?



Total number of respondents 50

■ Strongly Agree ■ Tend to Agree ■ Neither Agree nor Disagree ■ Tend to Disagree ■ Strongly Disagree

30 of the 50 (60%) respondents who answered this question agreed to some degree that Cheshire East Council should introduce a monitoring and response charge per apartment with 11 respondents disagreeing (22%).

Written comments about the proposal

Respondents were given the option to explain their reasoning and a total of 29 comments were left regarding this proposal, a summary of which is presented below.

- Cost should be per unit/apartment, not per person as costs are getting to be a worry (5 references)
- Poor service, carers don't pick up, never seen people from Radis, not paying for an hour when it's a 15-minute visit (5 references)
- Costs are too high, not enough money to live on (4 references)
- Not enough information given to consider the impact on service users for the change to hourly rate or the monitoring and response charge (4 references)
- Agree with the proposals (3 references)
- People should not be paying more than the actual cost of their care (3 references)
- The charge would result in a more accurate assessment of the costs involved (2 references)
- The charge should remain the same, extra should be put towards the care costs (2 references)
- Charge should depend on need and requirement, not the housing structure (2 references)
- Charging vulnerable people extra for monitoring services is wrong (2 references)
- If people can afford to pay for services, they should do so (1 reference)
- Increases in cost should lead to increased efficiency (1 reference)

Proposal 3: Income Disregards (non-residentials)

The proposal

At present, income disregards are based upon historic welfare working-age benefits with an additional 25% applied to the basic award amounts. The income disregard applied for residents over pensionable age is the applicable amount for Pension Credit plus 25%.

Cheshire East Council is proposing to change the way in which income disregards are calculated to align to amounts set by the Department of Health, known as the Minimum Income Guarantee.

Income disregards applicable to a resident are based upon individual circumstances such as age and benefit award. The proposal to change income disregards only applies to residents receiving care and support in the community.

The number of people this proposal might affect:

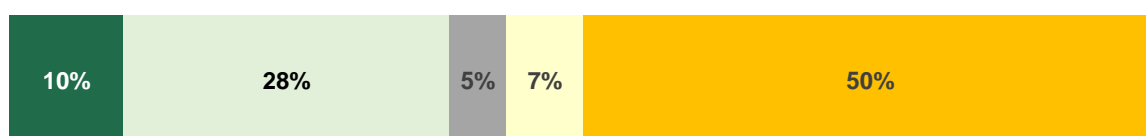
- Cheshire East Council currently charge around 2600 residents who receive non-residential care services. All of these residents have the potential to be affected by the proposed change to the income disregards which may result in an increase to their assessed contribution. Under the proposal, residents who have previously been assessed as making a nil contribution may be required to contribute to their non-residential care services.

Overall views on the proposal

62 responses were received regarding this proposal with 8 being from individuals who receive care services from the council, 34 from carers or family members of someone who receives care from the council, 19 from other stakeholders, and 1 respondent who chose not to disclose this information. 10% of responses were from those who pay nothing for care, 80% who pay a contribution and 10% the full cost for their care.

Respondents were asked how strongly they agreed or disagreed with the proposals in respect of changes to the income disregards. Figure 4 below presents a breakdown of responses to this question.

Figure 4: How strongly do you agree or disagree with the proposals in respect of changes to the income disregards?



Total number of respondents 60

■ Strongly Agree ■ Tend to Agree ■ Neither Agree nor Disagree ■ Tend to Disagree ■ Strongly Disagree

There was strong disagreement to this proposal with 34 out of the 60 (57%) respondents who answered this question disagreeing to some degree with the proposal.

Written comments about the proposal

Respondents were asked if they had any comments to make on this proposal, a total of 33 comments were left a summary of which is presented below.

- Disagree with the increase due to increasing costs for everything/cost of living crisis, would not be able to afford (19 references)
- Does not have enough money to live on currently, small capital has reduced month on month, cannot enhance this income (9 references)
- Would impact those on disability benefits greatly as these have not previously gone up in line with increased care costs (5 references)
- Agree with the proposal, due the financial position of the council tough decisions must be made (3 references)
- Implement a phased cap on any increase to prevent immediate hardship caused by the change (1 reference)
- The proposed increase is too high/excessive and not in line with anything (1 reference)
- Would pay more tax to see fewer charges to people in this proposal (1 reference)
- Maintain standard of care in regard to rising costs (1 reference)
- Targeting the wrong group for savings, should be going after fraudulent benefit claimants rather than this vulnerable group (1 reference)
- Council should take it at source rather than providing benefits and then taking it back through charges (1 reference)
- Explanation not clear, could not comment on the information provided (1 reference)
- Oppose, recommend freezing Cheshire East social care charges as a route to ends charging for all, as Hammersmith and Fulham, and now Tower Hamlets council have done (1 reference)



For people with severe disabilities who need a high level of care and have no possibility of adding to their income, the contributions to care cost consign them to a lifetime of poverty.



Proposal 4: Interim charging

The proposal

The Council proposed to implement interim charges and apply these in the first 6 weeks of care and support. Charges would be based on information the Council already holds or can access via the Department for Work and Pensions.

An initial 6-week charge would assume residents have the correct level of welfare benefit income in place, so that a nominal charge may be applied initially from the start of services for up to a 6-week period. This would be adjusted and backdated once the Financial Assessment has been completed and may be higher or lower than the interim charge. Council staff would support residents to access welfare benefit entitlement as part of the financial assessment process.

We are proposing this change to ensure all our customers are aware there will be a charge for social care services. This would prevent our residents receiving large backdated initial bills when the full financial assessment process cannot be completed prior to services commencing.

The number of people this proposal might affect:

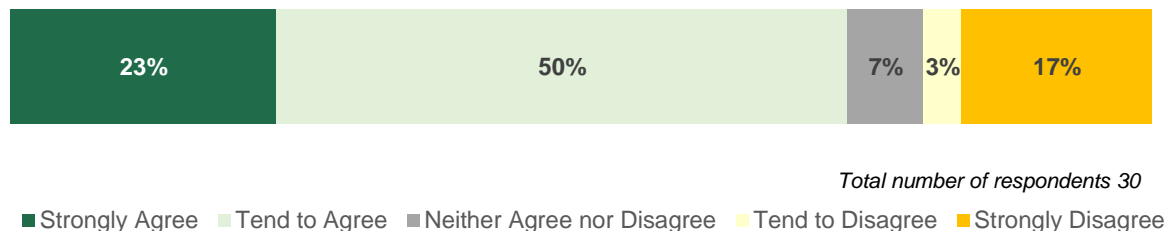
- Around 62 new residents are supported by Cheshire East Council Adult Social Care every week.

Overall views on the proposal

30 responses were received regarding this proposal with 3 being from individuals who receive care services from the council, 15 from carers or family members of someone who receives care from the council, 11 from other stakeholders, and 1 respondent who chose not to disclose this information. 35% of responses were from those who pay nothing for care and 65% from those who pay a contribution to care costs.

Respondents were asked how strongly they agreed or disagreed with the proposals to introduce interim charges for up to a 6-week period to avoid large, backdated bills for our residents. Figure 5 below presents a breakdown of responses to this question.

Figure 5: The Council proposes to introduce interim charges for up to a 6-week period to avoid large, backdated bills for our residents.
How strongly do you agree or disagree with this proposal?



There was strong agreement to this proposal with 23 of the 30 (73%) respondents agreed to some degree with this proposal with only 5 respondents expressing any kind of disagreement.

Written comments about this proposal

Respondents were asked if they had any comments to make on this proposal, a total of 13 comments were left a summary of which is presented below.

- Much better plan/ sensible approach, avoids large, backdated bills which must be a worry (5 references)
- The interim payment should be set at an amount that is unlikely to result in a refund to the resident (1 reference)
- Deferring for two weeks to allow resident and family to deal with other matters due to change of circumstance, one less thing to sort (1 reference)
- Can't afford this (1 reference)
- No to back-dating, you're putting people in debt (1 reference)
- People aren't aware of what welfare benefit they can claim so will be at a disadvantage, financial assessment can take over 3 months so how can these be acted on within the six-week window without extra staffing? (1 reference)
- Fairer to charge all what is affordable, and from beginning of service. Currently full cost users are subsidising others who only pay for a fraction of care costs (1 reference)
- Improving information at the start would be of benefit, received a lot of wrong information and this caused distress (1 reference)
- Increase cost should mean increased efficiency (1 reference)
- How does this fit with both the discharge to assess approach and the CHC assessment? Processes will take longer than the six-week window (1 reference)

- Oppose, recommend freezing Cheshire East social care charges as a route to ends charging for all, as Hammersmith and Fulham, and now Tower Hamlets council have done (1 reference)

“

This is a much better plan if it avoids large back dated bills which must be very worrying for some residents and their families.

”

Proposal 5: Charges for residential and nursing care

The proposal

The standard charge for residential and nursing care will be amended to reflect the average cost that the council pays.

The number of people this proposal might affect:

- Introducing a revised standard charge for residential and nursing care will not have any impact to the existing charges levied to residents for these services. This is because residents who are assessed to contribute towards their support in residential and nursing care will continue to do so. Full cost payers are already charged the same fee in which Cheshire East Council pays and this will continue.

Overall views on the proposal

50 responses were received regarding this proposal with 1 being from an individual who receives care services from the council, 32 from carers or family members of someone who receives care from the council and 17 from other stakeholders. 19% of responses were from those who pay nothing for care, 68% who pay a contribution and 13% the full cost of their care.

Respondents were asked if they had any comments to make on this proposal, a total of 36 comments were left a summary of which is presented below.

- Couldn't afford this, increased contribution out of minimal savings (7 references)
- Full cost payers are paying considerably more than CEC for care homes, unfair system for those who have worked hard and saved (5 references)
- More information needed, nothing to comment on, proposals are not clear (5 references)
- Any changes need to cover the full cost of care, so self-funding residents do not pay more and subsidise council residents (2 references)
- Increased charges should not mean someone who is settled should move to a different care home (1 reference)
- The fees should represent the true costs (1 reference)
- Thought should be given to existing contracts the council holds for residential care to ensure they deliver both value for money & are rates commercially available (1 reference)
- Need to see full transparency of charges, only recently discovered a hidden levy of £1 per £250 between £14,250 and £23,250, which is ensuring my mother's account actually reduces by c£25 per month in relation to her incomings (1 reference)
- Care standards in residential places could be improved, no enrichment activities and poor standard food, no enjoyment left in life (1 reference)

- The council would be better served improving the intrinsic fundamentals of the residential and nursing system looking to improve the system as a whole from communication through to accountability of providers rather than charging residents more, example given of were the care system has failed (1 reference)
- This necessary revision may prepare carers and those for whom they care (1 reference)
- Journey First is useless and dysfunctional, needs improving, they do not deliver and are out of touch with the needs of their clients (1 reference)
- Are the tariff rates being amended. What is the impact of the increase capital limit to £86k that was announced in the 22-23 Budget? (1 reference)
- Seems like picking on the vulnerable (1 reference)
- Standard rates and actual charges should be monitored against each other each year to enable optimisation of council spend (1 reference)
- Increased cost should lead to increased efficiency (1 reference)
- It shouldn't be a one charge fits all approach but should look at what is included in the whole of someone's care package and overall living costs. People who live in SLN's with care provided by Cheshire East Council staff have their utility bills included in the cost of their rent, people in SLN's provided by external providers such as 1st Enable have to pay their own utility bills in addition to their rent charges. Although they receive housing benefit this only covers the rent, therefore people who are in non-CEC SLN's have to pay more external costs than those in CEC SLNS (1 reference)
- Oppose, recommend freezing Cheshire East social care charges as a route to ends charging for all, as Hammersmith and Fulham, and now Tower Hamlets council have done (1 reference)



The new charges need to cover the full cost of care. Currently the council pays less than private care residents who pay a higher rate and effectively subsidise council funded residents.



Proposal 6: Telecare assistive technology

The proposal

Telecare consists of a range of devices such as a pendant alarm or lifeline which aim to keep people safe and independent in their home. The service also includes a call centre which checks that people are safe when telecare devices trigger alerts, and a mobile response service which can visit someone's home, for instance, when they need help after a fall.

The standard charge for the Telecare Service from Cheshire East Council is £5.00 per week. The council is proposing a change to this fee due to a national scheme which is taking place called the digital switchover.

This will increase the cost of the council running the Telecare service, which is an important reason why we've proposed a new Telecare charge.

The number of people this proposal might affect:

- Increasing the fee for Telecare Assistive Technology has the potential to impact 1,975 residents who are charged for this service.

Overall views on the proposal

55 responses were received regarding this proposal with 18 being from individuals who receive care services from the council, 23 from carers or family members of someone who receives care from the council, 11 from other stakeholders, and 3 from respondents who chose not to disclose this information. 10% of responses were from those who pay nothing for care, 50% who pay a contribution and 40% the full cost for their care.

Respondents were asked 'the Council is proposing 3 options for the increased fee for Telecare Assistive Technology. What do you think the charge should be?' Below shows a summary of responses to this question.

The Council is proposing 3 options for the increased fee for Telecare Assistive Technology. What do you think the charge should be?



Total number of respondents 46

38 of the 46 (86%) respondents who answered this question felt the charge should be £7.50 a week, no respondent felt the charge should be £12 a week.

Written comments about the proposal

Respondents were asked if they had any comments to make on this proposal, a total of 37 comments were left a summary of which is presented below.

- Even a cost increase to £7.50 from the current £5 represents a 50% increase, which appears excessive, disagree with the increase (22 references)
- People need to feel safe in their own homes to decrease the need for residential care, costs should be kept low so more people opt for it (11 references)
- An increase of £7.50 may be enough at this time, given the cost of everything else (8 references)
- Any cost increase should be kept to a minimum & be capped at the actual cost to the council in providing the service. (3 references)
- Will swap to a private company if the cost increases (3 references)
- The council should recover costs to improve services and financial assessments (1 reference)
- An increase of £1.00 would probably be acceptable. £130.00 per year is what a £2.50 additional cost would total and this is totally unacceptable for vulnerable people (1 reference)
- System paid for through Plus Dane Housing, would this mean a change to CE? (1 reference)
- System at Healthview does not work correctly, residents are paying for a system that does not work (1 reference)
- Service needs to improve, have previously waited 20 and then 60 minutes for an answer and based on this is not worth the increase, would pay for a quality service (1 reference)
- Charge should reflect the number of services used rather than a flat rate (1 reference)
- Not enough information to make an informed choice (1 reference)

I use telecare to maintain my health and my independence. Any increase in the charges will mean I will need to opt out of this service. The cost of living increase is already impacting on people who are disabled and the benefit level doesn't meet our needs as things currently stand.

Proposal 7: Full cost fee payers

The proposal

People who have capital over £23,250 are viewed as able to fund their own care. The council is required to offer people who have the means to pay for their own care an assessment to determine their eligibility for care services and, where the resident chooses, to commission services on their behalf. Often residents can benefit from the rates the council pays care providers. The council provides services to help people source their own care and support.

The council proposed that where an individual chooses to remain in contracted services provided by the council that a one-off arrangement fee of £100 is introduced and the current flat rate weekly fee of £3 per week is increased.

The number of people this proposal might affect:

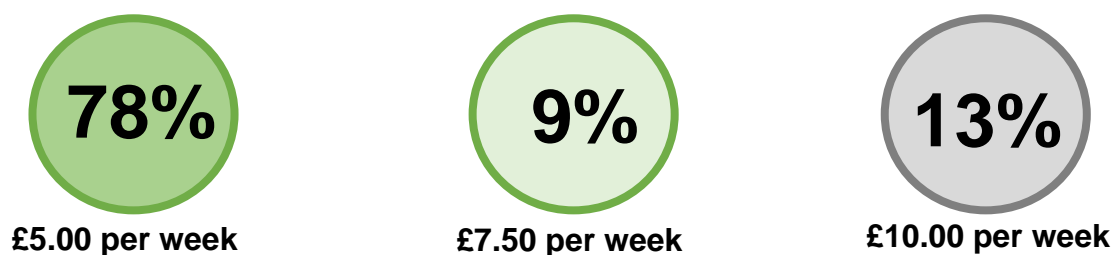
- The Council currently has around 180 people using Council services who are able to pay the full cost due to their capital and who would see an increase in their administrative fee under this proposal. A one-off arrangement fee for care sourcing would be applicable to residents that are new to Adult Social Care services.

Those who do not wish to pay increased fees will be signposted to information and advice to source their own care from the market if they choose not to use Council services in future.

Overall views on the proposal

41 responses were received regarding this proposal with 3 being from individuals who receive care services from the council, 20 from carers or family members of someone who receives care from the council, 15 from other stakeholders, and 3 respondents who chose not to disclose this information. 13% of responses were from those who pay nothing for care, 61% who pay a contribution and 26% the full cost of their care.

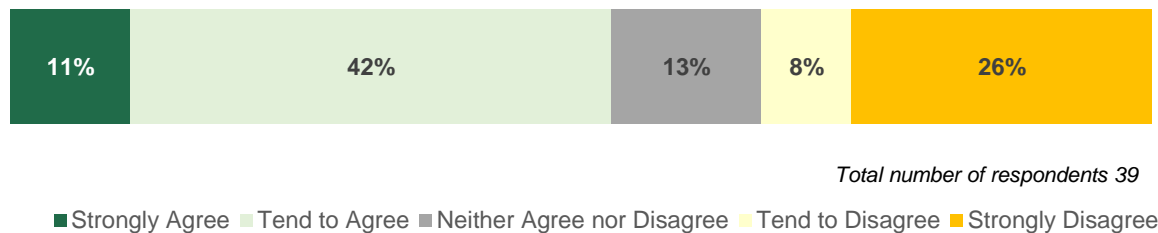
The Council is proposing 3 options for the increased fee for full cost administration. What do you think the charge should be?



Total number of respondents 32

25 of the 32 (78%) respondents felt that £5.00 per week charge was preferable. Respondents were asked “How strongly do you agree or disagree that Cheshire East Council should introduce a one-off arrangement fee for care sourced by the local authority?” Figure 6 overleaf presents a summary of responses to this question.

Figure 6: How strongly do you agree or disagree that Cheshire East Council should introduce a one-off arrangement fee for care sourced by the local authority?



20 of the 39 (53%) respondents agreed to some degree that Cheshire East Council should introduce a one-off arrangement fee for care sourced by the local authority, 14 respondents disagreed (34%).

Written comments about the proposal

Respondents were asked if they had any comments to make on this proposal, a total of 18 comments were left a summary of which is presented below.

- Against additional charges, society should be caring, pay taxes to cover this (6 references)
- A fair proposal for those who can afford this (3 references)
- Should only rise in line with inflation (2 references)
- The cost increases are excessive at 66% and 233% increase, people might not use the service (2 references)
- Houses should not be taken account during assessment (2 references)
- Providing the one-off arrangement fee/ how does this fee work, have concerns (2 references)
- Costs should be priced on individual needs as they vary (2 references)
- Charge to be allocated 3/6 months after receiving care due to the emotional trauma at the time (1 reference)
- Small weekly charge rather than a large increase (1 reference)
- Those who can afford to pay for their own care should do so and lessen the burden on the local authority (1 reference)
- Will this affect existing deferred loan agreements? (1 reference)
- At no point should this strategic consideration mean that individual Disabled citizens are unduly charged for services such as social care, which authorities are legally required to deliver.

“

I can see the logic here but my concern would be if this £100 would be payable whenever a new contract had to be found. We have experience of a care agency taking a person off their books during a 14 day hospital stay. I have heard that some agencies do not even wait that long.

”

Proposal 8: Money management administration

The proposal

Cheshire East Council offers a Money Management service as a corporate appointee to 451 people who lack the mental capacity to manage their own finances. Residents currently pay £11 per week towards the cost of this discretionary service. This proposal is to increase the weekly charge to £12 per week to cover the additional costs attributed to the increase in service delivery for this area. The proposal is to apply this consistently so long as it does not cause financial hardship.

Examples of the potential impact of this proposal:

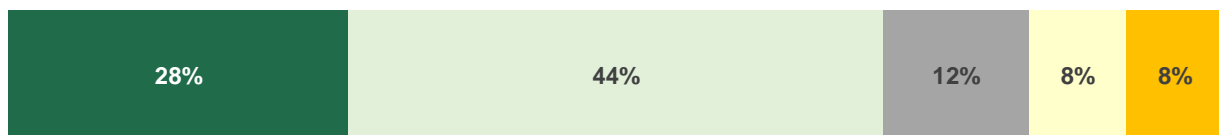
- The Council currently levies a flat rate fee for Money Management services to 451 residents for whom Cheshire East Council acts as their corporate appointee. All of these residents will be potentially affected by any proposed increase to the Money Management fee.

Overall views on the proposal

28 responses were received regarding this proposal with 4 being from individuals who receive care services from the council, 15 from carers or family members of someone who receives care from the council, 8 from other stakeholders, and 1 respondent chose not to disclose this information. 28% of responses were from those who pay nothing for care and the other 72% paid a contribution to their care costs.

Respondents were asked 'how strongly do you agree or disagree that Cheshire East Council should increase fees for Money Management services from April?' Figure 7 below presents a summary of responses to this question.

Figure 7: How strongly do you agree or disagree that Cheshire East Council should increase fees for Money Management services from April?



Total number of respondents: 26

■ Strongly Agree ■ Tend to Agree ■ Neither Agree nor Disagree ■ Tend to Disagree ■ Strongly Disagree

18 of the 26 (72%) respondents 'agreed' or 'strongly agreed' that Cheshire East Council should increase fees for Money Management services from April with only 5 respondents disagreeing to any degree with this.

Written comments about the proposal

Respondents were asked if they had any comments to make on this proposal, a total of 11 comments were left a summary of which is presented below.

- Okay if the rise is in line with inflation (2 references)
- As a discretionary service the cost should reflect the actual cost to the council to provide, however the rate should also be kept competitive to rates commercially available/ should be in line with minimum wage (2 references)
- A lot of elderly people appoint their own related power of attorney (1 reference)
- Those who can afford to pay for service should do so (1 reference)
- Taxes should support this service as individual's are likely vulnerable in other ways and need support (1 reference)
- Cost increases should be reflected in increased efficiency (1 reference)
- Reasonable option if rises won't cause financial hardship (1 reference)
- Once the service is set up surely the work is finished (1 reference)
- Oppose, recommend freezing Cheshire East social care charges as a route to ends charging for all, as Hammersmith and Fulham, and now Tower Hamlets council have done (1 reference)

“

As a discretionary service the cost should reflect the actual cost to the council to provide, however the rate should also be kept competitive to rates commercially available

”

Proposal 9: Other Changes

The proposals

Annual fee review

It is proposed that the Council completes an annual review of charges in line with fees paid for adult social care services. A review would ensure the fees levied to residents reflect the cost paid by the council.

Adult Social Care charging policy review

The Council's Adult Social Care charging policy will be reviewed to update on the proposed changes along with a full refresh of wording to ensure the policy reflects updated legislation and practice.

Most specifically the charging policy will be divided to cover non-residential charging and residential charging separately. The refreshed policies will include key updates on the current practice in respect of billing, transport arrangements and Adult Social Care debt.

Overall views on the proposals

25 responses were received regarding this proposal with 3 being from individuals who receive care services from the council, 11 from carers or family members of someone who receives care from the council, 9 from other stakeholders, and 2 from respondents who did not disclose this information. 43% of responses were from those who pay nothing for care, 50% who pay a contribution and 7% the full cost of their care.

Respondents were asked if they had any comments to make on these proposals, a total of 21 comments were left a summary of which is presented below.

- Increased charges annually but not as large increases such as the proposed 60% for care at home (7 references)
- Please consult with Scope and Disability Rights UK to protect and increase the disregard amount for under retirement age disabled people who will struggle to meet the cost increase. They will be disproportionately affected and need additional consideration (2 references)
- Policy should be clear and simple (2 references)
- Proposal is reasonable but a cap on increases payable in any year should be introduced (2 references)
- Would welcome Cheshire East Council aligning to other local authority commissioners of care but ensuring fees keep pace with inflation (1 reference)
- Service is valued would agree with an increase in annual fees to retain it (1 reference)
- Consideration to affordability of all increases that may impact an individual should be given rather than each increase in isolation (1 reference)
- Cost should be reviewed on an annual basis, review also does not mean increase only (1 reference)

- Prices on care homes should be charged with facilities in the home, if nothing extra provided then charges should be lower (1 reference).
- Charge of independent living – would be a relief to pay per flat (unit) not per person as cost increase is a worry (1 reference)
- Cost increase should lead to increased efficiency and accountability at Cheshire East, negative opinion of it (1 reference)
- Reviews will be a good thing (1 reference)
- Oppose in the strongest terms any proposals to raise charges that could push more Disabled people into debt (1 reference)

“

As Disabled people, we know our lives are not valued equally to others, and more proposals that do not freeze or lower costs or which propose service reductions will cut us off from our communities, prevent us from getting the care and support we need, and ultimately may cut many of our lives short, all in service of a spreadsheet somewhere in Sandbach.

”

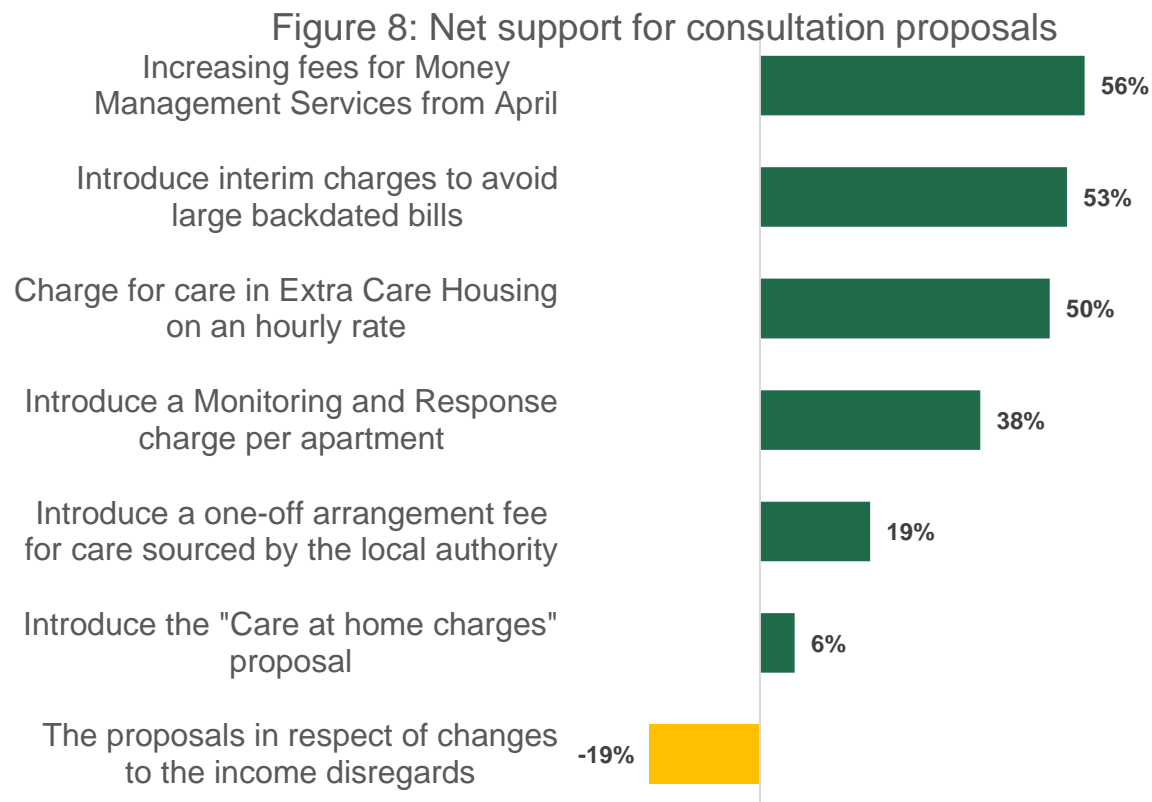
Conclusions

Overall levels of support and opposition to proposals

Figure 8 below shows the 'net support' for each of the proposals in the consultation. Net support is calculated by taking the total who 'strongly agree' or 'tend to agree' to a proposal and then detracting those who 'tend to disagree' or 'strongly disagree.'

Some proposals such as "increasing fees for money management services" or "introducing interim charges to avoid large, backdated bills" have good overall levels of net support of over 50%.

Other proposals received less net support, and even net opposition, including "the proposal in respect of changes to the income disregards" (-19% net opposition) or the proposal to "introduce the 'care at home charges' (6% net support). All proposals receiving low levels of net support should be carefully looked at to consider whether they should be taken forward, or whether they need refining.



Core themes arising from the written comments feedback

A core theme across the open comments was concern around finance, especially when looking at large percent increases on fees being paid. There was a general sentiment that mitigation for this should be in place such as smaller annual increases rather than large price hikes. There was great concern from those on a fixed income, with no way to enhance this as it would directly take from the money needed for basics, at a time of a cost-of-living crisis when money was already tight.

Concerns were also expressed around the standard of care being received such as care calls being cut short, poor standards of care or paying for services that were not being provided and this may require further investigation and review.

This consultation report should be considered by the relevant team alongside any other available evidence and reports when making decisions on the Adult Social Care Charging Policy.

Appendix A: Demographics

Demographics provided are **combined** totals across all nine sections, this means that a single respondent could be counted under each section a maximum of nine times and therefore totals are not distinct counts.

It was not possible to generate a distinct count for the online surveys as no identifiers were present across responses to different surveys.

Organisational responses were received from: Macclesfield Town Council, Middlewich Town Council, Hatherton and Walgherton Parish Council, Cygnet Social Care, David Lewis Centre, Advantage (Cheshire) Ltd, Right at Home and Disability Rights UK.

Gender	Count	Percent
Female	231	53%
Male	112	26%
Prefer not to say/ Not disclosed	92	21%
Grand Total	435	100%

Age	Count	Percent
16 – 24	<10	1%
25 – 34	<10	1%
35 – 44	17	4%
45 – 54	43	10%
55 – 64	107	25%
65 – 74	83	19%
65 – 84	28	6%
85 and over	56	13%
Prefer not to say/ Not disclosed	89	20%
Grand Total	435	100%

Day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months including problems related to old age	Count	Percent
Yes	141	32%
No	164	38%
Prefer not to say/ Not disclosed	130	30%
Grand Total	435	100%

Equality Impact Assessment (EIA)

Engagement and our equality duty

Whilst [the Gunning Principles](#) set out the rules for consulting ‘everyone’, additional requirements are in place to avoid discrimination and inequality.

Cheshire East Council is required to comply with the Equality Act 2010 and the Public Sector Equality Duty. The Equality Act 2010 simplified previous anti-discrimination laws with a single piece of legislation. Within the Act, the Public Sector Equality Duty (Section 149) has three aims. It requires public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act, by consciously thinking about equality when making decisions (such as in developing policy, delivering services and commissioning from others)
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, by removing disadvantages, meeting their specific needs, and encouraging their participation in public life
- foster good relations between people who share a protected characteristic and people who do not

The Equality Duty helps public bodies to deliver their overall objectives for public services, and as such should be approached as a positive opportunity to support good decision-making.

It encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people’s needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people’s opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

Complying with the Equality Duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve providing a service in a way which is appropriate for people who share a protected characteristic, such as providing computer training to all people to help them access information and services.

The Equality Act identifies nine 'protected characteristics' and makes it a legal requirement to make sure that people with these characteristics are protected from discrimination:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Applying the equality duty to engagement

If you are developing a new policy, strategy or programme you may need to carry out an Equality Impact Assessment. You may be able to ascertain the impact of your proposal on different characteristics through desk-based research and learning from similar programmes, but you also need to carry out some primary research and engagement. People with protected characteristics are often described as 'hard to reach' but you will find everyone can be reached – you just need to tailor your approach, so it is accessible for them.

Contacting the [Equality and Diversity mailbox](#) will help you to understand how you can gain insight as to the impacts of your proposals and will ensure that you help the Council to comply with the Equality Act 2010 and the Public Sector Equality Duty.

Section 1 – Details of the service, service change, decommissioning of the service, strategy, function or procedure

Proposal Title	Adult Social Care Charging Policy 2024
Date of Assessment	14 March 2024
Assessment Lead Officer Name	Danielle Brooks and Lee Hudson
Directorate/Service	Social Care Business Support and Finance - Adults, Health and Integration
Details of the service, service change, decommissioning of the service, strategy, function or procedure.	<p>Social Care Business Support and Finance manages the income collection for Adult Social Care, raising approximately 5800 invoices every 4 weeks with an annual value in excess of £28m.</p> <p>The Service ensures a complete financial assessment of all adults who access social care services in the borough through the Council. This Service provides a holistic financial support mechanism to residents with household income maximisation, payment of care contributions, managing finances where needed (under appointment from the Department for Work and Pensions or Court of Protection) and debt advice.</p> <p>Social Care Business Support and Finance proposes to make several changes to the Adult Social Care charging policy to guarantee quality services can be provided to the residents of Cheshire East in a financially sustainable manner. The proposals include:</p> <ul style="list-style-type: none"> - Changes to the standard charges applied to residents who have the financial means to pay the full cost of their care, to ensure their contribution reflects the cost paid by Cheshire East Council for a care service. - Amendment to the calculation for contributions to non-residential services - The implementation of interim charging – charging a nominal fee from the start of the service to avoid late billing and ensure residents are aware of their liability to contribute towards the care they receive. - Revisions to the layout, wording and information of the current Adult Social Care Charging policy

<p>Who is Affected?</p>	<ul style="list-style-type: none"> - Cheshire East residents – service users and carers - External provider services - PeoplePlus - Adult Social Care operational staff - Commissioning - Social Care Business Support and Finance - <p>Residents in Cheshire East that have been financially assessed as requiring to contribute towards social care services will be subjected to a change in the way their contribution is calculated, this may result in an increase in their charge.</p> <p>Older people and people with disabilities will be affected as they make up the majority of residents accessing Adult Social Care services in Cheshire East and are therefore likely to pay more for the care services they receive.</p> <p>The changes proposed in respect of standard charges and the way in which we calculate contributions may result in residents contracting directly with care providers or changing their service delivery.</p> <p>Adult Social Care operational staff will be required to support the consultation and deliver any information to residents throughout consultation and implementation should changes be approved.</p> <p>Any implemented proposals will affect our commissioning colleagues as such proposals may cause changes to resident’s service delivery and care providers. The potential to derive more income from the proposed changes should support future commissions in creating a sustainable market.</p> <p>Social Care Business Support and Finance is the main stakeholder for delivering any change agreed in this consultation, which would include:</p> <ul style="list-style-type: none"> - Review of all financial assessments - System changes - Communications
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	<ul style="list-style-type: none"> - Implementing and sustaining policy
Links and impact on other services, strategies, functions or procedures.	<p>The proposals set out support the Council's priority in the Corporate Plan 2021 – 2025: 'Support a sustainable financial future for the council, through service development, improvement and transformation'. By increasing the amount of the income that comes into the Council from Adult Social Care charges, the aim is to ensure quality services can be delivered to the residents of Cheshire East in a financially sustainable manner. The proposed changes aim to enable reinvestment of savings into front line services, contributing to maintaining service delivery and ability to meet growing demand.</p> <p>The potential to maximise income generated in respect of Adult Social Care charges has been noted in the Council's Medium-Term Financial Strategy 2024-28 (MTFS). Reference number 1 in the MTFS of 'Fees and Charges' notes the income increase required.</p>

<p>How does the service, service change, strategy, function or procedure help the Council meet the requirements of the Public Sector Equality Duty?</p>	<p>The proposal to make changes to Adult Social Care charging does not discriminate and applies to all residents in Cheshire East accessing Adult social care services. Section 14 of the Care Act 2014 provides the council with the power to charge for services delivered to meet the needs of a resident.</p> <p>The changes proposed in respect of income disregards and how the authority calculates contributions towards non-residential services follows Department of Health guidance.</p> <p>All residents including those with who share one or more protected characteristic have been supported throughout the consultation process and will be supported in the implementation which result from changes to the charging policy.</p>
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Section 2 - Information – What do you know?

What do you know?	What information (qualitative and quantitative) and/or research have you used to commission/change/decommission the service, strategy, function, or procedure?
<p>Information you used</p>	<p>We have utilised live reporting from the adult social care case management system and finance system to understand the total number of residents directly affected by the various changes proposed. This information allows us to identify what services residents are accessing and how much they pay or contribute towards their care services.</p> <p>Data already held in Adult Social Care systems provides basic demographic details for all residents including a number of protected characteristics.</p>

Age

The proposed changes to Adult Social Care charging will impact all adults. Adult Social Care provides assessment and access to social care services in Cheshire East for adults 18+. Cheshire East provides Adult Social Care services to around 5900 people.

Aged 65+:

Residential and Nursing care – 1240

Care at Home services – 1389

Other including Telecare, Shared Lives and Day Care – 1552

Aged between 25 and 64:

Residential and Nursing care – 170

Care at Home services – 992

Other including Telecare, Shared Lives and Day Care – 354

Aged between 18 and 24:

Residential and Nursing care – 0

Care at Home services – 166

Other including Telecare, Shared Lives and Day Care – 45

Disability

The income disregards applied when calculating a resident's assessed contribution towards non-residential care services are defined by age and disability benefit awards. Income disregards at present reflect the level of disability benefit a resident is in receipt of: high, medium or low. The income buffer applicable to all adult in receipt of residential care services is set as the Personal Expenses Allowance defined by the Department of Health – as of October 2023 this is £28.25 per week.

Number of residents by income disregards

Residential services - 1235

	<p>Non-residential over pensionable age – 1203</p> <p>Non-residential 18-24 no DLA – 7</p> <p>Non-residential 18-24 low/middle DLA – 9</p> <p>Non-residential 18-24 high DLA - 170</p> <p>Non-residential 25-pensionable age no DLA - 51</p> <p>Non-residential 25-pensionable age low/middle DLA – 224</p> <p>Non-residential 25-pensionable age high DLA – 733</p> <p>Residents accessing Adult Social Care services in Cheshire East are assessed on their eligible need for care and support which is defined as their support reason. Residents may have more than one support reason however each resident has a primary support reason based upon their main need for support (PSR) following an adult needs assessment.</p> <p><u>Primary Support Reasons</u></p> <p>Learning Disability Support – 938</p> <p>Mental Health Support – 543</p> <p>Physical Support - Access and Mobility Only – 942</p> <p>Physical Support - Personal Care Support – 2,356</p> <p>Sensory Support - Support for Dual Impairment – 21</p> <p>Sensory Support - Support for Hearing Impairment – 13</p> <p>Sensory Support - Support for Visual Impairment – 59</p> <p>Social Support - Substance Misuse Support – 5</p> <p>Social Support - Support for Social Isolation / Other – 115</p> <p>Social Support - Support to Carer – 47</p> <p>Support with Memory and Cognition - 870</p>
Gaps in your Information	<p>Following the consultation on the Adult Social Care charging policy, the council will capture the number of service users receiving Adult Social Care services going forward.</p>

3. What did people tell you?

What did people tell you	What consultation and engagement activities have you already undertaken and what did people tell you? Is there any feedback from other local and/or external regional/national consultations that could be included in your assessment?
Details and dates of the consultation/s and/or engagement activities	<p>A 12-week public consultation has been completed between 30 October 2023 and 21 January 2024.</p> <p>A flyer was sent to all residents who currently access Adult Social Care services on 26 October 2023 which detailed the ways in which residents could feedback on the consultation.</p> <p>A dedicated online consultation webpage was developed to host the consultation material, and to link to the 9 separate digital feedback questionnaires, with one questionnaire being provided for each proposal being put forward. Detail was also provided on this webpage about the various consultation events taking place. Social Care Business Support and Finance helpline number and dedicated email inbox were in place to take queries from residents who could not attend face-to face sessions or complete feedback online.</p> <p>Paper consultation packs replicating the online content were made available in libraries and upon request.</p> <p>Nine consultation events have been held across Cheshire East as opportunity for residents to participate in the consultation and ask further questions. Over 120 residents registered for the events.</p> <p>Media releases providing detail on the consultation have been shared via the Council's webpage and social media platforms throughout the consultation period.</p> <p>Detail on the consultation was shared with Adult Social Care providers and external supporting organisations such as Healthwatch, Age UK, Carers Hub, PeoplePlus and internal stakeholders.</p>

	<p>Two member briefing sessions were delivered in the consultation period which provided an opportunity for members to gain more information on the changes and ask questions.</p> <p>Summary of Consultation Findings</p> <p>Both paper and online copies of the surveys were made available to respondents during the consultation period. A total of 284 online (including email) and 151 paper sectioned responses were received.</p> <p>Overall, the response to all the proposals was net positive with the exception of the proposal in respect of income disregards.</p> <p>A common concern from the feedback received was in respect of affordability.</p> <p>A financial assessment and charging for Adult Social Care are complex matters, which are very individual. Those that attended the face-to-face consultation events commented on the benefit of having the opportunity to discuss any impacts on their individual circumstances. There was a general acknowledgement from attendees at the face-to-face events that charges should increase if the cost of services to the council is more. Attendees felt that those that can afford to pay the full cost of their care should do so.</p>
Gaps in consultation and engagement feedback	<p>435 responses were received throughout the consultation, of these respondents a total of 65 respondents were receiving care services from the council – this represents less than 2% of the total number of residents receiving care services through Cheshire East Council. The consultation was shared widely through various communication methods, including the Council’s webpage, social media, social care providers and partner organisations.</p> <p>Residents were invited to share feedback through an online consultation webpage with dedicated surveys to each proposal, paper copies of the surveys and consultation pack were made available at libraries and were sent out in the post where requested. The Social Care Business Support and Finance helpline was set-up to take queries and feedback with callbacks upon request.</p> <p>Nine face-to-face consultation events were held as opportunity for residents to gain support on completing the consultation packs and ask questions.</p>

4. Review of information, consultation feedback and equality analysis

Protected characteristics groups from the Equality Act 2010	What do you know? Summary of information used to inform the proposal	What did people tell you? Summary of customer and/or staff feedback	What does this mean? Impacts identified from the information and feedback (actual and potential). These can be either positive, negative or have no impact.
Age	<p>There are 89,200 people in Cheshire East aged 65+ (2021 census). This amounts to 22% in total in comparison to the rest of the population. 70% of CEC customers (or 4,181 as of October 2023) are older people which reflects the greater risk that support services are needed as a person ages.</p> <p>The proposed change is to move to the use of income disregards aligned to Department of Health (DOH) limits – Minimum Income Guarantee (MIG).</p> <p>The proposed changes to Adult Social Care charging will potentially impact all adults (18+).</p> <p>Care Act statutory charging regulations support that local authorities can charge for care services.</p> <p>The Department of Health (DOH) sets the minimum income guarantee (MIG) based upon expected benefit entitlement with consideration to age and personal circumstances.</p>	<p>Through the consultation residents expressed concern around the affordability of charges.</p> <p>Of those respondents that disclosed their age, 38% were over 65 and 41% were under 65 years old.</p> <p>89 responses were received regarding the care at home charges proposal, 51% of respondents tended to agree or strongly agree with the proposal to charge for care at home in line with the cost that the council pays for this service.</p> <p>The proposal for changes to Extra Care Housing charges included charges based upon hourly rates and introducing a monitoring and response charge of £25.00 per week. 55 responses were received and of these</p>	<p>Following consultation feedback, the council is proposing to increase the standard charge for care at home, in line with the actual cost that the council pays for this service – £23.40 per hour as of October 2023. This charge will be applicable to residents who been assessed to pay the full cost of the care they receive.</p> <p>The council is proposing an hourly charge of £22.15 and the ending of banded care charges for Extra Care charges.</p> <p>The council will continue to ensure that any changes to income disregards fall in line with national framework – DOH.</p> <p>The council will guarantee that every resident receiving Adult</p>

	<p>The proposed changes will align to the DOH MIG which has the potential to result in an increased contribution for all residents, with the greatest impact to residents aged 65+.</p> <p>Income disregards proposed:</p> <p>Over Pensionable Age - £214.35 per week</p> <p>18-24 Personal Allowance (PA) only - £82.15 per week</p> <p>18-24 PA + disability premium (DP) - £127.90 per week</p> <p>18-24 PA, DP + enhanced disability premium (EDP)- £150.25 per week</p> <p>25 – pensionable age, Personal Allowance (PA) only - £103.65 per week</p> <p>25 – pensionable age, PA + disability premium (DP) - £149.40 per week</p> <p>25 – pensionable age, PA, DP + enhanced disability premium (EDP)- £171.75 per week</p> <p>Over pensionable age will still receive the greatest level of income disregard under the proposed changes. However, the change proposed in calculating assessed contributions will have the most financial impact to this cohort of residents</p>	<p>responses 70% tended to agree or strongly agree with the proposals.</p> <p>62 responses were received for the proposal to change income disregards. 57% of respondents tended to disagree or strongly disagree with this proposal. Respondents commented on the affordability and concern on cost of living.</p> <p>The consultation requested feedback on an increased fee for Telecare Assistive Technology from £5.00 per week, with options in the consultation as follows:</p> <p>£7.50 per week £10.00 per week £12.00 per week</p> <p>86% of respondents chose an increased fee for Telecare assistive technology – from £5.00 per week to £7.50 per week. A high number of these respondents felt the increase was excessive and commented on the fact that the cost should be capped to ensure residents opt for the service.</p>	<p>Social Care services will receive a financial assessment review to ensure that the charge levied is affordable to them.</p> <p>The council has proposed the increased fee for Telecare assistive technology of £7.50 per week, acknowledging residents consultation feedback. The fee for assistive technology is a flat rate cost, however residents will be entitled to a financial assessment to ensure affordability and that no financial hardship is caused.</p> <p>The council has proposed an increased full cost administration fee of £5.00 per week, recognising the feedback given by residents at consultation.</p>
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	<p>as the existing income disregard was much higher than the DOH MIG.</p> <p>Interim charging will be applied initially to residents receiving residential or nursing services only. As of October 2023, a total of 1410 residents are receiving residential or nursing care, of these residents 1240 (88%) are aged over 65.</p> <p>There is a proposed increase to the fee for telecare assistive technology. Over 1900 residents in Cheshire East utilise this service. Of this cohort of residents we know that there are 227 residents are under 65 and 1722 are aged 65 and over.</p>	<p>The consultation sought feedback in respect of a proposal to increase the full cost administration fee. The options proposed were an increase from £3.00 per week to:</p> <p>£5.00 per week £7.50 per week £10.00 per week</p> <p>41 responses were received on this proposal and 78% of the respondents chose the option of £5.00 per week.</p>	
Disability	<p>The charges proposed in respect of income disregards align to Department of Health limits, which follow a logic that makes a greater allowance for residents that are in receipt of a higher amount of income support.</p> <p>67,819 people within Cheshire East have a long-term health problem or disability (2021 census).</p> <p>In summary, the financial impact of the proposals is likely to put more pressure on the day to day living costs of individuals although financial policies will continue to ensure that the customer has a sufficient level of savings/income under</p>	<p>Of the 435 responses received, 141 respondents had limitations in their day-to-day activities because of a health problem or disability which has lasted, or is expected to last, at least 12 months including problems related to old age.</p>	<p>The council will ensure that every resident receiving Adult Social Care services will receive a financial assessment review to ensure that the charge levied is affordable to them.</p> <p>The council will continue to ensure that any changes to income disregards fall in line with national framework – DOH.</p>

	Charging Guidance despite the changes brought about by this revised policy. As such, it is likely that the effect of the charging policy is to put pressure on those who can afford to pay more.		
Gender reassignment	No data recorded on clients but the Adult social care services are accessible to all Cheshire East residents		
Pregnancy and maternity	No data recorded on clients but the Adult social care services are accessible to all Cheshire East residents		
Race/ethnicity	No impacts in respect of race/ethnicity are expected to be reported on during this consultation process as a result of the proposed policy changes.		
Religion or belief	<p>Religion or belief is recorded for most residents accessing adult social care through Cheshire East Council:</p> <p>No impacts in respect of religion/belief are expected to be reported on during this consultation process as a result of the proposed policy changes.</p>		

Sex	Residents accessing Adult Social Care services can be grouped by sex as follows: Male 2265 Female 3644 The changes proposed would be applied consistently to male and female residents.		
Sexual orientation	No data recorded on clients but the Adult social care services are accessible to all Cheshire East residents		
Marriage and civil partnership	No data recorded on clients but the Adult social care services are accessible to all Cheshire East residents		

5. Justification, Mitigation and Actions

Mitigation	What can you do? Actions to mitigate any negative impacts or further enhance positive impacts
<p>Please provide justification for the proposal if negative impacts have been identified?</p> <p>Are there any actions that could be undertaken to mitigate, reduce or remove negative impacts?</p> <p>Have all available options been explored? Please include details of alternative options and why they couldn't be considered?</p>	<p>Cheshire East Council's Adult Social Care (ASC) Charging policy underpins that no one will ever be asked to pay more than they can reasonably afford for their care services subject to their financial assessment. Residents will see an increase in their contribution towards social care services they receive. However, all assessments are completed on an individual basis and will be reviewed before any changes are finalised. Officers will work with residents to ensure appropriate benefit entitlement is awarded and household income is maximised.</p> <p>Changes to our standard charges for adult social care services will directly impact residents who are assessed to pay the full cost of the care they receive. However, these residents</p>

<p>Please include details of how positive impacts could be further enhanced, if possible?</p>	<p>will be supported to transfer to private arrangements should they wish to source care services directly from a care provider.</p> <p>Interim charging would positively impact residents of Cheshire East, as the initial charge will be in place from the start of services which should reduce backdated billing and potential debt. Information will be readily available to all residents accessing ASC services which will inform on the expected interim charge.</p> <p>Flat rate fees levied for Telecare Assistive Technology will negatively impact residents are the proposal is to increase the fee. However, this service can be sourced on a private basis should residents choose to end their arrangement for this service with Cheshire East.</p> <p>The flat rate for full cost administration and one-off arrangement fee would negatively impact residents. However, many residents will still benefit from the arrangement and management of care services through the local authority. Residents who do not wish to retain care services arranged by the local authority will be supported to source care on a private basis.</p> <p>Residents receiving support via the Money Management service will be negatively by the proposal to increase the fee for this service. However, benchmarking with private organisations shows that despite increasing the fee to maintain service delivery, the fee is still less than that charged in the private sector. Residents will be supported to move away from the Council provided service should they wish to do so.</p> <p>Any mitigation as a result of the consultation will be included and reviewed.</p>
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6. Monitoring and Review -

Monitoring and review	How will the impact of the service, service change, decommissioning of the service, strategy, function or procedure be monitored? How will actions to mitigate negative impacts be monitored? Date for review of the EIA
Details of monitoring activities	<p>Monitoring activities</p> <ul style="list-style-type: none"> • Regular data will be reported on via Unit4 to evidence collection of assessed contributions and debt. • Complaints and compliments and customer feedback forms • Discussions with colleagues in Adult Social Care operations and Commissioning
Date and responsible officer for the review of the EIA	<p>Danielle Brooks, Service Manager Lee Hudson, Service Manager</p> <p>July 2024</p>

7. Sign Off

When you have completed your EIA, it should be sent to the [Equality, Diversity and Inclusion Mailbox](#) for review. If your EIA is approved, it must then be signed off by a senior manager within your Department (Head of Service or above).

Once the EIA has been signed off, please forward a copy to the Equality, Diversity and Inclusion Officer to be published on the website. For Transparency, we are committed to publishing all Equality Impact Assessments relating to public engagement.

Name	Joanne Sutton
Signature	<i>J Sutton</i>
Date	14/03/24

8. Help and Support

For support and advice please contact EqualityandInclusion@cheshireeast.gov.uk

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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 young adults with additional needs 	<ul style="list-style-type: none"> • Thriving urban and rural economies with opportunities for all •

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 report 2024 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



Cheshire East Council

Direct Payment Policy

Adults, Children and Young People

2024

FINAL MARCH 2024

Definition

Term	Definition
Advocacy	Advocacy is support from another person to help an individual to express their views and wishes to enable them to make decisions available to them.
Allocated Worker	A member of staff employed by the Council or by a delegated service provider to provide professional support to the person, to undertake care and support assessments and reviews. Ordinarily this would be a qualified professional – Family Support Worker, Social Worker, Occupational Therapist or Social Care Assessor.
Assessment	<p>An assessment considers how an individual is managing everyday activities such as looking after themselves, household tasks and getting out and about. Individuals are entitled to an assessment if they have social care needs and the individuals' views are central to this process.</p> <p>An assessment for a child or young person is undertaken to consider what is working well and what is not working well to identify unmet Education or Social Care needs and support and services that may be required to meet them.</p>
Benefits and means tested benefits	Payments from the Government that you may receive because of your age, disability, income, or caring responsibilities. Some benefits are universal - paid to everyone regardless of their income whereas other benefits may be means tested.
Capacity to consent	<p>'Consent' is when an individual gives their permission for someone to do something to you or for you.</p> <p>'Capacity' is an individual's ability to understand what they are being asked to decide, to make a decision and to communicate that decision to people around them. Mental capacity can vary over time. If an individual has capacity to consent, then they understand what they are being asked to agree to, and they are able to let people know whether they agree.</p>
Carer	Can be a child, young person or an adult who provides or intends to provide unpaid care for a child or young person or another adult (needing care).
Child or Young Person	For the purposes of this Policy the definition of a child is taken from the Children Act 1989. A child is anyone below the age of 18 years. Increasing consideration is given through European legislation and British case law that from the age of 16, a child should be considered to be a Young Person.

Child in Need	All disabled children who meet the eligibility as defined within Section 17 of the Children Act, Section 6 of the Equality Act 2010 and or Section 2 of the Chronically Sick and Disabled Persons Act 1970 are legally considered to be Children in Need .
Client Contribution	<p>The amount an individual may need to pay towards the cost of the social care services they receive. The amount that the individual needs to pay depends on the Cheshire East Charging policy. The Council receives guidance from Government on how much they can charge.</p> <p>Anyone below the age of 18 will not be expected to make contributions towards their social care services.</p>
Council or local authority	Cheshire East Council
Direct Payment	Monetary payments made by the Council for the purpose of meeting some or all of an individual's eligible care and support needs.
Direct Payment Client	A Direct Payment client is the person receiving the Direct Payments and who has the legal obligations to manage this appropriately. This may be the individual in need of care and support, or the responsible person managing the Direct Payment.
Delegated Responsibility / Associated Partners	Delegation is the assignment of any responsibility or authority to another organisation to carry out specific activities or services, such as providing Mental Health Services. Associated Partners are organisations which may be charities or businesses, or other public service providers, the Police and the NHS. The Council may commission Associated Partners to provide services on their behalf, which may include the delegation of the undertaking of some statutory functions.
Eligibility	<p>Eligibility is the level at which an individual's needs are assessed for care and support and is based upon that individual's level of need. Decisions will focus on the individual's ability to achieve relevant outcomes and whether, therefore this may have a significant impact on their wellbeing. If the Council undertakes an assessment and determines an individual is below this eligibility threshold, they may not qualify for Council funded care.</p> <p>Eligibility determines who may receive an assessment. A disabled child may have a physical impairment such as being blind, deaf or British Sign Language (BSL) user or someone with a hearing impairment or a mental disorder of any kind which is substantial and permanent or is substantially and permanently disabled by illness, injury or congenital</p>

	deformity or such other disability as may be prescribed and are automatically Children in Need.
Family (Close Family)	<ul style="list-style-type: none"> a. the spouse or civil partner of the adult; b. a person who lives with the adult as if their spouse or partner; c. a person living in the same household as the adult who is the adult's <ul style="list-style-type: none"> i. parent or parent-in-law ii. son or daughter iii. son in law or daughter-in-law iv. stepson or stepdaughter v. brother or sister vi. aunt or uncle vii. grandparent d. the spouse or civic partner of any person identified in sub-paragraph (c) above who lives in the same household as the adult and e. a person who lives with any person specified in sub-paragraph (c) as if that person's spouse or civil partner f. a person living in the same household as the child / young person who is the child / young person's <ul style="list-style-type: none"> i. parent or stepparent ii. sister or brother iii. step/half-sister or step/half-brother iv. aunt or uncle v. grandparent vi. anyone else who lives in the same household as the child/young person
Financial Assessment	For adults the Council will discuss with the individual and assess how much they can afford to pay towards their care and support needs. This will involve looking at the individuals' income, savings and individual circumstances. The financial assessment would take place after an assessment of the individuals care and support needs
Individual(s) or Person(s)	Individuals or persons eligible for support include residents of Cheshire East and/or their carers.
Means Tested Benefit	Means tested benefits are awarded based upon an individual's income and capital.
Mental Capacity Act	The Mental Capacity Act 2005 is designed to protect and empower people who may lack the mental capacity to make their own decisions about their care and treatment. It applies to people aged 16 years and over. The Mental Capacity Act allows people to express their preferences and to appoint a trusted person to make a decision on their behalf should they lack capacity in the future.

Outcomes	An 'outcome' is an aim or objective which an individual would like to achieve. This may include for example having friends, building independence skills, maintaining links with family and friends, living in their own home, and/or managing their own support and are in control of what, how and when support is delivered to meet their needs.
Personal Assistant (PA)	An individual 'employed' by the Direct Payment client to provide care and support services to meet their eligible needs identified within their support plan.
Personal Budget	A personal budget is an amount of money that is allocated to an individual following an assessment of needs and for adults' financial assessment. This is the amount of money that is required to meet the assessed social care needs.
Personal Health Budget	A personal health budget is an amount of money to support an individual's health and wellbeing needs, that is planned and agreed between the individual (or someone who represents them) and the local NHS team.
Respite Care	<p>In adult services - is planned or emergency care which is provided on a temporary basis to ensure an individual's main carer can have a break from their caring role.</p> <p>In children's services respite care is often referred to as overnight short breaks and is an assessed and agreed package of support to meet overnight support needs.</p>
Responsible Person referred to in this policy includes an authorised, nominated or suitable person	<p>A responsible person refers to the following:</p> <p><u>Authorised:</u></p> <p>If someone has been found as lacking the capacity to consent to receive a Direct Payment, and yet Direct Payments would be beneficial a Direct Payment can be made if there is someone who is willing and able to fulfil the role of an "authorised person". Section 9 of this policy outlines who can act as this authorised person. This is either:</p> <ul style="list-style-type: none"> a. A Court appointed deputy for personal welfare or an Attorney under a Lasting Power of Attorney for personal welfare b. Where the person is not authorised as mentioned in paragraph (a), but a person who is so authorised agrees with the local authority that the person is a suitable person to whom to make Direct Payments, or c. Where no one fills a) or b) above the authorised person can be someone who the local authority considers to be a suitable person for Direct Payment purposes

	<p><u>Nominated person:</u> A nominated person is someone an adult with capacity has chosen to help with on-going management of the money or receive and manage the Direct Payments on behalf of the person. Any help given can vary depending on the individuals needs.</p> <p><u>Suitable person:</u> A person who has been legally nominated as being suitable to receive a Direct Payment to purchase services for someone who has been determined as lacking the capacity to consent to a Direct Payment, or who doesn't want to manage it themselves. The suitable person becomes responsible for the on-going management of the Direct Payment in the best interests of the individual.</p>
Safeguarding	Means protecting the health, wellbeing and human rights of adults, children and young people and refers to the process of protecting children and adults to provide safe and effective care.
Self Employed	An individual who runs their own business, and is therefore liable to pay their own contributions, such as tax, and national insurance.
Short Breaks for Disabled Children and their families	This is referred to as our Short Breaks Local Offer. This consists of a set of services that we commissioned for assessed disabled children, free of cost.
Strengths Based Approach	Considers an individual's own strengths and capabilities and what support may be available to them from their wider support network (friends/family) or community. This is a collaborative process between the person supported by services and the services supporting them.
Support plan	<p>In adult services a support plan will be developed with the individual and will focus on how you can utilise the Direct Payment to meet your assessed needs and the outcomes you wish to achieve.</p> <p>In children's services the way the direct payments will be used to meet needs and outcomes is determined as part of the child/young person's agreed care plan and direct payments can only be spent on what is agreed as part of that plan.</p>
Transition	Until the age of 18, services for children and young people with long-term health conditions and /or disabilities are provided by child health and social care services. Between the ages of 16 and 18, the young person will start a "transition" to adult services.

	This should involve all the services that support areas like health and social care.
Wellbeing	A term used to refer to an individual's physical and mental health, in terms of the individual being comfortable, healthy and happy.

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1. Introduction

Policy Overview

- 1.1. This policy applies equally to adults with care and support needs, their carers and for those with parental responsibility for a child who has an Education, Health & Care Plan (EHCP), or is eligible as a disabled child under Section 17 (Child in Need) of the Children Act 1989, and Section 2 Chronically Sick and Disabled Persons Act 1970.
- 1.2. The purpose of this policy is to make clear the Council's approach to Direct Payments, and the responsibilities for the Direct Payment client. It should be read in conjunction with other Direct Payment documentation e.g. factsheets and the Direct Payment agreement.
- 1.3. Following an eligibility for need assessment every adult, child, or carer who is eligible following an assessment for care and support will have a personal budget identified. This is the amount of money that the Council believes is reasonable to purchase services to meet those eligible support needs. Individuals who have eligible needs should have choice and control over how their outcomes are achieved.
- 1.4. Therefore, the Council wishes to promote Direct Payments as a fully accessible way of paying for care and support, whilst recognising that Direct Payments may not be appropriate for some people, or some people may not want to have a Direct Payment. The adult who requires the support can then choose how that budget is spent as long as the person's identified needs are met. This policy only covers education and social care needs in the case of a child/young person the carer will work with their child/young person's allocated worker through the assessment process to determine how to use the direct payments to meet identified needs and outcomes.
- 1.5. The Council embraces a strengths-based approach and will embed this into what we do. This approach involves promoting inclusion and supporting individuals to identify their own skills and resources and how the relationships that they have with people around them can help, and to support the person to identify strengths and assets available in the community.
- 1.6. The Council believe that a person needs to be seen as more than just their care needs – we want individuals and families/carers to feel confident about using Direct Payments by:

- By assisting and supporting individuals to achieve their outcomes within their community
- Supporting individuals to access Direct Payments and to work within the Direct Payment Policy and procedures
- Offering guidance and support to individuals where difficulties arise
- Ensuring that where direct payments are being received that they are included as part of a child or young person's Education, Health and Care Plan (EHCP)

1.7. This policy also applies to all the Council allocated workers and those who carry out the role of allocated worker or administrator under a delegated responsibility where social care assessments, reviews, care and support planning arrangements and administration of services are undertaken.

2. Direct Payment Equal Opportunities

Statement

2.1. The Council aims to ensure equality of treatment and access to services for all members, staff and customers:

- No person or group of persons applying for services or contracts with the Council will be treated less favourably than any other person or group of persons on grounds of gender, sexual orientation, race, nationality, ethnic origin, disability, marital status, age, religion or belief.
- The Council will consult with an individual about the planning and delivery of services and take account of the specific needs of those groups who may experience discrimination or be disadvantaged.
- Information about the Council's services will be accessible and, where necessary, targeted to those who may otherwise have trouble in accessing information or services.
- So far as is reasonably practicable the Council's buildings will be accessible to an individual with disabilities; the Council will scrutinise policies and procedures to ensure non-discriminatory practice is at the core of planning.

3. Equality and Diversity

3.1. The Council will strive to ensure equity in the access, support, and delivery of Direct Payments regardless of:

- An individual's socio-economic status or protected characteristic; age, disability, race, religion or belief, sex, sexual orientation, gender reassignment, marriage and civil partnership and pregnancy and maternity

- 3.2. The Council will also work to ensure individuals are treated equally when choosing to have services arranged and purchased on their behalf to meet their needs rather than accepting a Direct Payment.

4. Legislative Framework

Adults, children and young people

- 4.1. Direct Payments along with personal budgets and personalised care planning, has been mandated for the first time and is set out in the Care Act 2014, Section 117 (2C) of the Mental Health Act 1983 and the Care and Support (Direct Payments) Regulations 2014 and Section 17A of the Children Act 1989.

- 4.2. This Policy along with the procedures and practice guidance is based on the Council's understanding of the relevant legislation, government guidance, and sets out how the Council should go about performing its care and support responsibilities and ensure that the Council are able to meet their statutory obligations in relation to:

- The Care Act 2014
- Care and Support (Direct Payments) Regulations 2014
- Care and Support Statutory Guidance issued with the Care Act 2014
- Carers and Disabled Children Act 2000
- Section 117(2C) of the Mental Health Act 1983
- Children and Families Act 2014
- Mental Capacity Act 2005
- Special Educational Needs (Personal Budgets & Direct Payments) Regulations 2014
- Chronically Sick and Disabled Persons Act 1970
- Children Act 1989
- Equality Act 2010
- Working Together to Safeguard Children 2018

- 4.3. The legislative framework to make Direct Payments for children is covered by the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009. The regulations provide that the duty to make Direct Payments applies to:

- A community care service within the meaning of Section 46 of the National Health Service and Community Care Act 1990 or
- A service which local councils may provide under Section 17 of the Children Act 1989 and Section 2 of the Chronically Sick and Disabled

Persons Act 1970 (provision of services for children in need, their families and others)

- Statutory special educational needs and disability code of practice paragraph 3.38 incorporates the regulations from the Children and Family Act 2014 and describes the right of parent and carers to request a personal budget including a Direct Payment.

5. What are Direct Payments

5.1. A personal budget is a sum of money allocated to an individual as a result of an assessment of need. This can be taken in the form of a Direct Payment, which is defined as 'monetary payments to individuals who request to receive one to meet some or all of their eligible care and support needs'.

5.2. A Direct Payment may offer an individual more flexibility, choice and control than support being commissioned by the Council or the NHS to meet their needs. A Direct Payment can help an individual to live in their own home, be fully involved in family and community life and to take part in work, education, and leisure in order to achieve their individual outcomes.

5.3. These payments are made directly to the individual (or someone on their behalf) who has been assessed as having eligible needs for social care support and can form all or part of their Personal Budget. Direct Payments may be combined, by agreement, with other funds such as a Personal Health Budget or an Education, Health and Care Plan (EHCP). Direct Payments can also be made by Health under Section 12A of the National Health Service Act 2006.

5.4. Individuals accessing Direct Payments must be able to manage the Direct Payments with or without assistance, allocated workers must guard against assumptions and decisions must not be made about a person's ability to manage based upon the person's religion, sex, disability or age.

5.5. All adult Direct Payments will be subject to a financial assessment. However, if an individual is assessed and is expected to meet the full cost of the care and support they require then they will not be eligible to receive a Direct Payment. More information on charging for adult social care services can be found by following the link as detailed:

<https://www.cheshireeast.gov.uk/livewell/care-and-support-for-adults/paying-for-care/will-i-have-to-pay-for-my-care.aspx>

5.6. All Direct Payment clients or their responsible person that agree to receive a Direct Payment including carers will need to sign a Direct Payment Agreement.

6. Personal Health Budget

- 6.1. The Council will work with individuals who are, or will be, in receipt of a personal health budget and a council Direct Payment to ensure that a joint health and social care budget works in the best way for them. For information about personal health budgets visit the NHS website <https://www.england.nhs.uk/personal-health-budgets/>

7. Who can access a Direct Payment

Overview

- 7.1. The Council has a duty to make Direct Payments available to anyone with assessed needs, this includes:

- Adults who have been assessed as eligible to receive help from the Council in arranging care and support to meet their unmet needs in the community.
- People with parent responsibility for a child with disabilities, a disabled child themselves if over 16 or a nominee who has been nominated in writing by someone with parental responsibility
- Disabled people with parental responsibility for child(ren)
- Carers aged 16 and over, for their own assessed needs for example for services to support their caring role and to maintain their own health and wellbeing

- 7.2. Where a child or young people is assessed as needing services under Section 17 of the Children's Act 1989, children's social care services (and adult social care where appropriate) need to be satisfied that the Direct Payment will 'safeguard and promote' the welfare of the child or young person for whom the service is needed.

Adult

- 7.3. The Council will consider all requests for a Direct Payment. At the outset of the process allocated workers will ascertain whether or not the individual has capacity to request and receive Direct Payments. Decisions about an individual's capacity under the Mental Capacity Act is decision specific (for example the ability to make a decision about Direct Payments) and time specific (at the time the decision has to be made).
- 7.4. There may be individual conditions and/or circumstances whereby an individual can be excluded from accessing a Direct Payment (refer to section 10).

7.5. The Council has a key role in ensuring that individuals are given relevant and timely information about Direct Payments, so that an individual can make an informed decision about the suitability and use of a Direct Payment and, if doing so, is supported to understand their responsibility in how to use and manage the payment appropriately to meet their eligible needs. *A range of information on the council website can be accessed by the following link:* [Direct Payments and Personal Assistants \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)

7.6. Direct Payments are not seen as income and have no effect on tax or benefits.

Children and Young People

7.7. The Council may make a Direct Payment to assist with meeting a child or young person's social care or educational needs. Where a child or young person has an assessed educational or social care need, Direct Payments can be made to:

- A person who is the parent of a child with parental responsibility;
- The young person if they are over 16;
- A responsible person who has been nominated in writing by the child's parent or young person to receive the Direct Payments on their behalf

7.8. In each case Direct Payments may only be made to a person if the Council determines they are capable of managing Direct Payments without assistance or with support available to them. The person who supports the Direct Payment Client needs to be over school age (over 18 years) and have the capacity to support them.

7.9. Where a child has social care needs, a person who has parental responsibility for them may take a Direct Payment. The payments can then be used in a number of ways to provide care and support services for the disabled child or young person. The system may provide added flexibility for the parent or carer to choose and arrange the services or support they feel is most appropriate, at home or when out and about. Direct Payments cannot be used to pay for services that have already been commissioned by the Council as part of the 'Short Break Local Offer' as these services are already available free at point of access to assessed and eligible disabled children; in this regard only, additional support not assessed to meet a need cannot be used to purchase additional respite and that must be funded outside of a Direct Payment.

7.10. Where Direct Payments are made to a person with parental responsibility to pay for services under an Education, Health and Care Plan (EHCP), the

client will be solely responsible for meeting the terms and conditions of receiving a Direct Payment, to deliver specified elements included in writing within their EHCP.

- 7.11. Once a young person reaches 16 it is possible for Direct Payments to be transferred to them in their own right, so long as the Council believes that they have the ability to manage Direct Payments with help regardless of whether the help comes from parents, a user-controlled trust or local support service. This enables a young person to take control of their Direct Payment. Alternatively, their parent may continue to receive the Direct Payment on their behalf.
- 7.12. As a young person approaches the age of 18 they will start to 'transition' to adult services and the Council will consider the person's eligible needs and how they will be met as an adult, pending closing of children services. A needs assessment will be undertaken by adult services to consider eligible care and support needs. This process should start in advance of their 18th birthday, however, in the event of an adult need assessment not being undertaken the person will continue with the arrangements that they have in place so that their care and support needs continue to be met. An audit of the direct payment made by children service will be undertaken. Once a need assessment has been completed a new direct payment agreement will be entered into and completed if appropriate (see also sections 29.24 – 29.26 inclusive). The local authority will consider the person's needs and how they will be met as an adult. This process should start in advance of their 18th birthday and ideally commenced at the latest by the age of 17 ½.
- 7.13. Having a Direct Payment does not mean a person will have to be able to manage Direct Payments independently, someone can still be treated as being able to consent to Direct Payments even though they need help to manage them. They may choose to nominate a family member or more formal support via a support provider.
- 7.14. Families and/or carers will only continue to receive a Direct Payment on behalf of the young person if the young person lacks mental capacity to consent to Direct Payments or chooses to nominate them to help with the Direct Payment. The person authorised to receive the Direct Payment will be asked to sign a new agreement accepting the terms and conditions of the Direct Payment.
- 7.15. To allow flexibility in the circumstances where a 16 or 17 year old is choosing to undertake a substantial caring role for a disabled adult for a period and where the Council supports that decision it can in some circumstances be more helpful if the young carer receives a Direct Payment

through adult social care. For example, to allow them to arrange carer services to be delivered in such a way as to minimise disruption to their education.

8. Direct Payments for Adults with Capacity

8.1. Where the Council concludes that an individual has capacity to make a decision to request a Direct Payment, it must consider the conditions set out in section 31 of the Care Act 2014. These conditions must be met in their entirety. A failure in one would result in the request to receive Direct Payments being declined.

8.2. Individuals who have capacity may choose to manage their Direct Payments themselves and/or with support available to them, or they may wish to nominate somebody to manage their Direct Payment on their behalf. Where an individual chooses to nominate someone that person is referred to as a nominated person.

8.3. These four conditions, as set out in Care Act 2014 are as follows:

- | | |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Condition 1 | the adult has capacity to make the request, and where there is a nominated person to make the payments to that person agrees to receive the payments. |
| Condition 2 | the local authority is not prohibited by regulations under section 33 of the Care Act 2014 from meeting the adult's needs by making Direct Payments to the adult or nominated person. |
| Condition 3 | the local authority is satisfied that the adult or nominated person is capable of managing Direct Payments either by himself or herself, or with whatever help the authority thinks the adult or nominated person will be able to access. |
| Condition 4 | the local authority is satisfied that making Direct Payments to the adult or nominated person is an appropriate way to meet the needs in question. |

8.4. If the Council decides that it is not appropriate to make Direct Payments, the reasons for the decision will be made in writing and the Council will make a written record available to the individual. It will also inform the individual about how to complain if they are not satisfied with the decision of the Council.

9. Direct Payments for Adults lacking Capacity

9.1. Where an individual lacks the capacity to make a decision to request Direct Payments an "authorised person" or a "suitable person" may request Direct Payments on the individual's behalf. A person is authorised for the purposes of Direct Payments if:

- a. The person is authorised under the Mental Capacity Act 2005 to make decisions about the adults needs for care and support
- b. Where a person is not authorised under the Mental Capacity Act 2005 as mentioned in a). above, a person who is so authorised agrees with the local authority that the person is a suitable person to whom to make the Direct Payments

A person is a suitable person who falls within paragraph a) and b) above.

- c. Where there is no such person authorised under a). and b). above, the Council considers that the person is a suitable person.

Where the individual lacks capacity to request Direct Payments the following conditions, as set out in the Care Act 2014, must be met in their entirety:

Condition 1 where the person is not authorised under the Mental Capacity Act 2005 but there is at least one person who is so authorised, that person who is authorised supports the person's request.

Condition 2 the local authority is not prohibited by regulations under section 33 from meeting the adult's needs by making direct payments to the authorised person, and if regulations under that section give the local authority discretion to decide not to meet the adult's needs by making direct payments to the authorised person, it does not exercise that discretion.

Condition 3 the local authority is satisfied that the authorised person will act in the adult's best interests in arranging for the provision of the care and support for which the direct payments under this section would be used.

Condition 4 the local authority is satisfied that the authorised person is capable of managing direct payment by himself or herself, or with whatever help the authority thinks the authorised person will be able to access.

Condition 5	The local authority is satisfied that making direct payments to the authorised person is an appropriate way to meet the needs in question
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10. Who is excluded from a Direct Payment – adults and children

Adults

- 10.1. There are some adults for whom Direct Payments cannot be made whether or not they have capacity. These are set out in Schedule 1 of the Care and Support (Direct Payments) Regulations 2014. These are individuals who are subject to a court order for a drug and/or alcohol treatment programme or similar schemes.
- 10.2. There may be occasions whereby the Council considers that an adult may no longer be appropriate to receive a Direct Payment due to their financial circumstances. These instances will be reviewed on an individual basis and may include debt which has accrued with the Council for other services.

Children

- 10.3. Someone without Parental Responsibility for the child.
- 10.4. The parent where the child is over 16, has requested the payment is made to them.
- 10.5. A nominee where such nomination has been revoked.

11. Direct Payment for Carers

- 11.1. A carer is someone who helps another person, usually a relative or friend in their day to day life. This is not the same as someone who provides care professionally or through a voluntary organisation. In relation to carers the Care Act refers to adult carers (people over 18 years who are caring for another adult, young carers (aged under 18 years) which are also covered by section 17ZA-C Children Act 1989 and adults who care for disabled children can be assessed and supported under section 17ZD.
- 11.2. A Local Authority must assess whether a young carer of a disabled adult or another child or adult carer of a disabled child has needs for support on the appearance of need or following a request (S17ZA(1) and S172ZD(1) Care Act 1989.
- 11.3. Carers are entitled and can request an assessment. In the first instance an adult carer's assessment will be conducted by the Carers Hub who will consider the carers caring responsibilities, and the physical, mental and

emotional wellbeing of the carer. However, there may be occasions whereby the allocated worker will conduct a carers assessment where there is an urgent requirement to meet a carers needs. Any joint assessments will be carried out by the Council.

11.4. There may be instances where the person being cared for may or may not have assessed needs, but their carer does have eligible, assessed support needs in his or her own right. However, the carer must be providing necessary care of which the adult is not capable of meeting themselves or care for a disabled child under S17ZA(d). The carer would receive an assessment in their own right, and the social care representative would reflect their needs which would be captured in their support plan. The carer in this circumstance can request a Direct Payment and use it to pay for services that are identified within their support plan if the carer's assessed needs would be met by such provision. The carer would therefore receive a support plan that covers their needs. The carer in this circumstance can request a Direct Payment and use it to pay for services that are identified within the support plan if the carer's assessed needs would be met by such provision.

11.5. As a result of an assessment the carer may be eligible for a Direct Payment where there is or likely to be a significant impact on a carer's wellbeing. In these circumstances this will be dealt with by Adult Social Care. The Direct Payment enables the carer to purchase a service to support them in their caring role and enable them to maintain their own health and wellbeing. In relation to carers Direct Payment a number of eligibility criteria may apply such as:

- The carers need must arise from providing 'necessary' care to an adult
- The carer's physical or mental health is, or is at risk of deteriorating
- The carer is unable to achieve one or more outcomes specified in the carers assessment

11.6. A carer's Direct Payment enables the carer to have a fulfilling life outside of their caring responsibilities. This is not means tested and the amount will be dependent upon the carer's assessed needs and the outcomes they wish to achieve.

11.7. However, if the cared for adult has eligible needs of his or her own, then the carer cannot use their direct payment for replacement care because such care would form part of the cared for adult's own needs.

- 11.8. The assessment process for children and young people includes Early Help Assessment and Children and Family Assessment (Child in Need / Child Protection) which will consider the needs of the carers and any other children of the family living in the same household. An initial assessment will be undertaken to consider the carer's individual needs (please refer to section 11.2).
- 11.9. The Early Help Team within Children Services will assess the needs of young carers. The Young Carers Assessment Team will liaise closely with Cheshire East Carers Hub.
- 11.10. Additional guidance and support can be accessed for children and adults via the Carers Hub, which is a service commissioned by the Council and delivered and hosted by Making Space www.cheshireeastcarershub.co.uk

12. Responsible Person

Definition and requirement – adult social care

- 12.1. Individuals who are not able to manage Direct Payments themselves can still access Direct Payments via a nominee. Where the person has the capacity to request a Direct Payment they may nominate a responsible person to manage Direct Payments on their behalf. In this situation the responsible person will be required to sign a Direct Payments agreement and they will become legally responsible for its administration and the requirements set out in the agreement and they are expected to act in the best interests of the person the Direct Payments are for.
- 12.2. The responsible person who manages the account should not be paid for delivering services to the Direct Payment client for example care services, administration and management of the Direct Payment.
- 12.3. The Council can make a Direct Payment to a responsible person following a request, if all 4 conditions under section 32 of the Care Act are met (as outlined in section 7). The Council will need to be satisfied that the responsible person will act in the adult's best interests in arranging for the provision of the care and support for which the Direct Payments will be used. The responsible person must be capable of managing Direct Payments by himself or herself, or with whatever help the authority thinks the responsible person may require and will be able to access.
- 12.4. Where a responsible person is acting on the behalf of an individual and where it is agreed by the person with care and support needs and they have capacity, the responsible person will be solely responsible for meeting the terms and conditions of receiving Direct Payments.

- 12.5. Where the person with care and support needs has been assessed as lacking the capacity to manage Direct Payments and a responsible person is appointed to manage the account and purchase care and support services on behalf of the customer, the responsible person is responsible for meeting the terms and conditions of receiving Direct Payments.
- 12.6. Where the responsible person is not a close family member or friend, they must have a satisfactory Disclosure and Barring Service (DBS) check. Additional funding can be provided in Direct Payments to cover the cost to the individual for the DBS application.
- 12.7. Once Direct Payments have started, the responsible person, will have to organise care to meet eligible care and support needs as set out in the support plan. This can include recruiting staff, employing an agency, maintaining records, managing the Direct Payment and providing evidence (timesheets and invoices) to the Council that the money is being used to meet their agreed needs and that the person is central to the management of the Direct Payment.
- 12.8. Where there appears to be a change of need and/or the support plan appears to no longer meet the needs, the Direct Payment client and/or the responsible person, must ask for a reassessment and a new support plan to be agreed.
- 12.9. The person receiving the Direct Payment must ensure (if appropriate) those services purchased meet an outcome specified in the support plan. Services that do not meet an outcome may be considered a breach of the Direct Payment agreement and could result in the Direct Payment being suspended or withdrawn. For example, where a person's needs change from support at home to the need for respite breaks; this must be agreed by the Council in advance.
- 12.10. The Council will work to ensure that the support plan or Education, Health and Care Plan is not overly prescriptive in the description of the ways in which need can be met in achieving an individual's outcomes.
- 12.11. Where the Council is appointed as the Corporate Appointee or Deputy for the individual the Council cannot also be named as a responsible person to manage the Direct Payment.

Definition and requirement – children social care

- 12.12. If a child is under 8 and care is to be provided in the employee's home, they will need to be a registered childminder. Anyone caring for at least one

child under the age of 8 for pay or gain and for more than two hours cumulatively must register with OFSTED or a Childcare Agency.

12.13. For children subject to Early Help Assessment or Child in Need Plans their plans will be to define the outcomes sought from the use of the Direct Payments and which specific services will be purchased with the Direct Payment.

13. Use of Direct Payments

13.1. Direct Payments are designed to be used flexibly and innovatively and there should be no unreasonable restriction placed on the use of the payment, as long as it is being used to meet eligible care and support needs as identified in the support plan or Education, Health and Care Plan or the Child in Need Plan.

13.2. Allocated workers will make individuals aware of and how to gain access to information and advice support services during assessment of needs, support planning and reviews.

14. What can Direct Payments be spent on?

Types of services

14.1. Direct Payments can only be used to meet the individuals assessed need as identified in the Direct Payment Agreement and support plan. Examples of the type of services that may be purchased (this list is not exhaustive or intended to be definitive):

- Personal care
- Day care / Day Opportunities
- Supported living
- Short-term breaks, such as respite care
- Community care services for disabled parents to assist with parenting tasks
- Supporting residents with their social and cognitive development, and building the skills for independence

14.2. The Direct Payment recipient may contract with an agency to provide services or become an employer and recruit their own personal assistant. Please refer to section 17 and section 18 for further information.

14.3. The Direct Payment client may choose to use their Direct Payment to purchase services from another organisation, such as a care agency or day care provider. It is important to be aware that the contract and agreed price

is a private contractual arrangement between you and that care provider. Therefore, it is really important to review the care providers terms and conditions about price increases and notice periods before deciding where to buy from. Should the care provider increase its prices in the future above the agreed payment rate or charge notice periods, the Council will not automatically be responsible for meeting any additional costs.

15. Restrictions on the use of Direct Payments

Overview

15.1. There are some restrictions on the use of Direct Payments that ordinarily Direct Payments **cannot** be used for.

- To purchase services for the Direct Payment client from The Council or the NHS. However, the Council will exercise discretion and consider individual circumstances.
 - For example, a person can purchase services from another council, if the person lives near the border of another area and wishes to use services in that area, or as part of the Short Break Local Offer to disabled children and their families.
- Adult short-term residential care for periods of more than four consecutive weeks in a 12 month period. (Periods of short-term care less than four weeks apart will be combined for this purpose and will add to the total period).
- As at the date of this policy, Direct Payments in Cheshire East cannot be used to purchase long term care in a care home.
- To purchase a service for someone who is no longer an ordinary resident of Cheshire East other than by prior agreement in writing with the Council adult and children's services and the persons funding authority.
- Childcare costs will not be covered by a Direct Payment if they are not to meet an assessed social care or educational need of the child.
- To secure services from a spouse or a partner with whom they live, or from a close relative or their spouse or partner who live in the same household as the Direct Payment client. This does not include close family members who live elsewhere. This includes:
 - your spouse (husband or wife)
 - your civil partner
 - your partner whether you are unmarried or part of a same sex couple or
 - a close relative who lives with you or the spouse or partner of that close relative
- To pay the person who is responsible for managing the Direct Payment account.

- Anything which does not achieve an outcome identified in the need assessment, support plan or Education, Health and Care Plan, Early Help Assessment or Child in Need Plan.
- For adult social care any personal contributions resulting from a financial assessment, such as the person's financial contribution towards their care and support, telecare charges, contribution to a Disabled Facilities Grant or personal contribution for short term care in a residential home.
- Making cash payments – payments to care or service providers should be made by card payment, bank transfer, standing order or direct debit. Unless this is agreed in an individual's support plan.
- Any bank charges, legal charges or HM Revenue and Customs fines because of mismanagement of the direct payment will be your responsibility.
- The Direct Payment cannot be used to pay for the services of a self-employed assistant unless proof of their self-employed status has been evidenced. If their status is not conclusive the Council will be unable to fund. (please refer to section 17.14)
- **Daily living costs / debt repayment and investments** such as personal or household expenses including essential household goods, personal loans, utility and household bills, rent or mortgage repayments.
- **Transport Costs** including purchasing fuel unless transport is part of meeting an assessed eligible need and other options for meeting such needs have been explored. Consideration needs to be given to the Council's Adult Social Care Charging Policy.
- **Personal Protective Equipment.** unless it is part of meeting an assessed eligible need. Consequently, this will be reviewed at the point of a financial assessment for adults and an appropriate allowance will be made. Direct Payments should not be used for health supplies such as continence pads.
- **Gambling** Direct Payments should not be used to fund gambling or access to gambling establishments for the adult.
- **Alcoholic and Non Alcoholic drinks and food** Direct Payments should not be used to purchase these items.
- **Sex workers** for the avoidance of any ambiguity Direct Payments should not be used to procure the services of a sex worker.
- **Illegal goods or activities** e.g. drugs
- **Entrance/Admission Costs** Direct Payments should not be used to pay for admission and/or entrance costs to establishments, i.e. Theme Parks, Cinema, and Theatre. They can be used to pay for the PA's/Support Workers admission to such establishments where the child, young person or adult requires their presence. Attempts should be made to clarify whether the establishment in question allows PA's/Support Workers free

admission when accompanying a child, young person or adult before any spending on such activities is agreed.

- For example, the CEA Card is a national card scheme developed for UK cinemas by the UK Cinema Association. This enables a guest to receive a complimentary ticket for someone to go with them when they visit a participating cinema.
- **Holiday Direct Payments** should not be used to fund 'holidays'. However, it can be used to meet assessed needs whilst on 'holiday'. (please refer to Section 22).

However, there may be exceptional circumstances, which would require discussion and approval. Therefore, discretion will be applied based on individual circumstances, as identified in the adult need assessment, Early Help Assessment or Children and Families Assessment care and support plan or child in need plan:

16. Direct Payment client responsibilities

Level of understanding

16.1. Direct Payment clients will be informed of their level of responsibility in respect of accessing a Direct Payment. In particular whether accessing a Direct Payment to meet eligible support needs via a care agency or employing a personal assistant or a combination of approaches.

16.2. The person in receipt of Direct Payments must understand the responsibilities linked to having and managing Direct Payments and agree to have their personal budget as a Direct Payment. All reasonable steps should be taken to support the person to understand the nature of the decision to request Direct Payments and to ensure that they can make an informed choice.

16.3. As part of the condition of accessing a Direct Payment a Direct Payment client will need to understand their level of responsibility and what is required. As part of the process of accessing a Direct Payment, the client will need to confirm their level of understanding and sign confirming this, by way of a Direct Payment Agreement. However, there may be instances whereby assistance is required from their responsible person acting on their behalf to ensure that they have understood and agree to the conditions of the Direct Payment. The Direct Payment agreement will be signed in advance of payments being administered by the Council.

- 16.4. Individuals should not be coerced into accepting Direct Payments.
Allocated workers must be satisfied that there are no safeguarding concerns which could be exacerbated by the provision of Direct Payments.

17. Personal Assistant Definition and responsibilities

- 17.1. A personal assistant is defined as a person employed by the Direct Payment client to meet individual identified eligible support needs.

- 17.2. If an individual decides to use their Direct Payment to hire a personal assistant there are significant and legal responsibilities associated with becoming an employer. These include:

- Recruitment – advertising / job description / job specification
 - Shortlisting and interviewing staff
 - Job references and appointing staff
 - Criminal record check (DBS)
 - Right to work checks
- associated contract of employment,
- terms and conditions including hourly rate,
- Entitlements such as holiday pay, sickness benefit, maternity pay, paternity pay and pension contributions if applicable,
- Managing risk / health and safety
- Accessing training opportunities
- Appropriate supervision

- 17.3. The individual must ensure that they take out the most appropriate level of liability insurance such as:

- Employers' liability insurance – legal costs relating to health and safety, unfair dismissal claims
- Public liability insurance – damages and other costs

- 17.4. There are organisations that can provide independent and impartial advice, and support to people who are interested in learning more about Direct Payments as well as providing support and specialist advice such as:

- Help with insurance, recruitment, training, employment, contracts of employment, HMRC responsibilities, pension auto-enrolment, and national insurance
- Calculating holiday entitlement, notice, redundancy pay etc., for employees
- Easily accessible advice and support about payroll issues
 - Providing a payroll service and payslips
- Managed account

- Support to process Disclosure Barring Services (DBS) checks

- 17.5. The Council commissions a Direct Payment Support Service for adult residents of the borough which will be able to offer support and guidance, further information can be found by visiting the following website <https://peopleplus.co.uk/independent-living-service/cheshire-east>
- 17.6. There is a dedicated Council employee who can assist with children and young people Direct Payments and provide the same range of support (as noted in 17.4). This Direct Payment advisor is based within the Short Breaks Team. Email shortbreaksteam@cheshireeast.gov.uk or telephone 01625 378083
- 17.7. The Council will pay a Direct Payment Personal Assistant rate when an individual employs a personal assistant which takes into account the associated costs that are necessarily incurred in securing provision, without which the service could not be provided, or could not lawfully be provided. Such costs may include payroll fees, liability insurance, DBS, and advertisement costs.
- 17.8. The individual or the responsible person has responsibility for making contingency arrangements; to provide cover if their staff member is absent and when necessary will be able to make arrangements for alternative cover. The need for plans to cover emergency and unplanned situations will be discussed by the allocated worker with the Direct Payment client or their responsible person and outlined in the individual's support plan.
- 17.9. If the responsible person employs a personal assistant, they must ensure they have signed a 'contract of employment' and that they carry out the necessary pre-employment checks. The responsible person will also need to ensure that all legal requirements for being an employer are met.
- 17.10. It is the responsibility of the employer to operate PAYE and to account for National Insurance Contributions unless the personal assistant is engaged through an agency.
- 17.11. Personal Assistants employed through Direct Payments should have access to appropriate training, which can often be sourced free of charge via appropriate organisations, for example, Skills for Care. There may be occasions where additional training is required to meet the needs of the individual, in such cases this will be documented, recorded and agreed in the individual's support plan and clearly identify training needs and associated costs.

17.12. Relatives of individuals employing a spouse, partner or other close relative, if that person lives in the same household as the Direct Payments client, may be agreed by the Council in exceptional circumstances if it can be satisfied that it is necessary to meet the person's needs, or, if the person needing care is a child and it is necessary to promote the child's welfare. The details and amounts will be agreed and recorded in the individual's support plan.

17.13. Adult or children's services are not obliged to fund additional costs associated with the persons preferred method of securing a service, or costs incurred by the person at their discretion, for example, non-statutory liabilities such as an ex-gratia bonus or overtime payments to a personal assistant.

Self employed

17.14. A direct payment can be used to pay for the services of a self-employed personal assistant. However, proof of their self-employed status along with their public liability insurance certificate will need to be evidenced.

17.15. It is your responsibility to check the employment status of any self-employed Personal Assistant before they commence work. Employment status can be checked via the HMRC website: www.gov.uk/employment-status/employee or by using the HMRC online status tool: <http://tools.hmrc.gov.uk/esi/screen/ESI/en-GB/summary?user=guest>

17.16. If a personal assistant's status is not conclusive the Council will be unable to accept them as self-employed, and they will have to be paid through PAYE.

17.17. When paying a self-employed personal assistant, you do not need to deduct any liabilities such as; National Insurance, Pension contributions or Tax as the Personal Assistant is responsible for making these payments.

17.18. You are not responsible for providing holiday pay, however the self-employed Personal Assistant should organise cover for when they are not able to provide support.

17.19. A self-employed Personal Assistant would be responsible for providing the equipment they need to do their role, along with arranging and paying for any training they may require.

17.20. A self-employed Personal Assistant would be responsible for providing a contract of work, setting out their terms and conditions – not a contract of

employment. The contract of work would be agreed to and signed by both parties, inclusive of details of their fees.

17.21. A self-employed Personal Assistant would be required to invoice you for their fees in a timely manner.

17.22. A self-employed Personal Assistant would still be required to provide a satisfactory Disclosure and Barring Service check before providing any services, along with evidence of liability insurance.

17.23. If HMRC rule at a later date that the personal assistant is employed then the Direct Payment client will be responsible for paying any penalties and additional costs.

17.24. Further guidance on employment status can be found [GOV.UK](https://www.gov.uk) website

18. Role and responsibility of the person receiving a Direct Payment

Agreement, documentation

18.1. A condition of accessing a Direct Payment is such that the person receiving the Direct Payment, or their responsible person is entering into a contractual agreement with adult or children's services, so it is important that they make sure they fully understand the terms of the agreement and what is involved. It is a requirement that they sign the Direct Payment.

18.2. It is essential that all documentation and supporting evidence is provided to the Council to demonstrate that the money is being used to meet an individual's agreed needs and that the person is central to the management of the Direct Payment.

18.3. Once Direct Payments have started, the individual or the responsible person, will have to organise care to meet the assessed needs as set out in the support plan. This can include for example recruiting staff, employing an agency, maintaining records, and managing the Direct Payment.

18.4. For adult Direct Payments the Council can signpost to the commissioned Direct Payment Support Service which will provide guidance on the roles and responsibilities of becoming an employer. For more information please visit the following website <https://peopleplus.co.uk/independent-living-service/cheshire-east>

The range of guidance and support includes:

- The Direct Payment client will be supported to ensure that they understand their responsibility in terms of client contributions, financial management etc.,
- Help with insurance, recruitment, employment, training, contracts of employment, HMRC responsibilities, workplace pension and national insurance
- Support and advice in relation to employment law, employee issues / concerns or difficulties
- Calculating holiday entitlement, notice periods, redundancy pay, pension contributions
- Advice, guidance and support in relation to managed bank accounts prepaid cards, and payroll services

18.5. In the case of Children and Young People, the Council has a dedicated officer who is able to provide information, advice, and support families in relation to their direct payment role and responsibilities. (as outlined in section 17.6)

18.6. It should be noted that it is the Direct Payment clients and/or their responsible representatives' responsibility to ensure all obligations such as HMRC requirements are met and individuals must be aware of this before agreeing to take up a Direct Payment, as they are accepting responsibility to act legally as an employer.

18.7. The range of responsibilities include the following:

- Registering as an employer (HMRC)
- Operating PAYE
- Checking that the potential employee has the right to work in the UK, for further information please refer to <https://www.gov.uk/check-job-applicant-right-to-work>
- Support to process appropriate checks such as Disclosure and Barring Service (DBS) ensuring that any employees have undergone the necessary checks (personal assistant) before they start to work
- Ensuring that they pay their employees at least the national living wage
- Complying with working time directives and adhering to legislation in respect of holiday, sickness, maternity and paternity pay
- Enrolling eligible employees into a workplace pension scheme
- Ensuring appropriate level of liability insurance is in place before a person works in their home

19. Pooled Budget Direct Payments

- 19.1. Clients of Direct Payments may wish to join with others to pool their Direct Payment on a regular basis. This means using all or part of their Direct Payment with others to purchase a service, contract with an agency or employ a personal assistant, which will be shared to help achieve better outcomes, meet common needs, goals and aspirations more effectively and efficiently for all participating individuals.
- 19.2. It is a requirement that an agreement for pooled Direct Payments will be understood and agreed by all parties and that individuals or their responsible representative sign to agree to share the collective arrangement. Such arrangements need to consider responsibilities and contingency measures should one or more parties wish to end or change the agreement.
- 19.3. Any pooled budget arrangements would be documented and reflected in the individuals support plan, and Direct Payment pooled budget agreement. This will need to include who will take responsibility for those arrangements and what the group will do if things were to change.

20. Emergency and contingency arrangements

Planning and Contacts

- 20.1. The Council expects each person receiving a Direct Payment to make arrangements or contingency plans to cope with emergencies and this responsibility is included in the Direct Payment agreement where appropriate.
- 20.2. For adults the Direct Payment Support Service would be able to offer advice, guidance and support in accessing alternative care when carer failure / breakdown has occurred. The service also assists with contingency and emergency planning. Please visit <https://peopleplus.co.uk/independent-living-service/cheshire-east>
- 20.3. For children and young people please refer to the allocated worker or Direct Payment advisor based within the Short Breaks Team. Email shortbreaksteam@cheshireeast.gov.uk or telephone 01625 378083
- 20.4. In the event of an emergency, if the individual cannot organise care as detailed in their support plan, they should request assistance from the Council. The appropriate Adult or Children Social Care Team or Emergency Out of Hours contact details will be given to the Direct Payment client.
- 20.5. If planned cover arrangements breakdown an allocated worker may be able to provide support to make alternative arrangements.

21. Ordinary residence

Travelling or moving out of area

21.1. If a person goes away temporarily (e.g. on holiday) then their Direct Payment should continue as they are still ordinary resident in the borough of Cheshire East and will still have eligible needs requiring our support. The rules of ordinary residence should be applied in deciding whether to cease the Direct Payment.

21.2. If a person moves out of the borough of Cheshire East permanently, then our (The Council) responsibility ends but we can choose to continue the Direct Payments for up to 6 weeks (following negotiation with the receiving authority). This would be to ensure continuity of care for the person.

21.3. Where the Council supports a carer via Direct Payments and the cared for person moves out of the borough of Cheshire East on a permanent basis the same rules as above will be applied.

22. Other uses of a Direct Payment

Informal carers

22.1. Direct Payments can be used to replace care provided by informal carers on a short-term basis. Informal carers are defined as not being employed or paid to provide the support. Such short-term support could include time away from the home or additional formal support in the home whilst the informal carer is absent.

Eligible needs on holiday

22.2. Direct Payments should not be used to fund 'holidays'. However, it can be used to meet eligible needs whilst on 'holiday'. This could include the Personal Assistants expenses or the care provision whilst away. Consequently, costs incurred by the Individual or informal carer should not be claimed.

23. Equipment

Community Equipment

23.1. The Council in partnership with key stakeholders have commissioned an integrated community equipment service which provides equipment to meet the health and social care needs of the local population.

23.2. There may be exceptional circumstances where equipment may be sourced via an alternative route rather than the traditional integrated community equipment service. Where an individual has an identified need

and may require equipment to support them with their daily living to optimise their level of independence and wellbeing this would be considered as part of the assessment process.

23.3. There may be other circumstances where equipment is sourced to support the individual such as through individual funding requests for Continuing Health Care or Children's Continuing Care. You may wish to seek further advice from the allocated worker.

24. Information and advice

24.1. All individuals that are eligible for social care or have an Education, Health and Care Plan, Early Help Assessment will be provided with information about Direct Payments, and what support is available to enable them to manage the Direct Payment.

24.2. Information, advice and support relating to adult Direct Payments will also be available to the public through the Council commissioned Direct Payments Support Service. This service provides support to individuals to consider if they wish to receive all or part of their personal budget as a Direct Payment, offer additional support to understand their responsibilities of managing a Direct Payment and being an employer. For more information please visit <https://peopleplus.co.uk/independent-living-service/cheshire-east>

24.3. For children and young people please contact the Family Information Service telephone: 0300 1235033 email: fis.east@cheshireeast.gov.uk or Short Breaks Team, email: shortbreaksteam@cheshireeast.gov.uk telephone 01625 378083

24.4. Information and advice and what other support may be available can be requested by contacting the Council Adult Contact Team by telephone on 0300 1235010 or email: AdultContactTeamSouth@cheshireeast.gov.uk or FirstPointofContacteast@Cheshireeast.gov.uk

24.5. Further useful information and advice can be accessed on Live Well Cheshire East, which contains a directory of services and activities available in Cheshire East. <https://www.cheshireeast.gov.uk/livewell>

25. Complaints

25.1. Where there are difficulties around setting up Direct Payments these can be resolved locally between the allocated worker and Direct Payment client. If the individual/s remains unhappy about any action or decision within this process, they have the right to complain and they can make a formal

complaint. Please refer to Cheshire East website – social care comments and complaints www.cheshireeast.gov.uk

25.2. Once the client has received their Direct Payment and they have arranged their care and support they are encouraged to resolve any issue, should any arise with their employee/agency. If issues persist and the Direct Payment client wishes to contact Adult or Children's Social Care for support/advice, they can contact the allocated worker.

25.3. Advice/guidance can be offered in relation to resolving the issues / complaints where the Council has no contractual relationship with the employee/agency employed. At this stage the Council may not deal with this matter under the complaint procedure, help and/or signposting should be provided.

25.4. If an individual in receipt of Direct Payments needs support to appeal or complain they should be referred to the appropriate advocacy service.

26. Direct Payment Support Service

Adults, and transition

26.1. The Council has commissioned an independent Direct Payment Support service which will provide impartial, independent information and advice to the adult residents of the borough. The service will also support those young people who are at 'transition' stage into adulthood in respect of Direct Payment support. The service also provides a brokerage function for those individuals who wish to receive their personalised budget as a Direct Payment. The Direct Payment Support Service can be accessed via <https://peopleplus.co.uk/independent-living-service/cheshire-east>

Children and young people

26.2. There is a dedicated Council employee who can assist with children and young people Direct Payments. The officer will provide support in relation to accessing a direct payment, responsibility in managing their direct payment, budgeting, recruitment and record keeping. For children and young people please contact the Family Information Service by telephone 0300 1235033 email: fis.east@cheshireeast.gov.uk or Short Breaks Team, email: shortbreaksteam@cheshireeast.gov.uk or by telephone 01625 378083

27. Direct Payments Procedures - Safeguarding and Disclosure and Barring Service (DBS) Checks

Safeguarding

27.1. Individuals accessing Direct Payments must be able to manage the Direct Payment with or without assistance, though assumptions will not be made about a client's ability to manage. Once the person has made a request to receive their personal budget as a Direct Payment, the allocated worker must be satisfied there are no safeguarding concerns which could be exacerbated by the provision of a Direct Payment.

27.2. Where safeguarding concerns are raised at the initial set up of making a Direct Payment, a review should be carried out to determine the individual's ability to manage the Direct Payment. Safeguarding concerns would be investigated under the appropriate safeguarding process for example, concerns in respect of children may result in child protection processes being initiated to ensure the safety of the child.

Disclosure Barring Service (DBS)

27.3. Supporting children - An enhanced Disclosure and Barring Service (DBS) check must be obtained for anyone, prior to commencing work, who is involved in the provision of the support where this is regulated care, working with a child or there are children in the house. Sight of the satisfactory enhanced DBS with a children's barred list check should be recorded in the client's electronic social care record. If in doubt, the DBS eligibility tool on which check is required can be found here: DBS eligibility guidance – Gov.uk (www.gov.uk). Only an employer can apply for an EDBS. A DBS check is not portable meaning a employer cannot rely on a historic DBS check the prospective employee has in their possession. Further advice can be sought from the dedicated officer in the Short Breaks team. We require sight of the EDBS check with a copy for our records. If advice is needed on matters to review, advice can be sought from the dedicated officer in the Short Breaks Team.

27.4. Supporting adults - Where the responsible person is not a close family member, they must have a satisfactory Disclosure and Barring Service (DBS) check. Regulation 3(4) of the Care and Support (Direct Payments) Regulations 2014 provides that certain types of responsible persons must obtain DBS checks in order to support the Direct Payment recipient. The person who is nominated as a responsible person and who is listed in Regulation 3(3) or a friend of the client who is involved in the provision of care, does not have to obtain a DBS certificate for anyone he or she employs to do the actual care. Additional funding can be provided in the Direct Payment to cover the cost to the individual for the DBS application.

28. What happens when circumstances change?

- 28.1. Where there appears to be a change of need and/or the support plan appears to no longer meet the individuals' needs, the Direct Payment client and/or responsible person must ask for a reassessment and a new support plan to be agreed.
- 28.2. For example, where a person's needs change from support at home to the need for respite breaks; this must be identified as part of the re-assessment and agreed by the Council in advance.
- 28.3. The person receiving the Direct Payment must ensure that services purchased meet an outcome specified in the support plan. Services that do not meet an outcome may be considered a breach of the Direct Payment agreement and could result in the Direct Payment being suspended or withdrawn.
- 28.4. If the Direct Payment client being cared for is placed in a permanent residential setting or dies, the Direct Payment will be terminated. Any funds remaining in the account must be returned to the Council. It should be noted that the Council Direct Payment provisions are paid in advance; therefore, it is likely that an overpayment may occur due to the payment schedule. It would be appropriate at this point for the Council to recover any overpayment of funds.
- 28.5. If the direct payment child/young person's main carer becomes unwell or requires a hospital stay they must contact their allocated worker to discuss how this would be managed. If they are unable to do so due to being incapacitated in an unplanned or emergency way, another close family member is asked to do this.

29. Finance and Monitoring

Payment of the Direct Payment

- 29.1. Direct Payments will be made by the Council or its delegated representatives on a 4 weekly basis. One off payments can also be made if they are appropriate to meet a person's needs.
- 29.2. A separate current account or payment card account must be used for a Direct Payment. This has to be in the name of the person receiving the Direct Payment or may be a third party if agreed by the person in receipt of the direct payment from adult or children's services. The account cannot have an overdraft facility as the budget should be managed to avoid overspending.

- 29.3. The Direct Payment client and/or their responsible person, should not financially benefit from money held in their bank account or from the direct payment itself.
- 29.4. The Council will introduce a prepaid card account for residents who choose to receive their personal budget as a Direct Payment. This is a separate bank account, with a debit card set up for the person by The Council. However, where this is not appropriate for the individual alternative arrangements will be considered by the Council in consultation with person.
- 29.5. The Council will allow a reserve for adults equivalent to 4 weeks (10 weeks for children) but for those with fluctuating health needs, this will be considered on a case by case basis. Direct Payment funds are to be held as a contingency in the nominated account, unless otherwise agreed. However, the Council reserves the right to reclaim funds in excess of this amount. It is a responsibility of the Direct Payment client to notify and return any funds above this amount held in the nominated account.
- 29.6. If an individual requires any information, advice and support, they will need to contact their allocated worker and/or contact the independent Direct Payment Support Service <https://peopleplus.co.uk/independent-living-service/cheshire-east>

Client contribution

- 29.7. All adult Direct Payments are subject to a financial assessment that will be carried out by the Council, with the exception of Carers Direct Payments, these are not subject to a financial assessment, however, a carers need assessment will be carried out by the Carers Hub. [Cheshire East Carers Hub \(All Age Carers Hub\) | CheshireEast MarketPlace](#)
- 29.8. As part of the support planning process an adult with eligible care and support needs will be referred on for a financial assessment to determine their ability to pay for the care and support that they receive. A requirement of the financial assessment is to share information in relation to income, capital and expenditure. This will determine if a client contribution is applicable.
- 29.9. Should a Direct Payment client be liable to contribute towards the costs of the care and support they receive the Council will ensure that payments are made NET of any applicable assessed client contribution as noted in the Council Charging Policy.
- 29.10. If someone wishes to access short-term 24-hour care services using a Direct Payment – they can be allocated up to 4 weeks direct payment

funding. Their allocation will be paid in appropriate lump sum payments, separate to any other allocations that may be paid weekly to ensure they have appropriate funds to access respite service. Their residential charge will apply to the direct payment and will be netted off the allocated amount for respite.

29.11. The client contribution must be used first to pay for support prior to the Direct Payment being used.

29.12. If an individual decides to use less support, their care needs will be reassessed to determine the correct level of support and a financial reassessment to determine the contribution for the individual.

What if you disagree with the amount of client contribution?

29.13. The Direct Payment Agreement outlines the terms and conditions for managing a Direct Payment. Individuals sign an undertaking that they have read, understood, and agree to these conditions. One of which is that the individual will undertake the payment of their assessed level of contribution which is paid into their dedicated Direct Payment account.

29.14. If an individual is unhappy with their financial assessment, they must contact the Business and Finance Team as soon as possible. The individual must continue to pay their assessed level of contribution as this is the first part of the money spent on the individuals care and support. If this is not paid the individual will not be able to cover the full cost of their care and support and may be considered to be in breach of the terms and conditions of the agreement.

29.15. A financial reassessment will be undertaken to determine the level of contribution. The individual will be notified of any changes resulting from the reassessment.

Amount of Direct Payment

29.16. The Council will provide an indicative budget based on the individuals level of assessed need. This budget should be utilised in a way which meets their assessed and eligible needs as documented in the individuals support plan. Any additional on costs associated with becoming an employer such as advertising, DBS, initial insurance liability will be included in the set up costs of the Direct Payment which will be met on an individual basis by the Council.

29.17. Consideration to local market intelligence, such as costs of local quality provision will be taken into account to ensure that the indicative budget

reflects local market conditions and that appropriate care to meet an individual's needs can be obtained.

Personal top up

29.18. A personal budget must be sufficient to meet the assessed needs of the individual in receipt of the Direct Payment. If, however, the individual wishes to commission a service that is more expensive than the Direct Payment, and the Council is satisfied that the amount of Direct Payment is sufficient to meet their assessed needs, then this can only be done if the Direct Payment client or third party is willing to pay an additional amount towards the Direct Payment. At this point reference should be made to the Council's Top Up Policy.

29.19. For the avoidance of doubt Cheshire East Council will not be liable to the individual or organisation in the event that you do not pay for the services that you commission. Top up payments will not be recognised in your financial assessment.

Audit and Review

29.20. Monitoring of Direct Payments is essential and enables the Council to account for public funding within the guidelines laid down by The Chartered Institute of Public Finance and Accountancy (CIPFA).

29.21. The Council must be satisfied that Direct Payments are being used to achieve the outcomes identified in the support plan and that Direct Payments is still an appropriate way to meet eligible needs.

29.22. To give this assurance, Direct Payments will be monitored through the Council 'audit' process and a review of the individual's support plan. The audit process will support any reviews related to the person's care and support to ensure that Direct Payments are still the most appropriate way of ensuring a person's outcomes are met.

29.23. The Council will audit the use of Direct Payments in an efficient and proportionate way. The aims of the audit will be to provide early support and assurance to all new Direct Payment clients. This will enable identification of:

- Any problems at an early stage and enabling access to appropriate support.
- Monitor the use of Direct Payments and to provide assurance to the Council that Direct Payments are being spent to achieve outcomes identified in support plans

- Highlight excess balances to be returned (as noted in section 30.4) to the Council and identify fraudulent use of funds
- Confirm that contributions are correct and being paid into the Direct Payment account
- Ensure that employer responsibilities are being met e.g. tax, NI, pension contributions
- Essential records are being kept and made available at the point of audit i.e. receipts and bank statements.

29.24. The Council will audit Direct Payments accounts using a risk based approach. This will take account of factors such as the annual Direct Payments amount, complexity of the personal budget, the person's ability to manage and the level of support they have (such as managed account or pre-paid card). This will mean that some individuals who use Direct Payments are audited more frequently than others.

29.25. Persons identified as responsible for managing a Direct Payment (as outlined in section 17) will manage the Direct Payment funding provided and services they purchase with it, with support if necessary. This will include planning funds to pay for additional costs such as employer's liability insurance, employer's national insurance contributions, contributions to pension schemes and staff training time and evidence of the support purchased. Audit and allocated worker will carry out a basic check with the Direct Payments client in the initial 6-8 weeks from allocated worker perspective and within 12 weeks from an audit perspective to ensure that the account is setup and being managed appropriately.

29.26. Allocated workers will review Direct Payments on an annual basis unless there was a change in circumstances. Allocated workers will utilise any information available about Direct Payment usage through audit, as part of their review of how needs are met. This will include monitoring of the payment of contribution amounts.

29.27. Transition to adulthood. The provision of Direct Payments change as a young person becomes an adult and by the age of 18 years. Existing receipts of Direct Payments under children services arrangements will need to be reassessed as part of the young person preparing for adulthood to determine their future level of Direct Payments as a young adult under the Care Act. This is completed by way of an adult needs' assessment by the allocated social worker / transition worker, prior to the young person's 18th birthday.

29.28. As part of this transition a leavers audit is conducted by children services, to review the paperwork and ensure that this is correct. This audit will commence in advance of the young person's 18th birthday, and support is transferred / provided to the young person/carer post 18 years by adult social care. During the period of audit if further information is required the auditor will contact the person managing the direct payment.

29.29. It is therefore vitally important that the young person has a robust and agreed transition plan post 18 years, in order to promote a seamless transition agreed by the adult worker and their manager.

Audit documentation

29.30. At the point of audit, it is the Council expectation that the Direct Payment client is able to provide documentation that supports how their personal budget has been utilised. This may include timesheets, wage slips, bank statements, invoices and receipts. Therefore, it is essential that the Direct Payment client is aware and understands that record keeping is maintained to an appropriate level which supports the audit process.

29.31. For those Direct Payments who access a managed account / payroll service the appropriate documentation would be held by the 3rd party.

29.32. If an individual does not comply and provide the required level of audit documentation, this will be reviewed on a case by case basis and the direct payment may be suspended or terminated.

Suspending a Direct Payment

29.33. Direct Payments may be suspended for example if a client is temporarily unable to receive support for any reason (has a stay in hospital).

29.34. There may be occasions when Direct Payment clients require a stay in hospital. Consideration should be given to how the Direct Payment may be used in hospital to meet non-health needs or to ensure employment arrangements are maintained.

29.35. The employee's contract of employment should detail whether they will be retained in these circumstances, and any arrangements for paying retainers should be taken account of as part of support planning process.

29.36. In some cases, the responsible person managing the Direct Payment may require a hospital stay. In these cases, the Council will conduct an urgent review to ensure that the person continues to receive care and support to meet their needs. This may be through a temporary responsible person, or through short-term authority arranged care and support.

29.37. A Direct Payment may be suspended if there is a break down in support and alternative support cannot be organised. The Council will ensure that the needs of the individual will be met in the intervening period whilst the break down in support is investigated.

29.38. If it is considered that the support the person is receiving is not of an adequate standard or does not meet the assessed support needs following further investigation; the Council will provide support in the intervening period so that the individual is not left without support.

29.39. In children's services if audit documentation has been requested from the carer and this request has not been responded to within 28 days the direct payments will be suspended until the audit process is complete.

Direct Payments may be ended if

29.40. The Council is not satisfied that the support the person receives is of an adequate standard or meets the person's support needs (we will give 21 days written notice prior to ending a Direct Payment).

29.41. Direct Payments has been spent on anything other than meeting the assessed support needs (we will give 21 days' written notice prior to ending a Direct Payment). In these circumstances the Council will recover Direct Payments monies from the client.

29.42. The person has not complied with the terms and conditions of the Direct Payment Agreement and they have failed to rectify this within four weeks of being notified by the Council (the agreement will end with immediate effect).

29.43. The person has become unable to manage their Direct Payment. Where appropriate, we will make alternative arrangements to ensure the person continues to receive support.

29.44. The person no longer wants or is no longer eligible for Direct Payments.

29.45. For Adults with an eligible care need, there is evidence that the client contribution to the cost of care is not being paid into a Direct Payment account.

29.46. Where individuals continue to require care and support to meet their assessed need alternative support will be arranged.

29.47. Direct Payments that are ended will require an audit to be undertaken to finalise the account. This will determine if Direct Payment liabilities have been discharged and if there are any funds to be repaid to the Council.

Redundancy Payments

29.48. If a Direct Payment is used to employ a personal assistant, the Direct Payment client must act as a responsible employer and make arrangements in line with employment legislation. All employees have certain rights and may be entitled to redundancy pay if they are made redundant.

29.49. The Direct Payment client must ensure that sufficient funds from the Direct Payment are retained to cover their employer responsibilities. The Direct Payment client is strongly urged to obtain their own legal advice as to their responsibilities as an employer.

29.50. The Direct Payment client will be responsible for employment costs incurred such as holiday pay, national insurance contributions, employers national insurance, pension contributions and redundancy payments if applicable. The Direct Payment client should ensure they obtain a sufficient level of insurance to cover any potential redundancy costs.

29.51. The Council reserves the right to recover excess balances (refer to section 29.54). If, however, a redundancy situation occurs then it may be appropriate for the Council to support redundancy costs where funds have previously been reclaimed. This will be reviewed on an individual basis.

29.52. It is the employers (Direct Payment client) responsibility and not the Council to ensure that all legislation is adhered to. Advice and support around costing contingencies can be offered through the Direct Payment Support Service <https://peopleplus.co.uk/independent-living-service/cheshire-east> and for children and young people please contact the Family Information Service telephone: 0300 1235033 email: fis.east@cheshireeast.gov.uk or Short Breaks Team, email: shortbreaksteam@cheshireeast.gov.uk telephone: 01625 378083

Transport Costs

29.53. For adults, please refer to the Adult Social Care Charging Policy.

29.54. Children's services do not fund transport or mileage costs as part of a direct payment package.

Reclaiming / Recovering of Direct Payment Funds

29.55. The Council will recover Direct Payments if they have not been used for the intended purpose as agreed in their assessment of needs and identified outcomes or if they have been paid to a person excluded from receiving Direct Payments.

29.56. Where a balance remains following ending of a Direct Payments account and the discharge of all liabilities, the Council will request the repayment of the entire remaining balance. It is a responsibility of the Direct Payment client to return any funds following termination of the Direct Payment.

29.57. Where an account is terminated due to the death of a Direct Payments user, it will be the responsibility of the executors of the deceased's estate to discharge any liabilities. This may include payment of outstanding invoices, wages, tax, pensions and any other liabilities relating to the Direct Payment. The entire remaining balance must be repaid to the Council.

30. Using a vehicle

30.1. If a personal assistant is providing transport to the Direct Payment client they will need to ensure that they take out appropriate insurance cover e.g. business cover. The Direct Payment Support Service will offer support and guidance, <https://peopleplus.co.uk/independent-living-service/cheshire-east> and For children and young people in the first instance please contact either the family social worker or social worker or alternatively the Family Information Service telephone 0300 1235033 email: fis.east@cheshireeast.gov.uk or Short Breaks Team, email: shortbreaksteam@cheshireeast.gov.uk or telephone 01625 378083

31. Social Care Fraud

31.1. This type of fraud is when a person who receives social care services:

- Is dishonest about their financial status or care and support needs
- Misuses Direct Payments provided to pay their care
- Uses the Direct Payment account for money laundering
- Using money that has been claimed from the Council to pay for care for their own personal use
- Submitting false evidence that a Direct Payment is being used on care
- Being dishonest about financial circumstances or care and support needs when asking for social care funding
- Failing to notify the Council when a service user has died, and keeping their Direct Payment money

- A person abusing their position of care to take money from a vulnerable person
- Paying money into the Direct Payment account that has been gained from criminal conduct

31.2. The Council has a duty to protect the public purse and has a zero tolerance approach to fraud and corruption. Action will be taken against any attempted or actual fraudulent acts relating to Direct Payments.

31.3. Everyone has a duty to report any concerns of fraud, or misuse of Direct Payments funds, and any report of fraud against the Council will be taken seriously.

31.4. To report social care fraud contact the Council's First Point of Contact Team by telephone on 0300 123 5010 or email eastfpoc@cheshireeast.gov.uk or adultcontactteamsouth@cheshireeast.gov.uk

31.5. **Need to include children details**

32. The UK GDPR (General Data Protection Regulation) 2018

32.1. To find out how the Council will store and use data about you please refer to our Adult and Health Care Privacy Notice and/or Children and Families Privacy Notice can be found at the following link:
https://www.cheshireeast.gov.uk/council_and_democracy/council_information/website_information/privacy-notices/adult-social-care-privacy-notice.aspx
https://www.cheshireeast.gov.uk/council_and_democracy/council_information/website_information/privacy-notices/children-and-families-privacy-notice.aspx

UK GDPR for an employer

32.2. As an employer it is important that you ensure the privacy of data is taken seriously. The UK GDPR 2018 was introduced which is a regulation on data protection and privacy. To ensure that you are compliant with UK GDPR, Cheshire East Council recommends that you provide your employees with a record of how you will comply with data processing activities.

32.3. To ensure you comply with this you must confidentially destroy any personal information regarding employees 7 years (It doesn't have to be 7 years, personal data can be kept until it is no longer needed. It can be kept longer for things like a pending court action etc.,) after their contract comes

to an end, and you should also dispose of any unsuccessful applicant's information after 12 weeks for example, application forms.

32.4. It is really important that as an employer that you have the appropriate level of employer liability insurance (please refer to section 17), your insurance provider will be able to provide you with a privacy notice statement.

33. Further information

33.1 For further information on adult Direct Payments including easy read documents and factsheets please visit Cheshire East Council LiveWell website via:

[Direct Payments and Personal Assistants \(cheshireeast.gov.uk\)](https://cheshireeast.gov.uk)

33.2 For further information regarding children's direct payments please visit:

[Support for children with disabilities \(cheshireeast.gov.uk\)](https://cheshireeast.gov.uk)

[Personal Budgets for Social Care \(cheshireeast.gov.uk\)](https://cheshireeast.gov.uk)

a summary of responses
to Cheshire East Council's

Direct Payments Policy Consultation 2024



Executive Summary

Introduction

The Direct Payment Policy Consultation was conducted to gather feedback on an updated version of the council's Direct Payments Policy, and was conducted between 21 November 2023 and 9 February 2024.

Each direct payment recipient (adult) and all of those with parental responsibilities for a child or young person in receipt of a direct payment were invited to take part in the consultation via postal letter.

In total there were 65 consultation responses, including 52 survey responses, 12 event attendees and 1 written response from the organisation Disability Positive.

About survey respondents

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% were completing the survey as someone who receives a Direct Payment from the council directly.

Overall support for the policy

71% of survey respondents agreed the draft Direct Payments Policy for 2023 should be adopted, 13% disagreed. Reasons for agreeing the policy should be adopted included that it will:

- Improve the current situation
- Simplify the process
- Make Direct Payments more accessible
- Help ensure a smooth transition from childrens to adults
- Help carers find Personal Assistants more easily

Strong support for various sections of the policy

Key proposed changes to the policy were outlined within the consultation material, with strong levels of support among survey respondents for these proposed changes, including:

- 80% supported the section 15 restrictions on the use of Direct Payments as described (14% opposed them)
- 73% supported the council using self-employed Personal Assistants for adult Direct Payment recipients (13% opposed this)

- 74% supported the section 19 use of pooled budgets to meet common needs and achieve better outcomes for individuals (8% opposed this)

Strong support for definitions in the policy

Furthermore, large proportions of survey respondents felt various definitions within the policy were clear:

- 88% agreed with the section 17 definition of the role of Personal Assistants (6% did not agree)
- 80% thought that section 17 is clear regarding the responsibilities of being a good employer (8% did not agree)
- 90% are aware of safeguarding procedures as set out in section 27, and the requirement for a DBS check to be carried out for both children and adult direct payments (10% are not)

A lack of contingency plans in place

While 58% of survey respondents have contingency plans in place to cope with emergencies as per section 20, a significant proportion of survey respondents, 42%, do not.

Those without contingency plans in place do not have them because:

- They have no family or friends who live close by to provide help or to look after their children
- It is difficult to find people to support them in emergencies
- This is something they have not considered
- They do not have enough spare money for an “emergency fund”
- They rely on the Cheshire East emergency respite team for this

Some opposition to the Direct Payment prepaid card

While 46% of survey respondents supported the section 29 introduction of a prepaid card for Direct Payments, a significant proportion of survey respondents, 29%, opposed this.

Survey respondents that opposed this proposal did so for reasons including that:

- Prepaid cards should not be the default payment option, but one of a range of payment options from which the Direct Payment recipient can choose depending on what’s best for them
- Separate direct payments bank accounts work well currently and should suffice

- Prepaid cards aren't flexible enough e.g. Personal Assistants can't use them to pay their expenses
- The prepaid cards give the council too much control over spending etc
- Prepaid cards are open to abuse given there is a "lighter audit" with them

Furthermore, a significant level of concern about Prepaid Cards was expressed by Disability Positive who responded to the consultation with a formal written response – see Appendix 2 for the full response. They were very concerned that prepaid cards should not become the default option for Direct Payments, and that recipients should have a choice over how to receive their Direct Payment from a range of options. They felt the Care Act is clear that prepaid cards must not limit choices for individuals.

Events and other written response feedback

Other comments raised during the events and through written and survey feedback included that:

- The policy needs to be shorter for new Direct Payment recipients, with an Easy Read or summary version of it provided to make it easier to understand
- Factsheets for different sections of the policy should be created, including for outlining Personal Assistant responsibilities, and for the section on prepaid cards
- Concern was expressed by Disability Positive about an increased use of self-employed Personal Assistants, which could lead to an increased liability risk for Direct Payment recipients. There is uncertainty about the role and employment status of Personal Assistants
- A number of specific edits to the strategy were listed from one survey respondent, and these can be found in the "Final survey comments" section of the report

Conclusions

A significant level of engagement

Although the number of consultation responses is relatively low as compared to other council consultations, that is not due to a lack of effort on behalf of the Commissioning and Business & Finance Teams who made significant efforts to engage with those who might be interested in the consultation. This included direct postal contact with all Direct Payment recipients, and through events put on to discuss the consultation face to face.

Overall support

It is positive to note that such a large proportion of respondents (71%), agreed that the policy should be adopted, with just 13% disagreeing – this highlights the effort that has been taken to ensure the policy has been updated appropriately.

There are also strong levels of support for many of the proposed sections of the policy, and strong levels of support for definitions included in the strategy.

That said, where there is opposition to these section and definitions, reasons for this opposition should be carefully examined to see if improvements can still be made to the policy – some worthy concerns have been raised throughout the consultation feedback.

The main areas for improvement

The two areas of the policy which might require most attention include the section on contingency plans, and the section on prepaid cards.

Both sections should be re-examined with key feedback in mind, to see if they can be improved. The section on prepaid cards may especially require attention, particularly in regards to this being the default option for Direct Payment recipients – this may not suit all recipients as a rule, and more choice may need to be presented to new Direct Payment recipients at the outset.

Any changes made to the policy as a result of the consultation should be tracked within an action plan and reported back on in a “you said, we did” format.

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Report produced 22 February 2024 by Ben Buckley of the Research and Consultation Team, Cheshire East Council. Email RandC@cheshireeast.gov.uk for further information.

Introduction

Purpose of the consultation

The Direct Payment Policy Consultation was conducted to gather feedback on an updated version of the council's Direct Payments Policy.

The Direct Payments Policy applies to adults and children in receipt of a Direct Payment and provides an overview, guidance, and steps that need to be taken to manage Direct Payments for care and support needs. The policy has been written to provide a source of information for people who already have a Direct Payment or are thinking about getting one. The Adults Direct Payment Policy was first published in 2015.

The consultation was conducted between 21 November 2023 and 9 February 2024.

[A copy of the full consultation material can be viewed here \(PDF, 213KB\).](#)

Consultation methodology

Each direct payment recipient (adult) and all of those with parental responsibilities for a child or young person in receipt of a direct payment were invited to take part in the consultation via postal letter.

The consultation was also publicised via the following:

- Council press releases and social media campaign
- 4 consultation events – See Appendix 1 for details
- Members Briefings
- Briefing to promote the consultation to all adult social care staff
- PeoplePlus – The direct payment support service publicised the consultation via their newsletter and social media channels, and attended both consultation events
- Cheshire East Carers Hub – Consultation promoted via their newsletter (all age), with the team also attending both consultation events
- Cheshire East Parent Carer Forum – Consultation promoted by the Carers Hub to the Parent Carer Forum
- Learning Disability Partnership Board / Mental Health Partnership Board – Details passed to chair of each meeting to publicise / raise awareness
- Children services representatives and an internal meeting.
 - Opportunity for young people to share their views at Jigsaw meetings (Macclesfield and Crewe)
- Healthwatch Cheshire – Publicised via website, also took part at the Direct Payment consultation events held at Macclesfield and Crewe

Number of consultation responses

In total there were 65 consultation responses, including:

- 49 online survey responses
- 3 paper survey responses
- 12 event attendees
- 1 written response from an organisation

Reading this report

The main sections of this report contain an analysis of the survey responses received during the consultation.

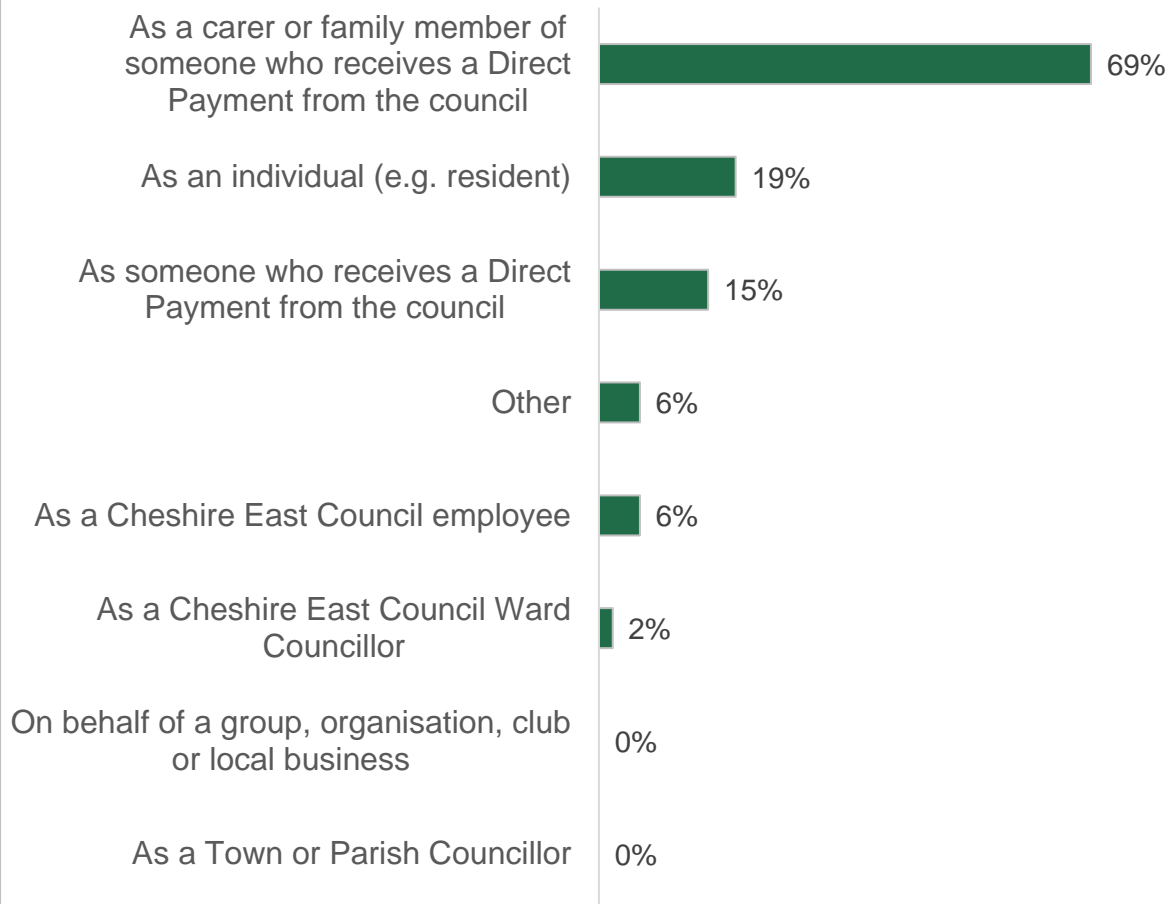
Feedback received from consultation events and via email is provided in the appendices.

About survey respondents

Respondent type

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% were completing the survey as someone who receives a Direct Payment from the council directly.

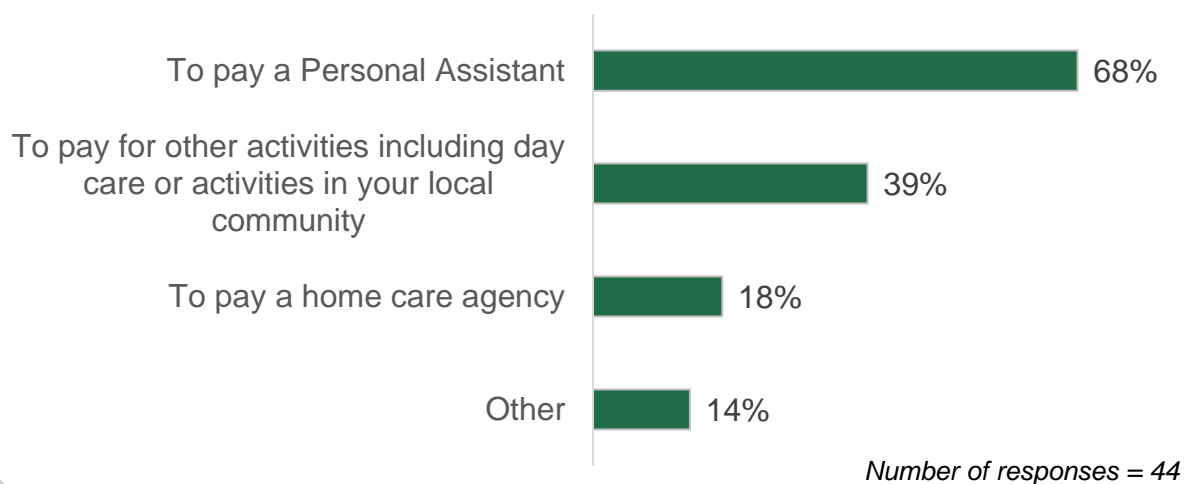
How are you responding to this survey?



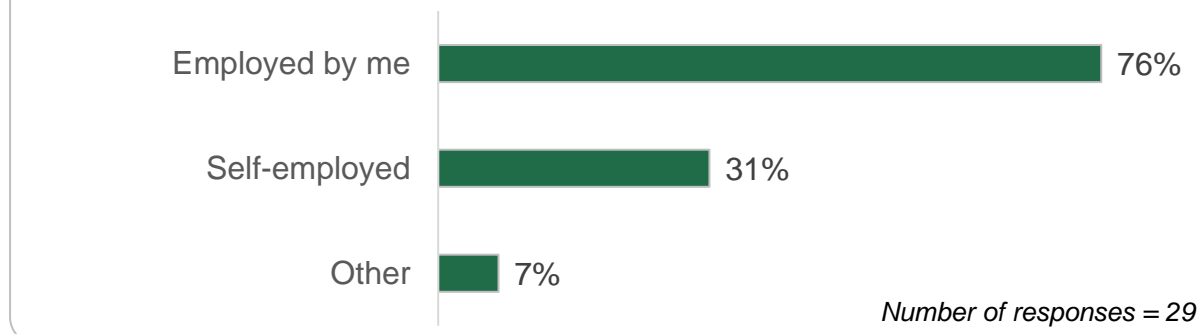
Number of responses = 52

How direct payments are used

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, and 18% use the Direct Payment to pay a home care agency.

How do you, or the person you care for, use your Direct Payment?**Employment status of Personal Assistants**

Of those survey respondents who use their Direct Payment to pay a Personal Assistant, 76% employ the Personal Assistant directly, while 31% of Personal Assistants are self-employed.

Is your Personal Assistant employed by you, or are they self-employed?

Overall support for the policy

71% of survey respondents agreed the draft Direct Payments Policy for 2023 should be adopted, 13% disagreed.

How strongly do you agree or disagree that the draft Direct Payments Policy for 2023 should be adopted?



Number of responses = 45

Overall comments on the policy

Survey respondents were asked why they agreed or disagreed the policy should be adopted. In total, 20 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Comments by those that agree the draft Direct Payments Policy for 2023 should be adopted

Think the money should be for a specific cause but in some instances not sure a direct payment is cost effective. Personally it would be cheaper to pay the service than the use direct payment as always end up with an excess and appear to be paying council for a service not received

More discussion is necessary but in general these changes appear sensible. We would welcome a full discussion of how the move to prepaid card will continue to support non-card payments for essential services.

Happy that transition from childrens to adults will be smooth. This will take one worry away from parents and ensure that needs continue to be met without any disruption.

The Direct Payments policy changes help carers in finding and retaining personal assistants

Direct Payments are open to abuse and historically have been abused. All recipients of Direct Payments should be aware of their responsibilities. Those deliberately abusing should be prosecuted.

I think anything that makes direct payments more accessible for individuals is a good thing. Recipients should have the opportunity to source good and reliable care and not have to rely on often unscrupulous and unsafe care companies.

Only issue is implementation and it being implemented fairly which doesn't happen in Cheshire east and needs led and not budget led

Anything to simplify the process would be beneficial

It is an improvement on the current situation.

I am satisfied that the introduction of your Direct Payment Policy using pre-paid Payment Cards will empower all participating individual beneficiaries for becoming independent paying customers.

A good detailed policy is needed. I disagree with any monies not used in a 4 week period needs to be returned as there needs to be freedom to accrue hours for special events such as support on holiday/ family occasions that the client would not be able to access otherwise.

Really need clampdown on misuse of Direct payments especially where relatives manage money and provide care for payment which ordinarily they would be expected to do

Comments by those that disagree the draft Direct Payments Policy for 2023 should be adopted

I don't agree with some of the points, however this may just be a case of rewording some things.

Prepaid card as default is not acceptable. The policy doesn't address annual increase in hourly rate to match inflation. Increases every 7 years is not acceptable.

Coping with something else seems difficult

People should be able to pay for the basics like food and bills with this payment

Need to make the changes I've given you. Also need an agreement about frequency and policy for increasing budgets annually e.g. in-line with inflation. This is very one-sided, pro-CEC and making life difficult for people.

Comments by those that neither agree nor disagree, or who don't know whether the draft Direct Payments Policy for 2023 should be adopted

The policy is still consultation

Think I will need to go back and read again. So much information to take in.

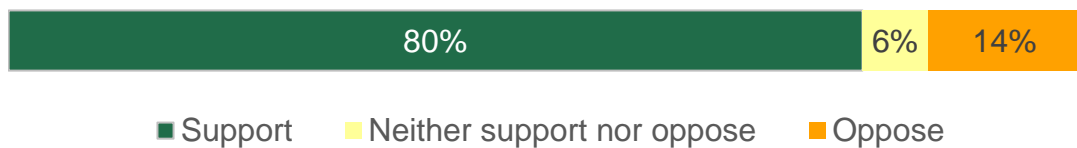
Now too tired.

Section 15: Restrictions on the use of Direct Payments

This section set out the restrictions on the use of a Direct Payment and described what Direct Payments cannot be used for.

80% of survey respondents supported the section 15 restrictions on the use of Direct Payments as described, 14% opposed them.

How strongly do you support or oppose the restrictions on the use of Direct Payments as described?



Number of responses = 49

Survey comments on section 15

Survey respondents were asked if they had any comments about the proposed "Section 15: Restrictions on the use of Direct Payments".

In total, 12 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Comments by those that support the proposal

Agree that there should be restrictions

Travel costs with a personal assistant for authorised activities should be permitted

The Policy Document & all other related media needs to be very clearly written with explanations so everyone can understand it.

Limiting the range of payees would require managing a register of approved payees. The register could include mandatory items such as insurance and professional licenses held, however, this could have a restricting effect on willing suppliers of personal assistance (payees).

This is basically the law, (points 1 & 3) so not a policy issues that CEC can decide. Point 2 needs clarification - may not be used to fill a car with fuel because the car will be used for personal as well as work things. However, it is ok to pay PAs petrol monthly based on proper receipts / claim processes. As it stands, point 2 is unlawful.

Comments by those that oppose the proposal

Help with travel costs would be greatly beneficial

The fuel costs to transport my son to his therapy and educational provision as part of his ECHP provision should be covered. I have asked for a contribution but no

response. These are more frequent than just to school and back each day if he were attending a school.

Day to day travel costs that a carer of the child/adult incurs should be allowed to claim for fuel costs. The 45p rate hmrc allows is out of date and has not increased in line with the increased living costs in 2023.

Needs to be clearer guidance on exceptional circumstances as one person may be granted and another not for the same thing. Also allowances should be paid on certain circumstances for living expenses giving the cost of living rise.
Consideration given to national shortage of pas available

It is a bit confusing and doesn't take into account people's different needs

Would have used allowance to pay PAs fuel and have cooked meals delivered

People should be able to pay for bills and food with the payment. The basics are very important and usually who have a child with disability cannot work many hours so money is always a concern

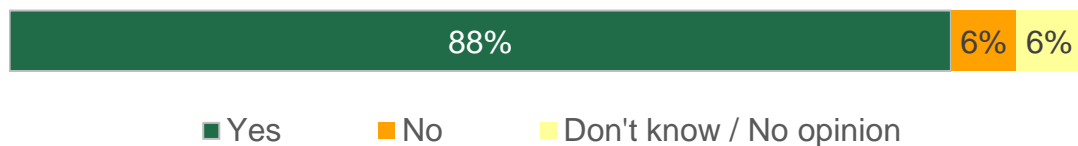
Section 17: Personal Assistants and self-employed Personal Assistants

Defining the role of Personal Assistants

This section described the role of a Personal Assistant as "a person employed specifically by the Direct Payment client to meet their individual identified eligible support needs".

88% of survey respondents agreed with the section 17 definition of the role of Personal Assistants, 6% did not agree.

Do you agree with this definition of the role of Personal Assistant?



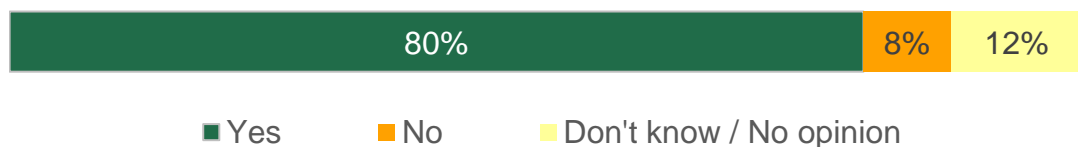
Number of responses = 49

Personal Assistants and legal responsibilities

This section sets out the legal responsibilities for being a good employer and employing a Personal Assistant, and the "must do's" that need to be in place.

80% of survey respondents thought that section 17 is clear regarding the responsibilities of being a good employer, 8% did not agree.

Generally speaking, do you think that the section is clear regarding the responsibilities of being a good employer?

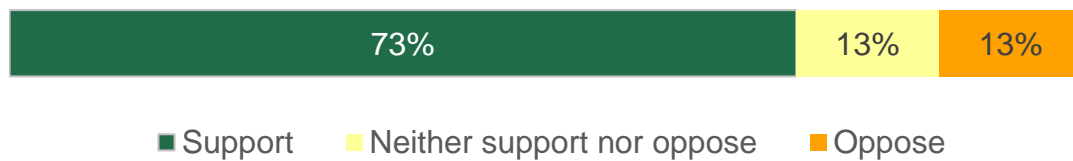


Number of responses = 49

Self-employed Personal Assistants

73% of survey respondents supported the council using self-employed Personal Assistants for adult Direct Payment recipients, 13% opposed this.

How strongly do you support or oppose Cheshire East Council using self-employed Personal Assistants for adult Direct Payment recipients?



Number of responses = 45

Survey comments on section 17

Survey respondents were asked if they have any comments to make about the proposed "Section 17: Personal Assistants and self-employed Personal Assistants".

In total, 15 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Comments by those that support the proposal

There is a lot to employing someone and so I think the Policy should direct Policy users to other information/documents so that they can understand what it can involve.

Can't really comment on this as we don't have this service but know that other families would not be able to manage without PA support.

Happy to see self employed PA's as this has been a long standing issue in Adults especially with audit

The Policy Document & all other related media needs to be very clearly written with explanations so everyone can understand it. This section does not clarify that Direct Payments may be spent on 3rd party activities where the provider is neither self-employed or employed. For example, The St Pauls Centre, Wishing Well.

I feel that the Personal Assistant is better placed to meet the compliance responsibilities that attach to their providing a service for profit.

A requirement to have insurance could be spared with a Cheshire East Council blanket insurance policy, or minimum levels of contacting must be assured for suppliers to hold economically viable insurance cover at all times.

I'm not sure about the eligible needs part of the definition. Yes they are employed to do that but it might be necessary to also meet non-eligible needs in the process, or at least needs that aren't documented by the social worker. The definition seems unnecessarily restrictive.

Employment responsibilities (which are more onerous than the practical admin) include managing the person - how they do the job, daily duties, the relationship & boundaries within that, as well as keeping records, calculating leave, finding activities & sorting them out, planning each day/session, doing performance reviews,

The PA's I use are self employed and prefer this status as they can choose when they are available to be on the rota giving them flexibility to other work else where. I have used this method for over 10 years and to date works well.

personal assistants should not be related to the service user or even acquainted with them,

If it had been possible, I would like to have my mum's PA on a self employed basis, as she is already self employed as a carer. Cheshire East couldn't offer this at the time, so had to go down the employed route, which has been much more complicated & stressful.

Don't see why you need "specifically" it's very "system - implies PAs can't meet other needs while doing their job which is a nonsense. Employment responsibilities - Involve so much more beyond the basic legal minimum keeping records - hours worked, holiday, sickness, managing cover/rotas, right to work checks, appraisals etc.

Comments by those that oppose the proposal

My PA has another job and so they would not appreciate having to do their own tax & national insurance

Employ a PA directly by CE on zero hour contracts so it's easier to employ people

PA should not be self employed as person (or their representative) should be dictating working terms and conditions, not person providing care.

Because unless a high enough wage to cover all the additional deductions /no holiday pay, it will not be viable to manage for these self employed carers.

I don't really agree with the term 'eligible needs' as it makes it feel as though a person's needs are only valid if the council says so, which doesn't seem fair. As for the self-employed PA aspect, personally I have had bad experience of this where a PA has falsely recorded information on their income sheet in order to get more money.

Comments by those that don't know

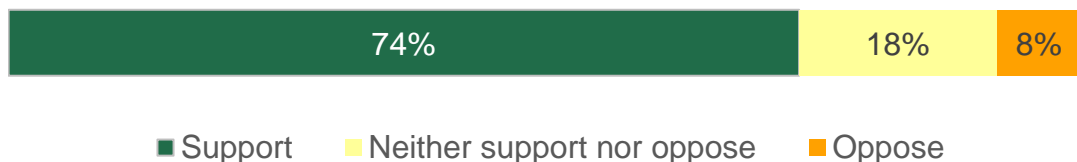
Am not able to continue employing PA due to 'paperwork' involved

Section 19: Pooled Budget Direct Payments

This section described how individuals can join together to 'pool' their Direct Payments so that as a group they could employ a personal assistant or contract with an agency to achieve better outcomes, meet common needs, goals and aspirations for all participating individuals.

74% of survey respondents supported the section 19 use of pooled budgets to meet common needs and achieve better outcomes for individuals, 8% opposed this.

Generally speaking, do you support or oppose the use of a pooled budget to meet common needs, and achieve better outcomes for individuals as a group of people together?



Number of responses = 38

Survey comments on section 19

Survey respondents were asked if they had any comments to make about the proposed "Section 19: Pooled Budget Direct Payments".

In total, 14 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Comments by those that support the proposal

Individual cases need to be assessed

If it works for people who know each other then that's good but unlikely that in reality this would be used much as children/adults have varying needs and require a specific day/time which another one may not need.

This seems like a good option for people who may choose to do this.

Only few time will assistance requirements be compatible enough to be capable of pooling without further supervision by medically qualified person. I feel that, if such oversight is made available, then pooling would greatly increase the purchasing power collectively. It may also provide "socialising" opportunities.

policy needs to address the group use in homes where services are shared and monitor staff use of this to avoid being used in place of their staff

This has always been an option.

Comments by those that oppose the proposal

Becomes very messy if one or more is using DP inappropriately and DP is suspended/ended.

No. I think it should be individual

Comments by those that neither support nor oppose, or who don't know

I am not sure that I understand what circumstances would exist for pooling of resources to occur.

Can see pros and cons of this. Could be open to one recipient using their Direct Payments to contribute whilst others don't. Would need to be managed and monitored.

Don't really understand this, would need more information on how this works in reality.

This would have to be very carefully managed. Some people could end up losing out by not getting or applying for their own Direct Payment if they just use someone else's.

I would not use a pooled budget, it seems at a glance to have all kinds of issues

Cultural experiences tend to restrict the idea of 'pooling households' the idea of participating individuals seems not to reflect everyday society

Section 20: Emergency and contingency arrangements

This section detailed that each person receiving a Direct Payment has to make arrangements or contingency plans to cope with emergencies.

58% of survey respondents have made their arrangements or have contingency plans in place to cope with emergencies as per section 20, 42% do not.

Generally speaking, have you made arrangements or have contingency plans in place to cope with emergencies?



Number of responses = 45

Survey comments on section 20

Survey respondents were asked why they did not have contingency plans in place.

In total, 20 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Comments by those that answered "yes"

Family

We are the contingency. Is hard enough to find good PAs never mind having a spare resource to call upon in an emergency. This would be a luxury.

But social care don't provide the support in direct payments to cover it

I feel that the emergencies and contingencies aspect of the service provision is to be better met by implementing a managed pooling system.

Contingencies for emergencies should also include a Council-backed payments guarantee if the payments card should fail or extraordinary care costs are incurred in the event of surprise emergencies.

this needs to go further and have mandatory emergency plan

Comments by those that answered "no"

I use family support in emergencies

The direct payment only applies to one specific aspect of care and this is a minor outlay.

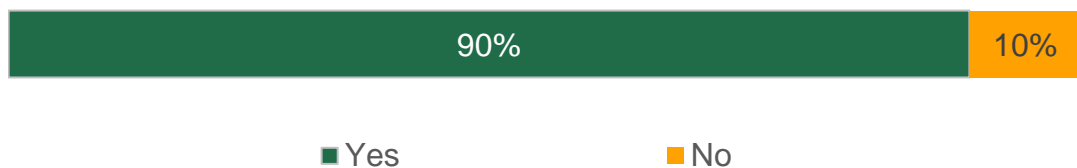
We explored several options but none were suitable as the subject's care is a mixture of personal assistant and parental care.

No suitable respite care existed when we explored options for his parental care not being available in an emergency. I believe this whole area needs to be revisited.
As employees we are not encouraged to pay a 'contingency' payment with Direct Payments, but we should be able to, to encourage flexibility and independence
It is difficult to find reliable people to support us in emergencies
Still waiting for contact from social worker and for the care package to be fulfilled
Because having a child/adult with additional needs is hard work and is the most difficult job! You don't get breaks/lunches and barely get any sleep at night. You are functioning on bare minimum and have a lot to do on no sleep.
Have not considered
Because we have no one else who would be able to look after our children and are in crisis/live here & now/ day to day
I am not in receipt of Direct Payments. Or is this a broader, more general question?
There needs to be an example here. In our case a PA not being available at some time would not be an emergency situation.
There is no much spare money on my household. The "emergency fund" is my credit card
Didn't know whether I should answer yes or no. I would rely on, & have previously used the Cheshire East emergency respite team
No family or friends live close. An emergency would be just that.

Section 27: Safeguarding and DBS checks

90% of survey respondents are aware of safeguarding procedures as set out in section 27, and the requirement for a DBS check to be carried out for both children and adult direct payments, 10% are not.

Generally speaking, are you aware of safeguarding procedures, and the requirement for a DBS check to be carried out for both children and adult direct payments?



Number of responses = 48

Survey comments on section 27

Survey respondents were asked if they had any comments to make about the proposed "Section 27: Safeguarding and DBS checks".

In total, 11 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Comments by those that answered "yes"

A DBS is only meaningful on the day it is carried out. There should be more regular checks.

Should be document that all are aware of risks

The Policy Document & all other related media needs to be very clearly written with explanations so everyone can understand it.

All the PA's they offer their service that I pay have a DBS

Awareness of rights and responsibilities to the cared and carer. Listening to the needs and changing needs - ongoing respect

more support in how to complete a dbs for a employee is needed

Comments by those that answered "no"

It would be helpful if the council could provide help and support with these checks as o wouldn't know how to do it on a personal level although recognise the importance of them

I have never been told the procedure and how the short breaks team do a dbs check for there's pas

I don't under why a child needs to be DBS checked for a payment?

I am not in receipt of Direct Payments

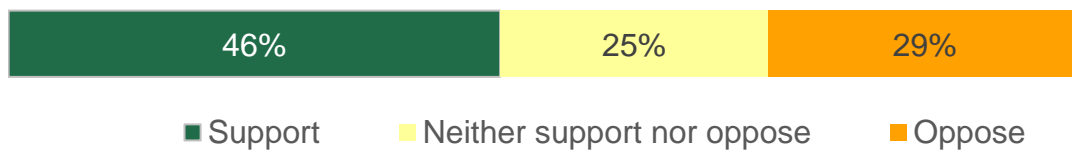
Aware of DBS process but not safeguarding procedure. What about right to work checks - no idea how to do these.

Section 29: Finance and Monitoring – Prepaid cards

This section set out that under the new policy it will be possible to have a Direct Payment prepaid card.

46% of survey respondents supported the section 29 introduction of a prepaid card for Direct Payments, 29% opposed this.

How strongly do you support or oppose the introduction of a Prepaid Card for Direct Payments?



Number of responses = 48

Survey comments on section 29

Survey respondents were asked if they had any comments to make about the proposed "Section 29: Finance and Monitoring - Prepaid cards".

In total, 27 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Comments by those that support the proposal

As the Direct Payments pay for regular expenses such as Personal Assistant salary, there needs to be a method for both direct transfer and for adjustments. It is not clear how the move to prepaid card supports this.

The annual audit of my mother's expenditure is something I would be glad to not have to do, as the sum paid by Cheshire East is used exclusively to finance her care with a registered and approved care organisation which is already known to Cheshire East. Therefore the move to a prepaid card would be ideal PROVIDED THEY WORK SEAMLESSLY TO PAY THE CARE PROVIDER ONLINE.

Much more flexible and appealing to people

More visible to CE ensuring any misuse can be picked up and actioned in a timely manner.

This is more flexible.

Should make process less stressful

This could be useful for some people definitely.

We pay the PA via bank transfer. Prepaid cards wouldn't work in this instance

Will this be supported by Mastercard or Visa? If not, how exactly will the card be useable

I feel that a managed pooled service could minimise any interruptions in payments and service provision (even if spend limits are set for daily or weekly budgeted spends as agreed by medical prescription).

From the brief description above, it sounds like a good idea, but would like more information before I committed to moving to a prepaid card

Comments by those that oppose the proposal

a separate bank account should suffice

I am happy with how I manage my sons direct payments with a separate bank account, keeping accurate records of invoices and bank statements.

Present system of having a separate direct payments bank account works well

If clients are having to top up it would be easier to have it all paid from one account

This should not be the default option but a choice for people to make based on good/the right information. You should be honest about your motivations here. Cards give CEC greater control & take it away from the DP recipient.

You need an agreed procedure for how/when/how often CEC will a) take money out of the account b) block specific or particular types of spending. A card isn't necessarily flexible enough either e.g. the PA can't use it to pay their expenses.

I have used money paid into a bank account. I use a simple accounting procedure. PA submits invoice, I bank transfer, record transaction, submit paper work for audit. This worked well for well over 10 years why are you now trying to fix what is not broken

Caring is hard enough, it's constant and tiring. It takes another form of adding up the everyday responsibility of caring

Having own account means it's easier to top up/ save hours up for holiday support and know how much is available

prepaid cards are open to abuse. receipts and documentary evidence are vital to reduce misuse of monies. More checks should be introduced to monitor this.

Your description is disingenuous. Doesn't say honestly that it gives CEC control. Need an agreed protocol about CEC accessing accounts and taking money out - Should have permission / agreement from DP recipient as they may be banking money (hours) for particular support or anticipated contingency issues. You should behave ethically by sharing the downside of prepaid cards so people can make informed decisions. There is research on this.

Comments by those that neither support nor oppose, or who don't know

This could work on some instances but not if paying people directly into their bank account for work.

Happy with a lighter audit but not sure how payments to a service would occur

This won't affect us at the moment. May leave the system open to abuse and misuse if audits are not thorough and regular.

Don't understand how the procedure will work

Will this work like a bank account, so I can make bacs payments etc. If not how will I pay my payroll service, will I be able to see balance on card?

The Policy Document & all other related media needs to be very clearly written with explanations so everyone can understand it and so not fall foul of using the card incorrectly. I am all for it if it prevents fraud/theft.

Final survey comments

Survey respondents were asked if they wished to comment on any other section of the draft Direct Payment Policy for 2023.

In total, 12 comments were made in response to this question, and these have been printed below verbatim. Comments have been redacted where necessary to protect the identity of respondents.

Final comments:

I have never been given any policy in the years my son has received direct payments this policy will create clarity for people managing the budget.
The respite breaks I get enabled by the direct payments are literally life savers.
The draft policy seems very similar to the existing Direct Payments policy apart from the prepaid card proposal, so I can't see what significant difference adopting it would make to current recipients.
I think PA's should get double time for working during Christmas etc
29.7 a direct payment should not be made before a financial assessment has been completed.
As long as there isn't a reduction of available funds for this service as it is not enough as it is. With Cheshire East on the verge of bankruptcy, regardless it would be unlawful that they use this area in any way to claw back funds from vulnerable persons who are already having a difficult time.
Our main difficulty following the Agreement method of payments in advance - is that we can't predict what the payment will be due to differing hourly and weekend rates, intermittent price increases, differing month length. May help if CE remittance timing matched outgoings to care agency ie all calendar month rather than 4 x 13 per year. Also delay of several months in our audit feedback meant that recommendations were outdated and no longer relevant
The Direct Payments are very restrictive. More flexibility in their use in those things that are associated with the activities provided by a PA would be welcome. Examples are train tickets, fuel, etc. There could also be some circumstances where access to activities for the PA could be covered to ensure the entitled person has the support they need
Several of the questions seemed aimed at individuals in receipt of Direct Payments, yet were open for all to answer.
In addition to the proposed Direct Payment Policy 2023, some aspect of referencing to the medical profession could assist at times of discrepancies in the quality of assistance being required and the assistance being provided.
CEC needs to be much more flexible about use of DPs to meet needs in more flexible/creative ways. The implementation of the DP policy (assessments, reviews & audits) has been problematic and very stressful for many years and needs to change. People should be trusted more and treated with dignity and respect as equal partners in the process. Need to be clear that DPs can be used for equipment and technology.
The impact will depend on how it's implemented – the decisions made by individual social workers and panels. CEC needs to be much more flexible and deliver DPs in line with the letter and spirit of the Care Act. My experience of the

processes around this (assessment / review / audit) is consistently bad. This needs to change as you are causing people great stress.

Suggested edits:

p.11 What does "achieving consistent approaches" mean? p.20 "The carer would therefore receive a support plan" - wording is strange! Support plans are meant to be written with the person, not handed to them as a passive recipient.

p.23 "DPs are designed to be used flexibly and innovatively" - But CEC does NOT do this, so how will you implement this in practice? What changes are you going to make?

p.23 14.1 point 6 - Surely this should apply to everyone, not just young people? It's an all-age policy. All adults continue to develop these skills throughout their life.

p.24 15.1 point 6 This is allowed with permission from the LA. People need to know they can ask.

p.25 point 3 - Why can't we use DPs for tele-care charges? Is this the law, or policy? If policy, not acceptable.

p.26 Holiday DPs - Needs clarification e.g. PA accommodation - is this classed as an expense? What about food / a subsistence agreement if PA has to be away from their own home?

p.28 17.7 Training? Maternity Leave? Redundancy?

p.28 17.11 People may not be aware of PA training needs at the time the care plan is being written, or if a new PA is recruited. So need a generic statement permitting this in all care plans?

p.33 22.1 Not sure about this - needs to be in context of family carers having no statutory duty to care. So should also apply to long-term basis?

p.33 Equipment - Shouldn't only be about independence but also wellbeing (Care Act principle) - think about social stuff.

p.37 28.3 Respectful language "if a person is placed..." not a nice way to talk about people, objectifies them.

Conclusions

A significant level of engagement

Although the number of consultation responses is relatively low as compared to other council consultations, that is not due to a lack of effort on behalf of the Commissioning and Business & Finance Teams who made significant efforts to engage with those who might be interested in the consultation. This included direct postal contact with all Direct Payment recipients, and through events put on to discuss the consultation face to face.

Overall support

It is positive to note that such a large proportion of respondents (71%), agreed that the policy should be adopted, with just 13% disagreeing – this highlights the effort that has been taken to ensure the policy has been updated appropriately.

There are also strong levels of support for many of the proposed sections of the policy, and strong levels of support for definitions included in the strategy.

That said, where there is opposition to these section and definitions, reasons for this opposition should be carefully examined to see if improvements can still be made to the policy – some worthy concerns have been raised throughout the consultation feedback.

The main areas for improvement

The two areas of the policy which might require most attention include the section on contingency plans, and the section on prepaid cards.

Both sections should be re-examined with key feedback in mind, to see if they can be improved. The section on prepaid cards may especially require attention, particularly in regards to this being the default option for Direct Payment recipients – this may not suit all recipients as a rule, and more choice may need to be presented to new Direct Payment recipients at the outset.

Any changes made to the policy as a result of the consultation should be tracked within an action plan and reported back on in a “you said, we did” format.

Appendix 1 – Events feedback

Consultation events

During the consultation 4 events took place to provide stakeholders the opportunity to share their views on the all age Direct Payment Policy.

The events were supported by Business & Finance, Commissioning, PeoplePlus (Direct Payment Support Service provider), Healthwatch Cheshire and the Carers Hub.

Event hosts were on hand to explain consultation proposals, answer queries and gather feedback, with paper consultation packs provided to attendees at both events.

In total, 12 people attended the following events:

Date	Location	Number of attendees
16 January 2024	Macclesfield Old Town Hall	5
18 January 2024	Crewe Municipal Building	4
23 & 25 January 2024	SEND Youth Forum Jigsaw meetings	3

Event feedback

The following feedback was received from the events for each of the proposals being consulted on:

Section 17: Personal Assistants and self-employed Personal Assistants

- Suggested a factsheet be developed for personal assistant to provide an outline of their responsibilities

Section 19: Pooled Budget Direct Payments

- Suggested the use of pooled budgets was a good idea, however in practice it may be difficult to make use of
- Suggested that the local authority provides a list of activities where it may be possible to make use of pooled budgets

Section 20: Emergency and contingency arrangements

- Suggested that for some parents it was difficult to have contingencies in place other than family members. It would still need to be the local authority

stepping in to provide support in emergencies, in most cases the parents acted as the contingency

Section 29: Finance and Monitoring – Prepaid cards

- Suggested that further explanation was required to explain that prepaid cards were not mandatory, and that a prepaid card factsheet be developed

General feedback

- One attendee commented that they had read the policy and thought it was generally quite clear
- Attendees commented on their own individual Direct Payment, seeking advice and guidance from PeoplePlus and the Carers Hub

Appendix 2 – Formal written responses

Response #1 – Disability Positive


Summary of response:

The policy needs to be shorter for new Direct Payment recipients, an Easy Read or summary version should be provided.

Section 17 – Concern that this change may lead to an increase in use of self-employed Personal Assistants, which could lead to an increased liability risk for Direct Payment recipients. The employment status of Personal Assistants is something that is still poorly understood and open to change if and when employment case law changes. There is still uncertainty about the role and employment status of Personal Assistants.

Section 29 – Concern about prepaid cards becoming the default option for Direct Payments, strongly opposed to this. Direct Payment recipients should have a choice over whether to use a prepaid card or not. There shouldn't be a default option, people should be able to choose the option that best suits them, including traditional direct payment, or the use of a 3rd party to manage payment. The options available must be made clear to new Direct Payment recipients. The Care Act is clear that prepaid cards do not limit choices for individuals. Communication about pre-paid cards, must be made available in accessible formats. Also have concerns about pre-payment cards and their implications for sensitive and personal data about recipients. Prepaid cards should not be the default option - this is important. Prepaid cards also assume recipient have access to the internet, when many do not.

Full response:



Cheshire East Direct Payments Policy Consultation

Consultation response by Disability Positive

About us

We are Disability Positive.

We are a charity based in Cheshire and work mostly in the North West of England. We provide services, opportunities and a voice to people living with disability or long-term health conditions and their families.

We have services to help people with everyday life, being part of their local community and looking after their own wellbeing. We can offer advice, help with practical tasks and advocate for people in lots of different situations. We listen and share people's experiences to influence positive change in government policy.

We know it matters, because we live with disability and long-term health conditions too.

Definitions

In line with the Convention on the Rights of Disabled People (CRPD) definition, Disability Positive is a representative organisation of disabled people: 100% of our members are disabled people and we are majority led, directed, governed and staffed by disabled people ¹

Within this response we use the words 'disabled people', 'we', 'us' and 'our' to mean disabled people facing disabling societal barriers due to their impairments or conditions and this includes physical impairments, mental ill health, hearing impairments (including D/deaf people with BSL as first language), visual impairments, learning disability/difficulty, neurodiverse people, and those with chronic illness or fatigue.

¹ UNCRDP, general comments 7 (2018). Retrieved from https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/7&Lang=en

pg. 1

Response

With regards to the draft policy, we are unsure if this is going to be something that is used just for Cheshire East staff and other professionals, or if this is something that is intended to be given to Direct Payments recipients when they start receiving a Direct Payment. If it is the latter, at 47 pages it is a complicated and lengthy document and the Council would need to ensure that this is also produced in accessible formats such as an East Read version or a summary document.

Section 15 – Restrictions on the use of Direct Payments

This section now offers clarity on a few things such as what is meant by permanent residential care (effectively anything over 4 consecutive weeks), when a self-employed Personal Assistant can be used by a Direct Payment recipient and that proof will be required to be evidenced when this is the case. This should mean things are clearer for recipients and can be used as a point of reference for them.

Within that, it should also be made clear at the outset to people what they can and can't use their Direct Payment for (based on care assessments and individual circumstances).

Section 17 – Personal Assistants and self-employed Personal Assistants

This section now offers more information on people using a self-employed Personal Assistant and makes them aware of what is involved and what their responsibilities are.

However, the consultation question is ambiguous in that it asks 'How strongly do you support or oppose Cheshire East Council using self-employed Personal Assistants for adult Direct Payment recipients?' It is important to remember that Cheshire East Council wouldn't be using self-employed Personal Assistants, it would be the Direct Payment recipient (and by suggesting the Council uses them could leave the Council open to being seen as an employer of a Personal Assistant at a later date). As such, any responsibility that comes with this is with the recipient. Although the Guidance does talk about the fact that proof will need to be shown that employment status has been checked, in reality, the role of a Personal Assistant will generally be seen as an Employer/Employee relationship. It is concerning that this change to the policy may lead to an expansion in the use of self-employed Personal Assistants which if not considered with due care and attention will in reality lead to a potential increased liability risk for Direct Payments recipients, if at a later date an Employment Tribunal were to rule that a Personal Assistant should have been classed as an employee and entitled to holiday pay etc. Although it's possible that Personal Assistants may be self-employed in rare circumstances, the employment status of Personal Assistants is something that is still poorly

understood and is very much open to change if and when employment case law changes.

The question on section 17 is also contradictory. It asks:

This section describes the role of a Personal Assistant as "a person employed specifically by the Direct Payment client to meet their individual identified eligible support needs".

Do you agree with this definition of the role of Personal Assistant?

Tick one box only

- Yes
- No
- Don't know / No opinion

This clearly states that a Personal Assistant is a person employed specifically by the Direct Payment client, however, it then subsequently talks about self-employed Personal Assistants. It is this uncertainty about the role of a Personal Assistant and the employment status of the person that does the work that still leads us to believe that self-employed Personal Assistants are a very rare occurrence and it should always be assumed a Personal Assistant is employed by the Direct Payment recipient.

Section 19 – Pooled Budget Direct Payments

We welcome the addition of information regarding pooled budgets as this is something that increasingly can be an option for Direct Payment recipients and it may meet their outcomes in a more suitable way, especially if, for example it was 2 people sharing accommodation and using the same Personal Assistants.

Section 20 – Emergency and Contingency arrangements

This section is useful as it now explains the importance of having contingency plans in place, although it may be worth the Council making the guidance stronger on this aspect to advise people that they will need to be satisfied that a satisfactory contingency plan is in place as part of the setting up of a Direct Payment.

Section 27 – Safeguarding and DBS checks

This section now gives clearer guidance to people about Safeguarding and DBS checks.

Section 29 – Finance and Monitoring – Prepaid cards

The council states that this will now be the default option for Direct

Payments. This is something we have concerns about and we would strongly oppose a move to this being a default position.

Whilst we recognise that there are some benefits of using prepaid cards to Cheshire East Council in terms financial monitoring, auditing and payments, it is important that Direct Payment recipients have a **choice** over whether to use one and can understand the implications of doing so. People should still have a range of options on how to receive a Direct Payment with no option being a 'default' option – it is crucial that a person chooses the option that best suits them.

Payment cards should be an active choice made by the person from a range of meaningful options, including a traditional direct payment paid into an account managed by the person or their representative, or the use of a 3rd party who manages an account on a persons behalf. It must be made clear to the person what their options are and what the implications of taking a card are.

The Care Act is also quite clear that options such as pre-paid cards in regards to Direct Payments does not limit the choice for individuals:

'Local authorities should aim to develop a range of means to enable anyone to make good use of direct payments and where people choose other options, should ensure local practice that maximises choice and control (for example use of Individual Service Funds). Local authorities should also take care not to inadvertently limit options and choices. For example 'pre-paid cards' can be a good option for some people using direct payments, but must not be used to constrain choice or be only available for use with a restricted list of providers.' **Care Act guidance 11.35**

A direct payment is intended under the Care Act 2014 to offer a person more choice and control over their own care and support. If pre-payment cards are implemented poorly, there is a significant risk that they could disrupt rather than support the intention of the Care Act 2014.

When offered as a default option for Direct Payments, this can lead to a risk of loss of choice and control for a person over their care and support, and limit the choices of how they want to administer it. People should be offered a choice over how they want to receive a Direct Payments (within the limits of what is legal).

Any communication about pre-payment cards must be available in accessible formats in line with the public sector equality duty. This is a highly complex matter to explain, and a person cannot exercise their right to choice and control (in line with statutory guidance) if they do not understand what they are being told.

The information held on the accounts is sensitive personal data. The process for accessing and monitoring of accounts must be open and transparent. Access and monitoring of accounts cannot be unrestricted and must be done in a way that respects the person's dignity. Monitoring should be limited and proportionate with the budget holder being notified in advance each time access is to be made to the account. A record should be placed on the account indicating they have been accessed. It also needs to be made clear to people if any information regarding them and their account is shared with 3rd parties (e.g. Support services, organisations that operate the pre-paid account).

We also have serious concerns about the general principle of pre-payment cards and their implications for sensitive personal data about direct payment recipients. Therefore, to comply with Data Protection legislation, full notice should be given to cardholders setting out what information is held on the account, who has access to it and how long it will be stored for.

Cheshire East has previously looked at using pre-paid cards as a 'default' option. There were concerns highlighted at the time, particularly around personalisation of care and it not being a choice that people made and the understanding Direct Payment recipients had of how they worked. In order to not replicate the same issues and concerns, this is why it is important that the Council doesn't have pre-paid cards as a 'default' option and it should only ever be part of a suite of options that people can choose from to best suit their own personal needs and outcomes.

We are also concerned that within the policy there is very little mention of the option of a person choosing to have a managed or supported account, where a third party holds the money on their behalf. On previous policy documents, there was a section on managed accounts as an option, however, this is no longer within the policy document. As above, this should still be offered to people as part of the range of options when they choose how they want to receive a Direct Payment. In addition, if it is felt that a managed account is the most suitable option, this should be recognised and allowed as part of the legitimate expenditure related to the Direct Payment.

It is also important to remember that the use of pre-paid cards makes an assumption that a person has access to the internet and is able to use computers. In a time of a cost of living crisis, many disabled people are still digitally excluded or are unable to afford Broadband/Data Packages. Therefore it is important that people are still able to operate their Direct Payment without having to use computers or access the internet.

Also within section 29, 29.17 talks about Personal Top Up. Although the policy states that:

'If however, the individual wishes to commission a service that is more expensive than the Direct Payment, the council is satisfied that the amount of Direct Payment is sufficient to meet their assessed needs'

It is vital to understand that assessed needs may necessitate a more expensive cost (e.g. the employing of Personal Assistants with specialist skills relating to assisting a person communicating who are as such on a higher rate of pay than non-specialist staff). The assumption should always be that a budget is based on assessed care needs rather than based on a 'flat rate' of payment.

Further to this, also in section 29, there is mention of redundancy payments. It is important to understand that a Direct Payment recipient receives independent advice on managing their budget and understands the need to look at factoring in any future redundancy liabilities when managing their budget. When a person is only allowed a contingency fund of 4 weeks worth of money, any surplus claimed back by the Council may include money that was being saved towards possible redundancy and it is important to recognise that this may be required at a later date – as is outlined in section 29.50. However, the Council shouldn't assume (as in section 29.49) that a person has insurance at a level to cover redundancy payments, this isn't done as a matter of course by insurance companies and is very much done on a case by case basis depending on individual circumstances. 29.49 also shouldn't be taken as an assumption that redundancy costs aren't included as part of someone's budget.

Contact:

Ronan Willis
Policy Research & Training Officer
Disability Positive
ronan@disabilitypositive.org



Appendix 3 – Survey respondent demographics

Gender

81% of survey respondents were female, 19% male.

Gender	Count	Percent
Female	35	81%
Male	8	19%
Total valid responses	43	100%

Age group

Survey respondent numbers by age group were as follows:

Age Group	Count	Percent
16-24	2	4%
25-34	6	13%
35-44	5	11%
45-54	11	24%
55-64	13	28%
65-74	4	9%
75-84	3	7%
85 and over	2	4%
Total valid responses	46	100%

Health or disability status

Survey respondent numbers by health or disability status were as follows:

Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months? This includes problems related to old age.	Count	Percent
Yes	18	39%
No	25	54%
Prefer not to say	3	7%
Total valid responses	46	100%

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Direct Payment Policy Consultation - Frequently Asked Question**Why do Cheshire East Council want to introduce an 'all age' Direct Payment Policy?**

The Council want to make sure that people are provided with a source of information, guidance, about how to manage their Direct Payment or what they need to know before considering a Direct Payment.

The policy has been created to provide guidance and sets out the way the Council provides Direct Payments in Cheshire East. This includes adults, adult carers, and children and/or those with parental responsibility for a child on making and receiving a Direct Payment where there is an assessed need.

Transition from children to adult services?

When a young person reaches the age of 18 years, their community care needs will normally be met by Adult Social Care Services, although the criteria for eligibility for care and support for adults is different and it may be that more or less support is provided. The implementation of the 'all age' Direct Payment Policy provides guidance and information for those young people who are transitioning from children services to adult services.

What is a pooled budget for Direct Payments?

Some people who receive a Direct Payment may want to join with others to 'pool' their Direct Payment on a regular basis. This is another way in which a Direct Payment can be used to promote choice and control and to meet outcomes and join together with others to do things that they want to do as a group. This could be to employ a personal assistant or contract with an agency to achieve better outcomes, meet common needs, goals and aspirations for all participating individuals.

Why introduce Prepaid cards?

The introduction of a prepaid card for Direct Payment recipients in Cheshire East will provide increased choice and control. A prepaid card works like a current account from your bank. You would be able to use the prepaid card to pay for services that meet your assessed eligible social care needs. Cheshire East Council would put your Direct Payment money onto the card rather than into a separate bank account. A prepaid card is a digital solution that offers secure and immediate access to funds and balances. A prepaid card would provide instant audit and oversight and reduces the administrative burden for Direct Payment recipients.

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Direct Payment Policy Consultation 2023 – 2024**Summary example of findings and actions to be taken**

A summary example of the key findings are detailed below, this includes the consultation question, comments received in support or opposing, with actions that will be taken.

- 1 Section 15 – restrictions on the use of a direct payment. The consultation survey asked the question ‘how strongly do you support or oppose the restrictions on the use of direct payment as described’. 80% of survey respondents supported restrictions on the use of Direct Payments as described, 14% opposed them and 6% neither support or oppose.
- 2 Comments received in support of restrictions included:
 - *Agree that there should be restrictions*
 - *Travel costs with a personal assistant authorised activities should be permitted*
- 3 Comments received opposing restrictions included:
 - *Help with travel costs would be greatly appreciated*
 - *There needs to be clearer guidance on exceptional circumstances as one person may be granted and another not for the same thing. Also allowances should be paid on certain circumstances for living expenses giving the cost of living rise. Consideration given to national shortage of PAs available*
- 4 Action to be taken, travel costs and the local transport policy will be clearly defined in the review of the adult social care charging policy. Allowances for living costs would be appropriately considered as part of an adult financial assessment and further detail on this is explained in the adult social care charging policy.
- 5 Section 17 – personal assistants and self-employed personal assistants. The consultation survey asked the question ‘do you agree with the definition of the role of a Personal Assistant, is it clear regarding the responsibilities of being a good employer, and do you support or oppose the use of self-employed personal assistants for adult Direct Payments.
- 6 88% of survey respondents agreed with the definition of a personal assistant, 6% did not agree and 6% did not know or had no opinion. 80% of respondents felt that the section was clear regarding the responsibilities of being a good employer. 73% of survey respondents

supported the council using self-employed personal assistants for adult Direct Payment recipients. 76% of respondents indicated that they employ a personal assistant directly, while 31% indicated their personal assistants are self-employed.

- 7 Comments received in support of self-employed personal assistants included:
 - *There is a lot to employing someone and so I think the Policy should direct Policy users to other information/documents so that they can understand what it can involve.*
 - *Happy to see self-employed PA's as this has been a long standing issue in Adults especially with audit*
 - *The PA's I use are self-employed and prefer this status as they can choose when they are available to be on the rota giving them flexibility to other work elsewhere. I have used this method for over 10 years and to date works well.*
- 8 Comments received opposing the use of self-employed personal assistants included:
 - *My PA has another job and so they would not appreciate having to do their own tax & national insurance*
 - *Because unless a high enough wage to cover all the additional deductions /no holiday pay, it will not be viable to manage for these self-employed carers.*
- 9 Action to be taken in support of the feedback received is a suite of supporting documentation is currently being developed that includes what is a direct payment, what is a personal assistant, and employment status - employed or self-employed status. Documents will be developed in easy read format.
- 10 Section 19 – pooled budgets Direct Payments. The consultation survey asked, 'do you support or oppose the use of a pooled budget to meet common needs and achieve better outcomes for individuals as a group of people together'. 74% of survey respondents supported the use of pooled budgets to meet common needs and achieve better outcomes for individuals, 18% neither support or oppose and 8% opposed.
- 11 Comments received in support of pooled budgets included:
 - *This seems like a good option for people who may choose to do this*
 - *If it works for people who know each other then that's good, but unlikely that in reality this would be used much as children/adults have varying needs and require specific day/time which another one may not need*

- 12 Comments received opposing the use of pooled budgets included:
- *Becomes very messy if one or more is using DP inappropriately and DP is suspended / ended*
- 13 Comments by those that neither support or oppose the use of pooled budgets included:
- *Can see pros and cons of this. Could be open to one recipient using their Direct Payments to contribute whilst other's don't. Would need to be manage and monitored.*
 - *Don't really understand this, would need more information on how this works in reality.*
- 14 Action to be taken, a pooled budget agreement will be developed clearly outline everyone's roles and responsibilities for their pooled budget arrangements. This will include clear guidance in respect of what happens if these arrangements are increased, ended or suspended. In addition, a pooled budget factsheet will be developed including easy read and will be publicised on LiveWell.
- 15 Section 20 – emergency and contingency arrangements, the purpose of asking respondents this question was as a reminder emphasising the importance that they should have emergency and contingency arrangements in place. 58% of survey respondents commented that have made their arrangements or have contingency plans in place to cope with emergencies, 42% responded that they do not.
- 16 Comments received in by respondents who answered no, included:
- *I use family support in emergencies*
 - *We explored several options but non were suitable as the subject's care is a mixture of personal assistant and parental care. No suitable respite care existed when we explored options for parental care not being available in an emergency. I believe this whole are needs to be revisited.*
 - *It is difficult to find reliable people to support us in emergencies*
 - *Still awaiting contact from social worker for care package to be fulfilled*
 - *Have not considered.*
- 17 Actions to be taken, as part of the setting up of a Direct Payment and ongoing conversations with the recipient and/or their representative emergency and contingency arrangements are discussed. This features as part of the audit and will be revisited for each recipient to ensure that they are taking appropriate action to have such plans in

place. Adult and children Direct Payment recipients can be supported by adult direct payment support service and children Short Breaks Team if support is required in this area.

- 18 Section 27 – safeguarding and DBS checks. The consultation survey asked ‘are you aware of safeguarding procedures and the requirement for a DBS check to be carried out for both children and adult Direct Payments’. 90% of survey respondents are aware of safeguarding procedures and the requirement for a DBS check to be carried out for both children and adult Direct Payments and 10% were not aware.
- 19 Comments received by those that answered ‘yes’ included:
 - *Should be document that all are aware of risks*
 - *A DBS is only meaningful on the day it is carried out. There should be more regular checks.*
- 20 Comments received by those that answered ‘no’ included:
 - *It would be helpful if the council could provide help and support with these checks as wouldn’t know ow to do it on a personal level although recognise the importance of them*
 - *I have never been told the procedure and how the short breaks team do a DBS check for their PAs*
- 21 Action to be taken, it is important that operational colleagues and support provided by the adult Direct Payment support service and children Short Breaks Team remind recipients that it is their responsibility to ensure all staff recruited are subject to regular DBS checks being completed. This will be reminded as part of the audit process.
- 22 Section 29 – finance and monitoring prepaid cards. The consultation survey asked ‘how strongly do you support or oppose the introduction of a prepaid card for Direct Payments’. 46% of respondents supported the introduction of a prepaid card, 26% neither supported or opposed and 29% opposed the use of a prepaid card.
- 23 Comments received from respondents in support of prepaid cards included:
 - *Much more flexible and appealing to people*
 - *Should make the process less stressful*
 - *As Direct Payments pay for regular expenses such as personal assistant salary, there needs to be a method for both direct transfer and for adjustments. It is not clear how the move to prepaid card supports this*

- *More visible to CE ensuring any misuse can be picked up and actions in a timely manner*
- 24 Comments received from respondents that opposed prepaid cards included:
- *A separate bank account should suffice*
 - *Present system of having separate Direct Payment bank account works well*
 - *If clients are having to top up it would be easier to have it all paid from one account*
- 25 Comments received from respondents that neither supported or opposed or didn't know included:
- *Not sure how that works*
 - *This could work on some instances but not if paying people directly into their bank account for work*
 - *Happy with lighter audit but not sure how payments to a service would occur*
 - *The policy document and all other related media needs to be very clearly written with explanations so everyone can understand it and so not fall foul of using the card incorrectly. I am all for it if it prevents fraud/theft.*
- 26 Actions to be taken, to support the implementation of prepaid cards a factsheet is being developed detailing the following - what is a prepaid card, benefits of a prepaid card, set up and use, making payments using the card, loading money on to the card (client contribution and top up) and queries about the card. Information will be provided in written format including easy read and will be publicised on LiveWell.
- 27 Overall, 9 respondents comments on the Direct Payment policy, these included:
- *I have never been given any policy in the years my son has received Direct Payments this policy will create clarity for people managing the budget*
 - *The respite breaks I get enabled by the Direct Payments are literally life savers*
 - *The draft policy seems very similar to the existing Direct Payments policy apart from the prepaid card proposal, so I can't see what significant difference adopting it would make to current recipients*
 - *29.7 a Direct Payment should not be made before a financial assessment has been completed*

- *As long as there isn't a reduction of available funds for this service as it is not enough as it is. With Cheshire East on the verge of bankruptcy, regardless it would be unlawful that they use this area in any way to claw back funds from vulnerable persons who are already having a difficult time*
- *I think PA's should get double time for working during Christmas etc.,*
- *Our main difficulty following the agreement method of payments in advance – is that we can't predict what the payment will be due to differing hourly and weekend rates, intermittent price increases, differing month length. May help if CE remittance timing matched outgoings to care agency ie all calendar month rather than 4 x 13 per year.*
- *Also delay of several months in our audit feedback meant that recommendations were outdated and no longer relevant*
- *Direct payments are very restrictive. More flexibility in their use in those things are associated with activities provided by a PA would be welcome. Examples are train tickets, fuel, etc., there could also be some circumstances where access to activities for the PA could be covered to ensure the entitled person has the support they need*

28 Individual feedback was received from the organisation Disability Positive whose expressed concerns regarding the increased use of self-employed personal assistants which could lead to an increased liability risk for direct payment recipients. The feedback that Disability Positive provided is incorporated in the consultation report.

Equality Impact Assessment (EIA)

Engagement and our equality duty

Whilst [the Gunning Principles](#) set out the rules for consulting ‘everyone’, additional requirements are in place to avoid discrimination and inequality.

Cheshire East Council is required to comply with the Equality Act 2010 and the Public Sector Equality Duty. The Equality Act 2010 simplified previous anti-discrimination laws with a single piece of legislation. Within the Act, the Public Sector Equality Duty (Section 149) has three aims. It requires public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act, by consciously thinking about equality when making decisions (such as in developing policy, delivering services and commissioning from others)
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, by removing disadvantages, meeting their specific needs, and encouraging their participation in public life
- foster good relations between people who share a protected characteristic and people who do not

The Equality Duty helps public bodies to deliver their overall objectives for public services, and as such should be approached as a positive opportunity to support good decision-making.

It encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people’s needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people’s opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

Complying with the Equality Duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve providing a service in a way which is appropriate for people who share a protected characteristic, such as providing computer training to all people to help them access information and services.

The Equality Act identifies nine ‘protected characteristics’ and makes it a legal requirement to make sure that people with these characteristics are protected from discrimination:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Applying the equality duty to engagement

If you are developing a new policy, strategy or programme you may need to carry out an Equality Impact Assessment. You may be able to ascertain the impact of your proposal on different characteristics through desk-based research and learning from similar programmes, but you also need to carry out some primary research and engagement. People with protected characteristics are often described as ‘hard to reach’ but you will find everyone can be reached – you just need to tailor your approach, so it is accessible for them.

Contacting the [Equality and Diversity mailbox](#) will help you to understand how you can gain insight as to the impacts of your proposals and will ensure that you help the Council to comply with the Equality Act 2010 and the Public Sector Equality Duty.

Section 1 – Details of the service, service change, decommissioning of the service, strategy, function or procedure

Proposal Title	'All age' Direct Payment Policy
Date of Assessment	October 2023 / updated following consultation period March 2024
Assessment Lead Officer Name	Sharon Brissett / Danielle Brooks / Martyn Baggaley
Directorate/Service	Commissioning / Business & Finance
Details of the service, service change, decommissioning of the service, strategy, function or procedure.	<p>The current adult direct payment policy was introduced in February 2015. A decision was taken by adults' and Childrens' DMT to work towards introducing and implementing an 'all age' Direct Payment Policy.</p> <p>The policy provides guidance, procedures, practice, and sets out the way the Council provides Direct Payments in Cheshire East. The policy applies equally to adults with care and support needs, their carer and for those with parental responsibility for a child who has an Education, Health & Care Plan (EHCP), or is eligible as a disabled child under Section 17 (Child in Need) of the Children Act 1989, and Section 2 Chronically Sick and Disabled Persons Act 1970.</p> <p>The purpose of the policy is to make clear the Council's approach to Direct Payments in Cheshire East, and the responsibilities for the Direct Payment client and/or their representative. The policy should be read in conjunction with other direct payment documentation such as factsheets and direct payment agreement. The policy will be followed by social care staff (adult and children).</p> <p>The aim of the 'all age' Direct Payment Policy is to ensure that irrespective of age that there is clear information, guidance and relevant processes in respect of Direct Payments in Cheshire East. This will also support those young people who transition from children to adult services who access a direct payment to meet their assessed need.</p> <p>Direct Payments are offered to individuals to provide greater choice and control over their care and support arrangements. A Direct Payment is a monetary payment that is paid to meet all or some of the individual's assessed needs. It is a statutory requirement for local authorities to meet a person's needs</p>

	<p>for care and support by making direct payments, provided the person requests that their needs be met in this way. The legislative framework is set out in the following legislation:</p> <ul style="list-style-type: none"> • Care Act 2014 • Care and Support (Direct Payment) Regulations 2014 • Care and Support Statutory Guidance issued with the Care Act 2014 • Carers and Disabled Children Act 2000 • Section 117 (2C) of the Mental Health Act 1983 • Children and Families Act 2014 • Mental Capacity Act 2005 • Special Educational Needs (Personal Budgets & Direct Payments) Regulations 2014 • Chronically Sick and Disabled Persons Act 1970 • Children Act 1989 • Equality Act 2010 <p>The legislative framework to make Direct Payments for children is covered by the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009. The regulations provide that the duty to make Direct Payments applies to:</p> <ul style="list-style-type: none"> • A community care service within the meaning of Section 46 of the National Health Service and Community Care Act 1990 or • A service which local councils may provide under Section 17 of the Children Act 1989 and Section 2 of the Chronically Sick and Disabled Persons Act 1970 (provision of services for children in need, their families and others) • Statutory special educational needs and disability code of practice paragraph 3.38 incorporates the regulations from the Children and Family Act 2014 describes the right of parent and carers to request a personal budget including a Direct Payment.
Who is Affected?	Key stakeholders include:

	<ul style="list-style-type: none"> • Individuals who choose to access their personal budget as a Direct Payment to meet their eligible care and support needs. This may be an adult, carer, nominated person and those with parental responsibility for a child who has and EHCP, or is eligible as a disabled child under Section 17 (Child in Need) of the Children Act 1989, and Section 2 Chronically Sick and Disabled Persons Act 1970. • Cheshire East Residents • Council staff – particularly within Adult Social Care and Children and Families, Short Breaks Team, Business & Finance (including audit) • Direct Payment Support Service commissioned by Cheshire East Council currently provided by PeoplePlus • Elected Members <p>The 'All age' Direct Payment Policy sets out the way in which Direct Payments are provided for adults and children in Cheshire East.</p> <p>Staff will be required to support the consultation there will be representation from commissioning, business and finance, adults, and children and families social care. Following the period of consultation residents will be kept fully informed of any changes resulting from the consultation in readiness for implementation.</p> <p>There may be future impacts upon those within the protected groups who may need further support to understand the policy. If this is required staff will provide additional support to aid their understanding. To note, some individuals may have a 'responsible person' such as:</p> <ul style="list-style-type: none"> • Authorised person – if someone has been found as lacking the capacity to consent, a Direct Payment can be made if there is someone who is willing and able to fulfil the role of an 'authorised person' • Nominated person – is someone an adult with capacity has chosen to help with ongoing management of money or receive and manage the Direct Payment on behalf of the person • Suitable person – who has been legally nominated as being suitable to receive a Direct Payment to purchase services for someone who has been determined as lacking the capacity to consent or who does not manage it themselves.
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<p>Links and impact on other services, strategies, functions or procedures.</p>	<p>The 'all age' Direct Payment Policy is a key conduit to the Direct Payment workstream that is being undertaken in Cheshire East. This includes for example self-employed Personal Assistants, introduction of prepaid cards, personal assistant recruitment campaign and the opportunity to pool budgets.</p> <p>The 'all age' Direct Payment Policy aligns with the priority within the Council's Corporate Plan 2021 – 2025 of 'a council which empowers and cares about people'. This includes the sub priorities of 'work together with residents and partners to support people and communities to be strong and resilient' and 'reducing the reliance on long term care by improving services closer to home'. Aspects of these approaches will help to meet a key aim of the Council's Digital Inclusion Plan 2023 -2026 'to improve health, wellbeing and inclusion'.</p>
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<p>How does the service, service change, strategy, function or procedure help the Council meet the requirements of the Public Sector Equality Duty?</p>	<p>The 'all age' Direct Payment Policy does not discriminate and applies equally to adults with care and support needs, their carer and for those with parental responsibility for a child who has an Education, Health & Care Plan (EHCP), or is eligible as a disabled child under Section 17 (Child in Need) of the Children Act 1989, and Section 2 Chronically Sick and Disabled Persons Act 1970.</p> <p>All residents including those who share one or more protected characteristics will be supported throughout the consultation process and the implementation of the policy.</p>
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Section 2- Information – What do you know?

What do you know?	What information (qualitative and quantitative) and/or research have you used to commission/change/decommission the service, strategy, function, or procedure?
<p>Information you used</p>	<p>The development of the 'all age' Direct Payment Policy has been overseen by the Direct Payment Policy Project Group. This group had representation from key stakeholders from adult social care, children social care, business and finance, commissioning, legal services (adults and children's) and direct payment support service currently provided by PeoplePlus.</p> <p>The policy has been informed by what we know locally, and provides guidance, practice and processes and clearly sets out the responsibilities for people accessing a Direct Payment, irrespective of age to meet their eligible assessed support needs.</p> <p>Data available has been accessed to identify the number of adults, carers and children who are accessing a Direct Payment in Cheshire East.</p> <p>Age</p> <p>Adult</p> <p>There are currently a total of 531 adults accessing a Direct Payment, the age breakdown is as follows:</p> <p><u>Aged 18 to 24 years</u></p> <ul style="list-style-type: none"> • 105

Aged 25 to 64 years

- 310

Aged 65+ years

- 116

**Adult primary support reasons:
(531 adults)**

- Learning Disability Support – 212
- Mental Health Support – 42
- Physical Support - Access and Mobility Only – 12
- Physical Support - Personal Care Support – 139
- Sensory Support - Support for Dual Impairment – 3
- Sensory Support - Support for Hearing Impairment – 3
- Sensory Support - Support for Visual Impairment – 10
- Social Support - Support for Social Isolation / Other – 30
- Social Support - Support to Carer – 38
- Support with Memory and Cognition - 37

Children aged between 0 – 17 years

Age 0 – 15 years

- 105

Age 16 to 17 years

- 25

Gaps in your Information	<i>Following the consultation on the draft policy, the council will capture the number of service users taking up new direct payments going forward.</i>
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3. What did people tell you?

What did people tell you	What consultation and engagement activities have you already undertaken and what did people tell you? Is there any feedback from other local and/or external regional/national consultations that could be included in your assessment?
Details and dates of the consultation/s and/or engagement activities	<p>The development of the draft policy has been informed through engagement with key stakeholders including adults and children social care, the Executive Director for Adults, Health and Integration, business, finance and legal, internal audit and the commissioned direct payment support service (PeoplePlus). They have provided expert guidance and feedback on all sections of the revised draft policy.</p> <p>A period of pre-consultation also took place, between July - Sept 2023, with service users currently in receipt of a Direct Payment. A total of 15 one-to-one telephone interviews were conducted with current recipients to hear their lived experiences of using a direct payment and to understand what works well and where improvements could be made. These recipients were identified by social care operational staff. There were a range of service users (and their carers) with physical disabilities, learning disabilities, dementia and frailty, although circumstances were unique to each individual. Feedback from this engagement has informed the development of the draft policy and improvements to current processes to enhance the experience and use of Direct Payments.</p> <p>Comments received during feedback gathered highlighted that an all age policy would provide clarity for all ages in one document and ensure a consistent approach across all ages. We also noted that easy read versions of policy and other documentation would be developed.</p> <p>We will continue to work collaboratively with people with lived experience, their families and carers, our partners and stakeholders to shape, design and produce new ways of working.</p>

	<p><i>A further period of public consultation on the final draft policy was undertaken over a 12-week public consultation period between 21st November 2023 and 9th February 2024 to obtain the views of Cheshire East residents in receipt of a direct payment and/or those with parental responsibility, to help inform the draft policy.</i></p> <p><i>The following key areas of the policy were identified for consultation:</i></p> <ul style="list-style-type: none"> • <i>Section 15 – Restrictions on the use of a direct payment.</i> • <i>Section 17 – Personal Assistants and self-employed Personal Assistants.</i> • <i>Section 19 – Pooled Budgets direct payments.</i> • <i>Section 20 – Emergency and contingency arrangements.</i> • <i>Section 27 – Safeguarding and DBS checks.</i> • <i>Section 29 – Finance and monitoring prepaid cards.</i> <p><i>Not all sections of the policy required consultation, for example, legislation and governance processes were out of scope.</i></p> <p><i>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 on the ‘all age’ direct payment policy along with a frequently asked questions document, and survey in relation to the summary document.</i></p> <p><i>Consultation and engagement included the following activities:</i></p> <ul style="list-style-type: none"> • <i>A postal letter was sent to all current direct payment recipients (529 adults and 131 children) and/or those with parental responsibility for a child/young person in receipt of a direct payment, detailing how they could take part in the consultation and share their views.</i> • <i>A survey was developed with questions to gather feedback on the draft all age Direct Payment Policy. The survey provided respondents with the opportunity to comment on each section (as noted above), provide overall feedback on the policy and/or to provide additional comments.</i>
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- *A dedicated online consultation webpage was developed to host the consultation material, including details of the two public facing consultation events taking place.*
- *Details of the consultation were made available at each of the libraries in Cheshire East*
- *Residents could either complete the survey by returning a paper copy or by completing online*
- *Two public facing consultation events were held in accessible buildings in Macclesfield (16th January) and Crewe (18th January) to explain the consultation proposals, answer queries, and gather feedback, with paper consultation packs provided to attendees at both events. Both events were supported by the following organisations to provide information and advice to attendees: Healthwatch Cheshire East, PeoplePlus (Adult Direct Payment Support Service), Carers Hub – all age and Cheshire East Council – business and finance and commissioning representatives from the council. A total of 9 people attended the events, of which 5 attended in Macclesfield and 4 attended Crewe.*
- *Engagement opportunities took place with children/young people via SEND Youth Forum (Jigsaw) at two meetings; one held in Macclesfield and one in Crewe.*
- *The consultation opportunity was publicised with a Cheshire East Council press release and social media, and via existing networks including, an adult social care staff briefing, PeoplePlus newsletter / social media, Cheshire East Carers Hub newsletter, Cheshire East Parent Carer Forum, Learning Disability and Mental Health Partnership Boards, children services and Healthwatch Cheshire East website.*

Summary of Consultation Findings

In total there were 62 consultation responses, including 52 survey responses, 9 event attendees and 1 written response from the organisation Disability Positive.

Survey findings

Of the 52 people who responded to the survey:

	<ul style="list-style-type: none"> • 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 some who receives a Direct Payment from the council directly. <p>Overall support for policy</p> <p>Overall findings were positive, 71% of survey respondents agreed the draft Direct Payments Policy for 2023 should be adopted, 13% disagreed. Reasons for agreeing the policy should be adopted included that it will:</p> <ul style="list-style-type: none"> • Improve the current situation • Simplify the process • Make Direct Payments more accessible • Help ensure a smooth transition from children's to adults • Help carers find Personal Assistants more easily <p>The following sections received strong support from respondents:</p> <p>Key proposed changes to the policy were outlined within the consultation material, with strong levels of support among survey respondents for these proposed changes, including:</p> <ul style="list-style-type: none"> • 80% supported the section 15 restrictions on the use of Direct Payments as described (14% opposed them) • 73% supported the council using self-employed Personal Assistants for adult Direct Payment recipients (13% opposed this) • 74% supported the section 19 use of pooled budgets to meet common needs and achieve better outcomes for individuals (8% opposed this) • 88% agreed with the section 17 definition of the role of Personal Assistants (6% did not agree) • 80% thought that section 17 is clear regarding the responsibilities of being a good employer (8% did not agree)
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	<ul style="list-style-type: none"> 90% are aware of safeguarding procedures as set out in section 27, and the requirement for a DBS check to be carried out for both children and adult direct payments (10% are not) <p>The following sections of the policy require further action/mitigation:</p> <p>A lack of contingency plans in place</p> <p>While 58% of survey respondents have contingency plans in place to cope with emergencies as per section 20, a significant proportion of survey respondents, 42%, do not.</p> <p>Implementation for Direct Payment prepaid cards</p> <p>While 46% of survey respondents supported the section 29 introduction of a prepaid card for Direct Payments, a significant proportion of survey respondents, 29%, opposed this.</p> <p>The two areas of the policy identified which require most attention include the section on contingency plans, and the section on prepaid cards. To support the implementation of the policy, an action plan will be developed so that there is a clear audit trail of actions to be taken in respect of survey responses.</p> <p>Specific actions to be addressed will be detailed in each of the sections. For example, in relation to Section 15 – restrictions on the use of a direct payment, travel costs will be clearly defined in the review of the adult social care charging policy. In relation to Section 17 – personal assistants and self-employed personal assistants, action in support of the feedback received will be the development of a suite of supporting documentation that includes, “what is a direct payment”, “what is a personal assistant and employment status”. Documents will be developed in easy read format.</p> <p>The ‘all age’ Direct Payment Policy will be refreshed to take account of the feedback received.</p>
Gaps in consultation	

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<p>and engagement feedback</p>	<p>Draft EIA has been shared with children services colleagues the approach to consultation has been agreed to proceed with an online survey and workshops for adults and children accessing a direct payment.</p> <p>Initial online survey and then workshops within the Borough of Cheshire East, and attendance at established groups for adults such as Learning Disability Partnership Board, Mental Health Partnership Board, Carers Forum, Children and Young People groups.</p> <p><i>Direct communication and consultation (via a letter) was made with either the parent and/or those with parental responsibility in receipt of a direct payment detailing how they could take part in the consultation and share their views via the online survey.</i></p> <p><i>In addition, two meetings were held in January by the Participation Team to support the consultation with young people via the SEND Youth Forum (Jigsaw) meetings. These meetings provided an opportunity to gain the views of young people with additional needs, however, there were limitations consulting with young people due to the complexities of the topic that made it challenging. There will be ongoing conversations taking place with young people, and to note further consideration will be required particularly for some who may require the support of an advocate for those young people who are non-verbal.</i></p>
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4. Review of information, consultation feedback and equality analysis

Protected characteristics groups from the Equality Act 2010	What do you know? Summary of information used to inform the proposal	What did people tell you? Summary of customer and/or staff feedback	What does this mean? Impacts identified from the information and feedback (actual and potential). These can be either positive, negative or have no impact.
Age	<p>There are currently a total of 531 adults accessing a Direct Payment, the majority of which (310 people) are aged 25 to 64 years.</p> <p><i>Older people population</i> There are 89,200 people in Cheshire East aged 65+ (2021 census). This amounts to 22% in total in comparison to the rest of the population. 70% of CEC customers (or 4,181 as of October 2023) are older people which reflects the greater risk that support services are needed as a person ages.</p> <p>Direct payments are currently under-used by older people. Currently (Oct 2023), people aged 65 and over make up around 70% of ASC customers but only 22% of Direct Payment recipients.</p>	<p>Feedback from telephone interviews with older customers as part of the PA recruitment campaign suggests a lack of awareness of direct payments and concerns over the complexity of managing a direct payment for residents over 65.</p> <p>The feedback from the Direct Payment Policy consultation survey indicates 52% of respondents were in the 45 – 64 age categories, 28% were under 45 and 20% were 65+. Due to the small sample size, it is not possible to breakdown the survey results by age.</p> <p>Given the ability to offer choice and control that a Direct Payment offers, we need to ensure that any changes to the policy and payment arrangements do not adversely affect good take up levels for DP's for parents and carers of</p>	<p>The 'all age' Direct Payment Policy covers all ages, ensuring a clear aligned approach to delivering direct payments in Cheshire East, that will have a positive impact across all ages.</p> <p>Improvements have already been made to the Council's LiveWell pages to provide clearer information on what's involved in choosing a direct payment. This will have a positive impact on people's ability to have greater choice and control and enhance accessibility and equality.</p> <p>To support the implementation of the policy, an action plan will be developed to address the specific actions needed in respect of the survey responses and updates to the 'all age' Direct Payment Policy.</p>

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	Conversely Direct Payment uptake for young people under the age of 18 who have been assessed as eligible for paid-for support from Children's Social Care is above that of our statistical comparators.	eligible under 18's, as they also offer a cost effective option for care for this group when compared to agency care.	
Disability	<p>67,819 people within Cheshire East have a long-term health problem or disability (2021 census).</p> <ul style="list-style-type: none"> • 40% of Direct Payment recipients have a primary support need of learning disability • 31% have need of physical support • 6% social isolation/other • 8% mental health support • 7% memory and cognition • 7% carer 	<p>Key feedback from the consultation survey that's particularly pertinent to individuals with a disability:</p> <ul style="list-style-type: none"> • 39% of the consultation survey respondents said they have a health problem or disability that limits their day-to-day activities. Due to the small sample size, it is not possible to breakdown the survey results by disability. • 74% of survey respondents agreed with the approach of pooling their Direct Payment budget with other Direct Payment recipients (with only 8% opposing this approach). 	<p>Changes to the Direct Payment Policy will have a significant positive impact on people with a disability, particularly people with a learning disability who currently make up the largest group of people in receipt of a direct payment.</p> <p>The benefits of the new policy for people with a disability include:</p> <ul style="list-style-type: none"> • Clear and up to date guidance on all aspects of accessing and managing a Direct Payment, which will also influence changes in social care practice. These changes will ensure more people with a disability are able to access and manage a Direct Payment for their care and support. • The introduction of pre-paid cards within the policy offers a simpler way for DP recipients and/or their family or representative to administer the DP, provides secure more immediate access to funds

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			<p>and reduces the administrative burden for recipients.</p> <ul style="list-style-type: none"> • The option for DP recipients to join together with other individuals to 'pool' their DPs, would enable individuals to pool resources to achieve improved outcomes, meet common needs, goals and aspirations. 74% of survey respondents supported this approach. • An easy read version of the new All-age Direct Payments policy/ guidance will be available, which will improve accessibility of information for those who require information in a more accessible format. <p>To support the implementation of the policy, an action plan will be developed to address the specific actions needed in respect of the survey responses and updates to the 'all age' Direct Payment Policy.</p>
Gender reassignment	Gender reassignment data is not recorded for Direct Payment clients but adult social care services are accessible	There was no specific feedback from the consultation on gender reassignment	The new policy applies to all residents across all of the protected characteristics, and therefore will have a positive impact for all

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	<p>to all Cheshire East residents regardless of protected characteristics.</p> <p>Formal gender reassignment is not legal for under 18's so this would not be a factor for younger DP recipients.</p>		<p>residents including those who have undergone gender reassignment. Key changes to the policy that will have benefits for all residents accessing a Direct Payment are:</p> <ul style="list-style-type: none"> • Clear and up to date guidance on all aspects of accessing and managing a Direct Payment • The introduction of pre-paid cards for Direct Payments • The opportunity to pool Direct Payment budgets
Pregnancy and maternity	<p>No pregnancy data recorded for Direct Payment clients but social care services are accessible to all Cheshire East residents of any age provided they have been assessed as eligible for care and support under either the Care Act (adults), Children Act 1989 and/or SEND Code of Practice 2014, or Chronically Sick & Disabled Persons Act 1970 (all ages).</p>	<p>There was no specific feedback from the consultation in relation to pregnancy and maternity.</p>	<p>The new policy applies to all residents across all of the protected characteristics, and therefore will have a positive impact for all residents who receive a Direct Payment including those who are pregnant.</p>
Race/ethnicity	<p>No impacts in respect of race/ethnicity are expected to be reported on during this consultation process as a result of the proposed policy changes.</p>	<p>There was no specific feedback from the consultation in relation to ethnicity.</p>	<p>The new policy is applicable to all residents across ethnic backgrounds, and therefore will have a positive impact for all residents regardless of ethnic background.</p>
Religion or belief	<p>Religion or belief is recorded for most residents accessing adult social care through Cheshire East Council.</p>	<p>There was no specific feedback from the consultation in relation to religion or belief.</p>	<p>The new policy is applicable to people from all religions, and therefore will have a</p>

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	<p>Religion or belief is not recorded for children</p> <p>No impacts in respect of religion/belief are expected to be reported on during this consultation process as a result of the proposed policy changes.</p>		positive impact for all residents regardless of religion or belief.
Sex	<p>Residents accessing Adult Social Care Direct Payments and Carers Direct Payments are:</p> <p>Male 274 Female 248 (9 not captured)</p> <p>Children Male 89 Female 41</p> <p>The changes proposed would be applied consistently to male and female residents.</p>	The Direct Payment policy survey found that the majority (81%) of respondents were female, 19% male.	The new policy will have a positive impact for all residents regardless of their sex. The changes to the Direct Payment Policy will be applied consistently regardless of sex.
Sexual orientation	No data recorded on sexual orientation of adult or child DP recipients, but social care services are accessible to all Cheshire East residents regardless of sexual orientation.	There was no specific feedback from the consultation in relation to sexual orientation.	The new policy applies to all residents across all of the protected characteristics and therefore will have a positive impact for all residents regardless of their sexual orientation.

Marriage and civil partnership	<p>No data recorded on adult DP recipients but adult social care services are accessible to all Cheshire East residents</p> <p>Under 18's would be unable to enter into marriage or civil partnerships without parental/guardian's consent and given social work assessments would determine eligibility in any case the likelihood of this being a factor for under 18's is small.</p>	There was no specific feedback from the consultation in relation to marriage and civil partnership	The new policy applies to all residents across all of the protected characteristics.

5. Justification, Mitigation and Actions

Mitigation	What can you do?
<p>Please provide justification for the proposal if negative impacts have been identified?</p> <p>Are there any actions that could be undertaken to mitigate, reduce or remove negative impacts?</p>	<p>Actions to mitigate any negative impacts or further enhance positive impacts</p> <p>The 'all age' Direct Payment Policy has been created to provide guidance and sets out the way the Council provides Direct Payments in Cheshire East. This includes adults, adult carers and children and /or those with parental responsibility for a child on making and receiving of Direct Payments where there is an assessed need. Overall, this will have a positive impact on residents across all protected characteristics, as the policy has been refreshed with clear and up to date guidance.</p> <p>No negative impacts have been identified, however the public consultation highlighted some additional key actions that need to be addressed. This includes:</p>

Please include details of how positive impacts could be further enhanced, if possible?

- We know from engagement with current direct payment recipients (and carers) that people often lack awareness of what a direct payment can offer and some people may need further support to understand the revised Direct Payment policy and practice. A suite of information is being developed to support the implementation of the policy, covering key sections of the policy, in plain English, such as what a direct payment is, what a personal assistant is, employment status, direct payment policy summary, information on pooled budgets. Easy-read versions are also currently being developed and will be made available when the new policy is launched. The Council has also recently refreshed the direct payment/personal assistant content on its LiveWell pages to make it easier for people to navigate the process for accessing and managing a Direct Payment.

Social Care practitioners will play a key role in supporting residents to ensure they have the right information to support them to make decisions about their care and support. People can also be referred to the Direct Payment Support Service run by PeoplePlus, for independent, specialist information, advice and support. Internal staff briefings have been circulated as part of a Personal Assistant Recruitment campaign to raise greater awareness among social workers. Additional staff training for social care teams is also being explored and will be implemented once the new policy has been finalised.

Appendix 5

	<p>An action plan is being developed, detailing the key actions from the consultation and progress against actions will be monitored through the Direct Payments Project Group, with representation from Commissioning, Business and Finance and Social Care leads. DP recipients will receive feedback form the council in a 'You said, we did' format, to update on the actions taken following the consultation and as part of the implementation of the new policy.</p> <p><i>Link to the consultation document once published.</i></p>
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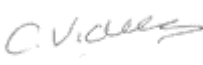
6. Monitoring and Review -

Monitoring and review	How will the impact of the service, service change, decommissioning of the service, strategy, function or procedure be monitored? How will actions to mitigate negative impacts be monitored? Date for review of the EIA
Details of monitoring activities	<p>Monitoring activities</p> <ul style="list-style-type: none"> Regular data will be reported with regard to Direct Payment recipients in Cheshire East, including support provided via Adults Direct Payment Support Service and Children Short Breaks Team Complaints and compliments and customer feedback forms Discussions with colleagues in Adult and Children Social Care operational and Commissioning Adults and Children
Date and responsible officer for the review of the EIA	<p>Sharon Brissett Danielle Brooks/Lee Hudson Martyn Baggaley</p> <p>The EIA will be reviewed in January 2025.</p>

7. Sign Off

When you have completed your EIA, it should be sent to the [Equality, Diversity and Inclusion Mailbox](#) for review. If your EIA is approved, it must then be signed off by a senior manager within your Department (Head of Service or above).

Once the EIA has been signed off, please forward a copy to the Equality, Diversity and Inclusion Officer to be published on the website. For Transparency, we are committed to publishing all Equality Impact Assessments relating to public engagement.

Name	Curtis Vickers
Signature	13/03/2024
Date	

8. Help and Support

For support and advice please contact EqualityandInclusion@cheshireeast.gov.uk

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OPEN

Adults and Health Committee

25th March 2024

Recommissioning of an Integrated Lifestyle Service (One You Cheshire East)

Report of: Helen Charlesworth-May, Executive Director – Adults, Health and Integration

Report Reference No: AH/20/2023-24

Ward(s) Affected: All

Purpose of Report

- 1 This report seeks approval from Adults and Health Committee to recommission an Integrated Lifestyle Service, currently known as One You Cheshire East.
- 2 This service contributes to the Council's corporate plan 2021-25 objective of being a Council which empowers and cares about people and the priority to 'reduce health inequalities across the borough'.

Executive Summary

- 3 The One You Cheshire East Integrated Lifestyle Service provides information and support to encourage positive lifestyle behaviour change in Cheshire East residents, thereby providing early intervention support to reduce the need for statutory services.
- 4 There is a consistent need for the service as seen through population health intelligence and performance data.
- 5 Data from a recent Lifestyle Survey sent to a sample of Cheshire East residents within each care community area would be used to inform service design. Further engagement with residents would also take place through focus groups and there would also be engagement with stakeholders and the wider market.

RECOMMENDATIONS

The Adults and Health Committee is recommended to:

1. Approve the recommissioning of an Integrated Lifestyle Service
2. Delegate authority to the Executive Director – Adults, Health and Integration to award the contract.

Background

- 6 The Council has a statutory responsibility to improve the health of the local population under the Health and Social Care Act 2012. The integrated lifestyle service is an important means by which this is achieved.
- 7 Early intervention and prevention is a key theme of the Joint Health and Wellbeing Strategy and the service's programmes work to support its strategic outcomes. The strategy identifies the need to increase the number of people who maintain a healthy lifestyle e.g. are physically active, have good mental wellbeing and enjoy a balanced diet.
- 8 Lifestyle behaviours are known to have a major impact on the mortality and morbidity of the population. Smoking is the leading cause of premature death in England and causes a range of respiratory diseases, cardiovascular disease and cancer. Being overweight or obese is the second most preventable cause of death and is estimated to reduce life expectancy by nine years. Physical inactivity is one of the leading risk factors for mortality from non-communicable diseases. People who are insufficiently active have a 20% to 30% increased risk of death compared to people who are sufficiently active. Falls are the second leading cause of unintentional injury deaths worldwide. Around 1 in 3 adults over 65 and half of people over 80 will have at least one fall a year.
- 9 Positively changing residents' lifestyle behaviours can also impact local health inequalities. There is a strong association between deprivation and life expectancy across both England and within Cheshire East¹. There are a number of reasons for this including lifestyle behaviours such as smoking. Those in the most deprived areas are more likely to

¹ E. Williams, D. Buck, G. Babalola, D. Maguire (2022) What are Health Inequalities? The King's Fund

be overweight or obese², they are more likely to be inactive³, and are more likely to smoke⁴.

- 10 The data from the recent lifestyle survey of Cheshire East residents shows that 55% of residents can be classed as being overweight or obese. Only 31% are moderately active (undertaking at least 150 minutes of exercise a week) and 49% had the recommended number of fruit and vegetables per day. 7% of residents are smokers. 35% felt that their physical health had got worse since Covid-19, with 1 in 5 saying their diet and alcohol consumption had also got worse since the pandemic. Public health data also shows that there were 2,437 emergency admissions due to a fall in people aged 65 and over and 1,036 smoking-attributable hospital admissions (per 100,000 people) in 2022.
- 11 The One You Cheshire East service is an integrated lifestyle service that provides evidence-based advice and support programmes for residents to stop smoking, get more physically active, manage their weight and prevent them from falling. The service also provides low level advice relating to mental health and alcohol use and was modified to provide third party delivery for NHS Health Checks. The programmes are free to use and have specific eligibility criteria to access them.
- 12 The service impacts on lifestyle related factors that can detrimentally influence an individual's health outcomes. It does this through information, advice and evidence-based support to equip residents with the ability to achieve and maintain positive lifestyle change. This in turn helps to reduce demand on statutory services such as health and social care. The interventions help to keep residents well in the longer term thus reducing overall costs to the health and care system.
- 13 For example, the cost of smoking in Cheshire East is estimated as being £6.23m to social care and £17.38m to the health care system⁵. Therefore, supporting people to stop smoking reduces the number of people needing to be supported by statutory services. A similar picture can be seen in the other service areas. Estimates of the cost of obesity and excess weight to the UK were revised in 2022⁶ and total £98bn, including £19.2bn to the NHS, £6.5bn through informal social care and £0.5bn to formal social care. With regard to falls, the total annual cost of fragility fractures in the UK is £4.4bn which includes £1.1bn for social care.⁷

² NHS England (2019), Health Survey for England

³ NHS England (2019), Statistics on Obesity, Physical Activity and Diet, England. Part 5: Physical Activity

⁴ ONS (2023) Deprivation and the impact on smoking prevalence, England and Wales: 2017:2021

⁵ Cheshire East Council (2023), Smoking JSNA,

⁶ A. Bradshaw, H Dace, (2023) Unhealthy Numbers: The Rising Cost of Obesity in the UK, Tony Blair Institute.for Global Change

⁷ Cheshire East Council (2023) Falls JSNA,

- 14 The current contract was awarded to Reed Wellbeing for an initial term of three years starting 1st November 2019, with two extension periods of twelve months. These have been utilised and the contract will end on 31st October 2024.
- 15 The proposed contract length for the new service is four years with two additional extension periods of twelve months.
- 16 The name 'One You Cheshire East' derives from national Public Health England (now Office for Health Improvement and Disparities) 'One You' branding. This offered the key advantage of exploiting awareness from the national campaign, as well as allowing use of pre-established marketing materials. The 'One You' campaign has now been superseded by the 'Better Health⁸' branding; therefore the current service name may no longer resonate with residents and there is potential to consider renaming the service. This would be explored further via engagement with local residents and organisations.
- 17 All the programmes provided are evidence based and meet NICE (National Institute for Health and Care Excellence) guidelines. They also utilise best practice from research studies and OHID (Office for Health Improvement and Disparities) guidance.
- 18 Current provision can be outlined as follows. The smoking cessation programme (Be Smoke Free) is split into community and specialist provision. The specialist provision supports people with mental health problems and pregnant women. The smoking cessation programme is for up to 12 weeks of one-to-one support with a health coach to support the participant to set a quit date, monitor carbon monoxide levels and provide access to Nicotine Replacement Therapy.
- 19 The physical activity support (Move More) provides a 12 week programme to support residents to become more active through low impact exercise classes in a range of formats including circuit classes and walking groups. The classes are held at community venues across the borough with an option to also workout at home with live and pre-recorded sessions.
- 20 The offer for weight management support is split into two. Reed Wellbeing provide a 12 week programme (Manage Your Weight) with an initial one-to-one interview followed by face to face or online group sessions. As an alternative, Reed also offers 12 weeks of free access to a local Slimming World group.
- 21 There is also a small scale family weight management component which provides support to families identified by school nurses / the

⁸ [Better Health - NHS \(www.nhs.uk\)](https://www.nhs.uk)

National Child Measurement Programme where at least one child is overweight. An after-school club has also been piloted as an alternative means to promote nutrition and healthy eating in primary age children.

- 22 The falls prevention programme (Stand Strong) is a 26 week gentle exercise programme for residents over 65 to improve strength, balance and mobility. These are held at a range of community venues across the borough.
- 23 Across all service elements, 4,257 residents participated in a One You programme in 2022/23. This breaks down as: 2,075 residents accessing weight loss support, 565 people participating in the physical activity programme, 1,027 residents accessing support to quit smoking and 590 older people joining the 'Stand Strong' falls prevention programme.
- 24 In 2022/23, 100% of participants completing a physical activity programme went from being inactive to active with, on average, 64% showing improvement in their wellbeing (as a secondary indicator). 91% of weight management participants achieved weight reduction. On average, 80% of community smoking cessation participants reviewed at 6 months had continued to quit smoking.
- 25 In 2021/22, 191 people completed the falls prevention programme with an average of 96.3% of completers showed improved strength and balance and 9.15 out of 10 satisfaction score.
- 26 The service was impacted by the Covid-19 pandemic due to not being able to provide in-person support. Provision was adapted to include online support but there was an impact on service delivery for the first two years of the contract. The falls prevention programme was particularly impacted as it was not suitable for online only provision.
- 27 The new service model would continue to provide support for the main programme areas of smoking cessation, physical activity, weight management and falls prevention. It will also target services at those not currently being engaged by any other existing local offers.
- 28 There are a number of refinements to the service that would be implemented in the new service model. These would aim to maximise effective support that would be provided for residents in all parts of the Borough.
- 29 These include increased emphasis on support for those with more complex health needs including those relating to lower level mental health; offering improved support for people in a range of target groups including those in deprived socio-economic areas, those in rural locations, older people and ethnic minorities.

- 30 Increased smoking cessation delivery would also be implemented, targeting support at a range of groups including routine and manual workers, school age smokers and people with long-term health conditions. Local smoking cessation provision will also be changing due to the priorities of the NHS Long Term Plan. The service would no longer provide support for pregnant women as delivery of this support will be undertaken by the Acute Trusts. The Government have also notified local authorities of increased funding for stop smoking support and this would also need to be considered in relation to increased provision of smoking cessation support.
- 31 The new service model would also include increased emphasis on promotion and outreach to further raise the profile and accessibility of the service.
- 32 The evidence base for all the programmes will be reviewed via a series of sub-groups involving a range of professionals including from Cheshire and Merseyside ICB, the local Acute Trusts and Public Health. This will result in final recommendations for the exact content of each programme.

Consultation and Engagement

- 33 A Lifestyle Survey has been sent to residents to help to steer Public Health strategy and actions over the next five years. The data from the survey would also be used to inform the design of the integrated lifestyle service. The survey was targeted at a representative sample of the Cheshire East population and residents were invited to complete the survey online. Up to four members of each household were able to take part. Where residents were unable to access the online survey, they were able to request a paper copy to return via freepost. Over 2,500 surveys were completed.
- 34 Further consultation with residents would take place via focus groups and drop in sessions for rural communities, areas of deprivation and ethnic minority populations. These will be held in March and April 2024.
- 35 Stakeholders and professionals would also be engaged through events and targeted meetings.
- 36 Initial interest from the provider market has been sought through a soft market testing survey and via follow up one-to-one meetings.

Reasons for Recommendations

- 37 By recommissioning an integrated lifestyle service residents can continue to receive support and guidance to improve lifestyle behaviours, therefore helping residents to enjoy improved health and reducing need for statutory support, including from Adult Social Care.

- 38 The recommission directly supports the Corporate Plan priority to “reduce health inequalities across the borough”, as well as directly working towards the measures of success for this priority, of increased take up of activities to improve mental and physical health; smoking cessation programme reinstatement; and that diet and exercise programmes are increased.

Other Options Considered

- 39 Do nothing and allow the contract to end, which would mean the service would cease to be provided. This would result in a lack of advice and support for smoking cessation, weight management, falls prevention and physical activity and would impact on statutory health and care services through increased demand. Ring-fenced grant funding in relation to these areas would have to be forfeited.
- 40 Options appraisal:

Option	Impact	Risk
Do nothing	<ul style="list-style-type: none"> -No community support available for residents that want to stop smoking. -Reduced free weight management advice and support. -No free falls prevention support. -No free access to physical activity sessions. 	-Increased demand on statutory health and social care services.

Implications and Comments

Monitoring Officer/Legal

- 41 Recommissioning of the services will give rise to significant spend on the part of the Council. It is importance that the contract and the process to procure the same should comply with statutory regulation and the Council’s Contract Procedure Rules and the Council’s Legal Team will support and work with Procurement Team with a view to ensuring this.

Section 151 Officer/Finance

- 42 The proposed service will be delivered within the designated service budget. The budget for this service is £860,353 per year for service

delivery and £175,000 per year for Nicotine Replacement Therapy and is funded from the Public Health Grant. This is a ring-fenced grant that is signed off on annual basis by the Director of Public Health and either the Chief Executive or Section 151 Officer. As such, there are no implications for the Medium Term Financial Strategy (MTFS).

- 43 The Council has been notified of the award of the Local Stop Smoking Services and Support Grant for 2024-2025 from the Office for Health Improvement and Disparities, this is additional funding for local authorities for stop smoking services. The award for Cheshire East is £432,331.

Policy

- 44 An integrated lifestyle service supports the Council's aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents.

An open and enabling organisation	A council which empowers and cares about people	A thriving and sustainable place
Promote and develop the services of the council through regular communication and engagement with all residents	Reduce health inequalities across the borough	

An integrated lifestyle service also supports the outcomes of the below strategies and plans:

- Joint Health & Wellbeing Strategy 2023 – 2028. The service will support the four strategic outcomes. These are 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; and 4. That more people live and age well, remaining independent; and that their lives end with peace and dignity in their chosen place. The service works towards achieving a number of the strategy's key indicators for success, including reducing number of adults who are overweight / obese; increasing the number of adults that are physically active and reducing the number of older people who have a fall and need to be admitted to hospital.

- Falls Prevention Strategy 2023-25. The service supports the priority to continue to commission and develop borough-wide evidenced based services which reduce the likelihood of falls and their severity.
- All Together Active Strategy. The service supports the aims of All Together Active to encourage and support inactive people to move more and increase opportunities to be physically active.

Equality, Diversity and Inclusion

- 45 An Equality Impact Assessment has been undertaken as part of the initial recommissioning process (see Appendix 1).

Human Resources

- 46 It is likely that TUPE would apply for staff from the existing provider if the contract is awarded to a new provider.

Risk Management

- 47 Recommissioning of the service would follow a project management approach which includes the identification of risks. As such, any significant risk will be controlled and escalated for action where appropriate.

Rural Communities

- 48 Provision of services will need to ensure access to community provision for residents in rural communities. The service offer will also include telephone and online access to the service.

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

- 49 The service currently offers a small scale family weight management service where parents and children or young people of excess weight can receive support. The intention as part of the review is to develop this provision in a more integrated way to improve support provided to children and young people; and cared for children.

Public Health

- 50 An integrated lifestyle service offering effective evidence based programmes has a positive impact on the health and wellbeing of the local population. As noted above, the service will work to improve relevant Public Health Outcomes. The service will also ensure that service delivery is targeted proportionately around need including targeting areas of deprivation.

Climate Change

- 51 The recommission will include social value questions including one specific to the environment. This will seek to minimise the environmental impact of the service. The service specification will also contain specific social value requirements relating to this.

Access to Information	
Contact Officer:	Kelly Brighthouse, Project Manager Kelly.brighthouse@cheshireeast.gov.uk
Appendices:	Appendix 1 - Equality Impact Assessment – Integrated Lifestyle Service
Background Papers:	Joint Health and Wellbeing Strategy Corporate Plan 2021-2025

Equality Impact Assessment (EIA)

Engagement and our equality duty

Whilst [the Gunning Principles](#) set out the rules for consulting ‘everyone’, additional requirements are in place to avoid discrimination and inequality.

Cheshire East Council is required to comply with the Equality Act 2010 and the Public Sector Equality Duty. The Equality Act 2010 simplified previous anti-discrimination laws with a single piece of legislation. Within the Act, the Public Sector Equality Duty (Section 149) has three aims. It requires public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act, by consciously thinking about equality when making decisions (such as in developing policy, delivering services and commissioning from others)
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, by removing disadvantages, meeting their specific needs, and encouraging their participation in public life
- foster good relations between people who share a protected characteristic and people who do not

The Equality Duty helps public bodies to deliver their overall objectives for public services, and as such should be approached as a positive opportunity to support good decision-making.

It encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people’s needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people’s opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

Complying with the Equality Duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve providing a service in a way which is appropriate for people who share a protected characteristic, such as providing computer training to all people to help them access information and services.

The Equality Act identifies nine 'protected characteristics' and makes it a legal requirement to make sure that people with these characteristics are protected from discrimination:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Applying the equality duty to engagement

If you are developing a new policy, strategy or programme you may need to carry out an Equality Impact Assessment. You may be able to ascertain the impact of your proposal on different characteristics through desk-based research and learning from similar programmes, but you also need to carry out some primary research and engagement. People with protected characteristics are often described as 'hard to reach' but you will find everyone can be reached – you just need to tailor your approach, so it is accessible for them.

Contacting the [Equality and Diversity mailbox](#) will help you to understand how you can gain insight as to the impacts of your proposals and will ensure that you help the Council to comply with the Equality Act 2010 and the Public Sector Equality Duty.

Section 1 – Details of the service, service change, decommissioning of the service, strategy, function or procedure

Proposal Title	Recommissioning of Integrated Lifestyle Service (One You Cheshire East)
Date of Assessment	01/03/2024
Assessment Lead Officer Name	Kelly Brighthouse
Directorate/Service	Adults / Integrated Commissioning
Details of the service, service change, decommissioning of the service, strategy, function or procedure.	<p>The service is being recommissioned due the current contract ending on 31/10/2024. The current service is called One You Cheshire East service and is commissioned by Cheshire East Council. It is an integrated lifestyle service that provides evidence-based advice and support programmes for residents to stop smoking, get more physically active, manage their weight and prevent them from falling. The service also provides low level advice relating to mental health and alcohol use and was modified to provide third party delivery for NHS Health Checks. The programmes are free to use and have specific eligibility criteria to access them. The key aim of One You Cheshire East is to ensure that residents live healthier lifestyles, meaning that they live well for longer.</p> <p>The service supports the Council's statutory responsibility to improve the health of the local population under the Health and Social Care Act 2012. It also supports the strategic outcomes of the Joint Health and Wellbeing Strategy as the strategy identifies the need to increase the number of people who maintain a healthy lifestyle, e.g. are physically active, have good mental wellbeing and enjoy a balanced diet.</p>
Who is Affected?	<p>All Cheshire East residents are affected, in particular those with health and lifestyle needs and eligible to participate in the programmes.</p> <p>The recommission would also affect the current provider and staff of the lifestyle service.</p>

<p>Links and impact on other services, strategies, functions or procedures.</p>	<p>An integrated lifestyle service supports the Council’s Corporate Plan’s aims to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents and the priority to reduce health inequalities across the borough.</p> <p>The service also supports the outcomes of the below strategies and plans:</p> <ul style="list-style-type: none"> • Joint Health & Wellbeing Strategy 2023 – 2028. The service will support the four strategic outcomes. These are: <ol style="list-style-type: none"> 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; and 4. That more people live and age well, remaining independent; and that their lives end with peace and dignity in their chosen place. The service works towards achieving a number of the strategy’s key indicators for success, including reducing the number of adults who are overweight / obese; increasing the number of adults that are physically active and reducing the number of older people who have a fall and need to be admitted to hospital. • Falls Prevention Strategy 2023-25. The service supports the priority to continue to commission and develop borough-wide evidenced based services which reduce the likelihood of falls and their severity. • All Together Active Strategy and action plans. The service supports the aims of All Together Active to encourage and support inactive people to move more and increase opportunities to be physically active.
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<p>How does the service, service change, strategy, function or procedure help the Council meet the requirements of the Public Sector Equality Duty?</p>	<p>The nature of the service involves an aim of reducing health inequalities for a range of people in Cheshire East. This includes particularly those with lower socio-economic status. The process of participating in the service requires assessment against set criteria e.g. smoking status, BMI. The criteria also take account of certain protected characteristics where there may have more impact on health inequalities. For example, having a lower BMI for people from minority ethnic groups as there is higher prevalence of type 2 diabetes in certain ethnic groups.</p>
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Section 2- Information – What do you know?

What do you know?	What information (qualitative and quantitative) and/or research have you used to commission/change/decommission the service, strategy, function, or procedure?
Information you used	<p>A recently commissioned local Lifestyle Survey of a sample of residents from each care community area has provided the demographics data and lifestyle behaviour insight on Cheshire East residents.</p> <p>Performance data from the current service has also been used.</p> <p>The public health outcomes framework has also been accessed to support the need for the service as it reflects the lifestyle behaviours of the Cheshire East population - https://fingertips.phe.org.uk/profile/public-health-outcomes-framework</p> <p>The programmes provided by the service are evidence based and meet NICE (National Institute for Health and Care Excellence) guidelines. For this service the below guidance and quality statements have been used:</p> <ul style="list-style-type: none"> • PH6 - Behaviour change: general approaches • NG209 - Tobacco: preventing uptake, promoting quitting and treating dependence • PH23 - Weight management: lifestyle services for overweight or obese adults • PH47 - Weight management: lifestyle services for overweight or obese children and young people • CG161 – Falls in Older People: assessing risk and prevention

	<ul style="list-style-type: none"> • QS86 – Falls in Older People • PH54 – Physical activity: exercise referral schemes • PH17 - Physical activity for children and young people <p>Other evidence that will inform the programmes: Chief Medical Officers guidelines for physical activity The Eatwell Guide Models of delivery for stop smoking services Department of Health Tobacco Control Plan for England</p> <p>National research on the lifestyle programmes will also inform the approach.</p>
Gaps in your Information	N/a

3. What did people tell you?

What did people tell you	What consultation and engagement activities have you already undertaken and what did people tell you? Is there any feedback from other local and/or external regional/national consultations that could be included in your assessment?
Details and dates of the consultation/s and/or engagement activities	A Lifestyle Survey was sent to residents in October 2023 with a final deadline in January 2024. Respondents were randomly selected and sent a QR code to complete an online survey. Up to 4 household members (18+) could complete the survey. Residents were able to request a paper copy of the survey where they were unable to complete it online. The Lifestyle Survey had 2591 responses with 20.8% response rate of those sampled. Headline results have shown that 52% mostly eat well and stay active; 55% are obese / overweight; 14% are unhappy, anxious and dissatisfied with their lives; 7% smoke, 18% drink 4 or more times a week; 31% do at least 150 minutes of exercise a week; cost and proximity are important to people; and 35% felt their physical has got worse since the pandemic. There are 4 segments that are showing with some responses – smokers, regular drinkers, multi-hurdlers and non-exercisers.

	<p>A focus group with older people was held on 15th March. People aged 60+ were invited to join the focus group to discuss a healthy aging approach to lifestyle services.</p> <p>The Cheshire East self-advocates group for people with learning disabilities was also engaged with on 15th March for feedback on the current service.</p>
Gaps in consultation and engagement feedback	<p>Further consultation is planned to engage with residents from rural communities, ethnic minorities, routine and manual workers and people from deprived socio-economic areas to fill gaps in these areas.</p>

4. Review of information, consultation feedback and equality analysis

Protected characteristics groups from the Equality Act 2010	What do you know? Summary of information used to inform the proposal	What did people tell you? Summary of customer and/or staff feedback	What does this mean? Impacts identified from the information and feedback (actual and potential). These can be either positive, negative or have no impact.
Age	<p>65% of respondents to the survey were over 55.</p> <p>NHS data shows that around 1 in 3 adults over 65 and half of people over 80 will have at least one fall a year.</p> <p>Service provision specifically aims to improve the health outcomes of individuals in the community who require lifestyle/wellness support. This is likely to include proportionally more users from this protected characteristic due to recognised health issues.</p>	Older residents noted the impact of finances and cost of living on being able to live a healthy lifestyle.	<p>There will be a positive impact through participation in the service on this protected characteristic. Service provision specifically aims to improve the health outcomes of individuals in the community who require lifestyle/wellness support.</p> <p>The negative impacts of costs on living a healthy lifestyle will be managed through free service provision for eligible groups.</p>
Disability	23% of respondents to the survey had a long term, limiting health condition.	<p>The lifestyle survey feedback shows that cost and distance from home/work are the most important aspect when choosing a lifestyle service.</p> <p>People with learning disabilities engaged through the self-advocates</p>	Service provision specifically aims to improve the health outcomes of individuals in the community who require lifestyle/wellness support. This is likely to include proportionally more users from this protected characteristic due to recognised health issues. This is likely to have positive

		group recognised that eating more healthy and good nutrition helps to keep a healthy weight. There was also need to access support to keep active.	impacts on this cohort's health outcomes by participating in the service.
Gender reassignment	0.4% of people responding to the survey identified with a different gender to the one they were born with.	No impacts were reported during the consultation process.	However, there are known national issues for individuals who are transgender over access to healthcare and discrimination when receiving it. In addition there are reported health related issues such as difficulties in accessing leisure facilities and higher mental health related issues.
Pregnancy and maternity	Usage figures are available on the number of pregnant women accessing smoking cessation support and the maternal health service	<p>No impacts were reported during the consultation process.</p> <p>However, it is of particular note that studies have found that smoking whilst pregnant can have a significantly harmful impact increasing risk of miscarriage, birth defects and lower birth rate (each year over 500 women in Cheshire East continue to smoke during their pregnancy). Similarly, consumption of alcohol can lead to poor growth, facial abnormalities and learning and behavioural problems. The new service will aim to address these issues in a way which maintains/improves on current provision.</p>	Assessment should include a question to check if a woman is pregnant in order to ensure that access to smoking cessation and substance misuse services can be guaranteed.

Race/ethnicity	5.4% of survey respondents were from a non-white ethnic group.	<p>No impacts were reported during the consultation process.</p> <p>PHE have previously reported that there is no straightforward pattern between levels of obesity and race, although there is evidence that in some instances ethnic groups have better health than the white population. However, it is also noted that some ethnic groups particularly those of South Asian origin (e.g. Bangladesh, Pakistan), are reported to in general undertake less physical activity and consume a less healthy diet thus leading to lower levels of mortality. Assessment may need to take this into account.</p> <p>In addition to this, prevalence of type 2 diabetes is known to be higher amongst ethnic minorities</p>	<p>Assessment should take account of ethnicity in particular in relation to BMI.</p> <p>To ensure individuals from ethnic minorities can hear about and access the service there is a need to ensure marketing materials for are suitable and accessible.</p>
Religion or belief	54.5% of respondents were Christian, 4.4% had another religion or belief, 36.1% had no religion or belief.	No impacts were reported during the consultation process.	There are some issues that may be relevant. For instance, the impact that religion can have on uptake of physical activity e.g. Muslim women wishing to ensure they are 'covered' in accordance with cultural/religious requirements; also the need for flexibility over times services can be accessed so they do not interfere with prayer times.

Sex	55% of respondents were female and 44% male. 1% preferred not to say.	<p>The World Health Organisation reports a number of reasons for women undergoing less physical activity than men. Services should help address these issues by ensuring flexibility of services (due to caring responsibilities), and an appealing type of physical activity services that can be accessed (cultural issues).</p> <p>There is known correlation between gender and level of physical activity (statistics show women exercise less), obesity (the proportion of men with a normal BMI is less than women) and life expectancy [source: JSNA, Health and Social Care Information Centre Statistics on Obesity, Physical Activity and Diet].¹ As such, eligibility criteria should help address this imbalance by providing services according to set eligibility criteria. Income issues will</p>	<p>Physical Activity services should appeal to women and thus not culturally exclude them.</p> <p>Services should be offered at times of day which will maximise uptake e.g. outside times relevant to their caring responsibilities.</p>

1

https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CCUQFjAAahUKewi_w8Hml43IAhVIndsKHfP4A3c&url=http%3A%2F%2Fwww.hscic.gov.uk%2Fcatalogue%2FPUB13648%2FObes-phys-acti-diet-eng-2014-rep.pdf&usg=AFQjCNFyYXli-nsdtWbhwcqkXNkb0feDiA&sig2=f2aSFEZyBKa-Triq0WOKug

		also be addressed by the fact that service provision will be free.	
Sexual orientation	3% of survey responses indicated they were LGBTQ+	<p>No impacts were reported during the consultation process for this protected characteristic.</p> <p>However, there are known health issues which this group faces e.g. higher levels of depression, smoking, class A drug use.</p> <p>Research also suggests that gay and bisexual men are less likely to achieve physical activity recommendations than men in general, but that lesbian and bisexual women are more likely to compared with women in general. Evidence shows that older LGBTQ+ people are more likely to be socially isolated, suggesting that they will experience worse outcomes related to falls.</p> <p>Of additional note is that bisexuals overall have lower life expectancy in England than the rest of the population (gay men and women have a slightly higher life expectancy than the rest of population).</p>	The new service should be specifically promoted with local LGBTQ+ groups in order to encourage their members to access it.

Marriage and civil partnership	No data recorded on clients but the service is accessible all Cheshire East residents	No impacts were reported during the consultation process. There were also no impacts uncovered as a result of research work conducted.	The impact of this service is deemed neutral on this protected characteristic.
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5. Justification, Mitigation and Actions

Mitigation	What can you do?
<p>Please provide justification for the proposal if negative impacts have been identified?</p> <p>Are there any actions that could be undertaken to mitigate, reduce or remove negative impacts?</p> <p>Have all available options been explored? Please include details of alternative options and why they couldn't be considered?</p> <p>Please include details of how positive impacts could be further enhanced, if possible?</p>	<p>Actions to mitigate any negative impacts or further enhance positive impacts</p> <p>Service provision specifically aims to improve the health outcomes of individuals in the community who require lifestyle/wellness support. Therefore there will be positive impacts of participating in the service programmes.</p> <p>Physical Activity services should appeal to women and ethnic minorities and thus not culturally exclude them. Physical activity options also need to be sensitive to the needs of transgender individuals. Specific training of all providers may be required.</p> <p>Services should be offered at times of day which will maximise uptake e.g. outside times relevant to caring responsibilities, flexible to not impact on prayer times. Location of service provision should be considered as this was noted as being important when choosing a lifestyle service by people with disabilities.</p> <p>Assessment should take into account the health differences between genders; whether a woman is pregnant to enable referral to smoking and substance misuse services; and BMI and ethnicity</p> <p>Marketing should take account of the particular needs/interests of both genders; suitability for ethnic minorities (e.g. available in other languages); accessibility for people with learning disabilities (e.g. easy read versions).</p>

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6. Monitoring and Review -

Monitoring and review	How will the impact of the service, service change, decommissioning of the service, strategy, function or procedure be monitored? How will actions to mitigate negative impacts be monitored? Date for review of the EIA
Details of monitoring activities	Impacts will be monitored through performance data and contract monitoring meetings.
Date and responsible officer for the review of the EIA	13/03/2024 Kelly Brighthouse

7. Sign Off

When you have completed your EIA, it should be sent to the [Equality, Diversity and Inclusion Mailbox](#) for review. If your EIA is approved, it must then be signed off by a senior manager within your Department (Head of Service or above).

Once the EIA has been signed off, please forward a copy to the Equality, Diversity and Inclusion Officer to be published on the website. For Transparency, we are committed to publishing all Equality Impact Assessments relating to public engagement.

Name	Nik Darwin
Signature	<i>N Darwin</i>
Date	13-03-24

8. Help and Support

For support and advice please contact EqualityandInclusion@cheshireeast.gov.uk

Adults and Health Committee – March 2024

ANTON and PAM - Safeguarding Adults and Domestic
Homicide Review - Updates



Purpose and Process

- Purpose of a Safeguarding Adults Review and a Domestic Homicide Review
- Commissioned by the Safeguarding Adults Board (SAB) and Safer Cheshire East Partnerships (SCEP) respectively
- The participation and learning is owned by each Partner Agency
- Action Plans are overseen by the SAB/SCEP

ANTON and PAM

ANTON SAR

- Anton was 64 when he died.
- White male of Slovakian origin
- He was found deceased in his property in November 2021
- He died of pneumonia but had other serious health problems
- His understanding of English was limited, and he relied on friends and professional interpreters to translate for him.
- His communication skills may have been further impeded by a stroke
- It is important to note that some of the review period coincides with the Covid restrictions
- He appears to have had a pattern of alcohol misuse
- There is limited indication of mental health problems, i.e. anxiety, but he did not engage with mental health services
- Socially isolated

PAM DHR

- A referral was made to SCEP in 2019 following the death of Pam who was unlawfully killed by her boyfriend in August 2019. The Partnership agreed that the criteria for a Domestic Homicide Review were met.
- Pam was 53 when she died. She had experienced childhood trauma and as an adult suffered from anxiety, depression and suicidal thoughts. She was also Alcohol dependent.
- Pam had 5 children, one sadly died shortly after birth. Her adult children contributed to the DHR
- Pam was known to many different services and MARAC
- "It is easy to see someone who is a drinker and assume they are trouble, but my mum was not just a drinker, she was kind, loving, funny and a caring mum to us all"
- Her perpetrator was a Serial Domestic Abuse Perpetrator and had a diagnosis of Huntingdon's Disease. He was sentenced to an Indefinite Hospital Order in April 2020
- Inquest set for May 2025

ANTON - Themes

- Loss of settled status and benefits
- Language and communication
- Service responses
- Difficult to engage with hard to reach/seldom heard people
- Mental capacity
- Escalation and multi-agency involvement
- Safeguarding concerns
- Alcohol misuse
- Covid

Anton: Recommendations and Actions

Recommendations

1. The SAB should reassure itself that there is training or access to expert support on supporting vulnerable foreign nationals through the benefits system.
2. The SAB should reassure itself that all agencies are considering the use of translation services and providing materials in native languages for vulnerable individuals who are not English speakers.
3. The SAB should produce guidance for working with individuals who are seldom heard and often decline support

Actions

1. The SAB is working with DWP to produce a training package for Frontline Staff
2. The SAB has sought assurance from Partner Agencies that they have access to Translation services.
Unfriended adults have access to a paid advocate in Safeguarding Enquiries
3. Guidance has been produced to assist Practitioners when adults a risk miss appointments and Seldom Heard Guidance

Recommendations and Actions

Recommendations

4. The Cheshire East SAB should ensure that staff know how to escalate the more vulnerable, hard to engage/seldom heard clients, to a local multi-agency forum for joint management

5. Alongside the procedures, the Cheshire East SAB should consider the development of more practical multi-agency guidance on “What works with hard to engage clients”.

6. Cheshire and Merseyside ICB to ensure all contacts are recorded

7. Public Health to promote an Alcohol Screening Tool

8. SAB to ensure adherence to the Mental Capacity Act and consideration of Executive Functioning

9 The SAB to ensure practitioners raise a Safeguarding concern for cases of Self Neglect

Actions

4. The frequency of the Multi Agency Complex Safeguarding Forum has been increased from 6 weekly to 4 weekly meetings in 2024. Referral pathways have been improved

5. A series of One Minute Guides have been produced – including a Principals of Engagement Tool / Trauma Informed Practice Tool for Frontline staff /Seldom Heard Guide-

6. The SAR report was shared with all ICB/Place Designated/Named Leads to share the learning and was highlighted in our own place report .There has been discussions with Trust leads regarding the availability of information in multiple languages – which is being addressed

7. The SAB has worked collaboratively with Public Health to promote the use of a standard Alcohol Screening Tool

8. The SAB has completed a multi-agency survey to identify knowledge, skill and application – shared good practice and guidance on MCA. Bespoke videos to be produced

9. The SAB key focus for 2024 is on Self Neglect. Survey completed in Feb 2024. Tools

Good Practice

- Some agencies and individual professionals made significant efforts to engage with Anton and to improve the quality of his life. In particular professionals from his Housing Association and Floating Support service who made assertive efforts in the last year of his life to engage with him and secure the help that he needed.
- Largely before the review period, his Housing Association, and in particular their Money Advice Officer had made highly praiseworthy efforts to resolve the problems he experienced with the loss of his settled status and the right to benefits.
- Anton had problems communicating in English and although there were problems around this, many agencies e.g. his Housing Association, Floating Support service, Ambulance Service, actively used translation services and other agencies including Primary Care and the Hospital were coming to the recognition of this need.
- He was matched at one point with a Polish volunteer from a local service who could speak Russian and used a combination of both languages to communicate with him. Again outside the review period Mental Health Reablement identified a Polish reablement worker to support him because of linguistic similarities .

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Resource Examples



Self-Neglect 7 Minute Briefing

SELF-NEGLECT AND ENGAGEMENT

This briefing is part of a series on self-neglect. Each briefing should be read alongside your Safeguarding Adults Board multi-agency policy, procedures, and practice guidance.

THE ISSUE

The Care Act 2014 incorporated self-neglect as an abuse category, recognising that self-neglect is a safeguarding concern for those adults in receipt of, or in need of care and support, when their health and well-being is being seriously compromised.

There are many reasons why an individual may self-neglect, including previous trauma, enduring and deteriorating physical and/or mental health conditions e.g. dementia, and addictions. Individuals who self-neglect often decline support and may not identify that they need support. There may be a limit to what professionals and family, friends and neighbours can do, if the adult is deemed to have mental capacity regarding how they live.

REASONS WHY ENGAGEMENT MAY TAKE MORE TIME

- The person may be embarrassed to have visitors and withdraw from family, friends, their community and professionals, becoming socially isolated.
- Anxiety, shame, and fear can be contributory factors to refusing to engage and sustaining engagement with others, including professionals.
- Refusal of support - this may be for many different reasons, but if there are concerns, it is important not to walk away.
- The person may have an excessive attachment to possessions, or be a rescuer of animals, due to issues with emotional attachment which can relate to previous trauma.
- The person may have lived in a particular way for many years, with deteriorating health exacerbating the risks to themselves and others.
- Anti-social behaviour.
- Mental health issues.

Self-Neglect 7 Minute Briefing

SELF-NEGLECT: AN OVERVIEW

This briefing is part of a series on self-neglect. Each briefing should be read alongside your Safeguarding Adults Board multi-agency policy, procedures, and practice guidance.

SELF-NEGLECT: DEFINITION

Self-neglect covers a wide range of behaviour relating to care for one's personal hygiene, health or surroundings, and includes behaviour such as hoarding. Three recognised forms of self-neglect include:

- Lack of self-care – this may include neglecting personal hygiene, nutrition and hydration or health (e.g., non-attendance at medical appointments)
- Lack of care of one's environment – this may result in unpleasant or dirty home conditions, and increased risk of fire due to hoarding
- Refusal of services that could alleviate the above

WHAT TO LOOK FOR:

Adults who self-neglect are more likely to live alone, be an older person, experience mental ill-health, have alcohol or drug problems and have a history of poor personal hygiene or living conditions. Signs include:

- Not enough food, or food is rotten
- The home is filthy, odorous, hazardous or unsafe
- Major repairs/maintenance to the home is required
- Presence of human or animal faeces in the home
- Accumulation of possessions
- A large number of pets and/or abuse or neglect of pets
- The adult may:
 - Have dirty hair, nails and skin
 - Smell of urine and/or faeces
 - Have skin rashes or pressure ulcers
 - Have a poor diet and/or hydration
 - Show increased confusion or disorientation
 - Have deteriorating physical or mental health e.g. diabetes, dementia
 - Be socially isolated

MENTAL CAPACITY

One of the first considerations should be whether the person has mental capacity to understand the risks associated with the actions/lack of actions. Any action proposed must be with the person's consent, where they have mental capacity, unless there is a risk to others (such as a fire risk due to hoarding, or public health concerns). In extreme cases of self-neglect and/or hoarding behaviour, the very nature of the environment should lead professionals to question whether the person has capacity to consent to the proposed action or intervention and trigger a mental capacity assessment. Consider if the person has the functional capacity to make a particular decision and executive capacity which is the ability to carry out the decision. Please see links below for further information on executive capacity.

The Care Act Statutory Guidance recognises it can be difficult to distinguish between whether a person is making a capacitated choice to live in a particular way (which may be described as an unwise choice or decision) or whether:

- The person lacks mental capacity to make the decision; or
- There is concern regarding the adult's ability to protect themselves by controlling their own behaviour.



PAM – Themes and Actions

Themes

1. There were missed opportunities for multi-agency Information Sharing
2. Referral pathways and information from the Police to Social Care needed to improve (VPA's)
3. Risk assessments were not always completed or shared
4. Professionals' meetings and MARAC arrangements needed to improve

Actions

1. Adult Social Care Staff now have access to CWP's case records. IDVAs now sit within the Front Door Team
2. The Police have redesigned their services and introduced a Vulnerability Hub and VPA referral forms have improved to include better information
3. The RIC is now completed at 1st contact with DA services, the Adult Social Care Risk Assessment and Guidance has been updated
4. A new E-MARAC process has been introduced, dedicated Social Workers attend all MARACs, a Standing Operating procedure and One Minute Guide re MARAC is now in place. CEC MARAC has been approved and ratified by SAFELIVES

Themes and actions

Themes

5. More effective ways of working with people who harm/perpetrators
6. Lack of local emergency housing provision
7. Improve outcomes for Domestic Abuse Victims via the Crown Prosecution Services
8. Recognition of Adults at Risk who also victims of Domestic Abuse
9. Alcohol awareness/screening

Actions

5. Domestic Abuse Services now refer perpetrators to the Harm Reduction Unit. My CWA has specific services to work with those who harm [Safer Film 1 Message to Perpetrators \(vimeo.com\)](#)
6. Whole Housing Approach project launched in 2022. Cheshire East Housing received Domestic Abuse Housing Alliance (DAHA) accreditation in 2022
7. More work required with the CPS
8. Domestic Abuse and Safeguarding Training now available for Adult Social Workers. Dedicated workstream re Domestic Abuse, Dementia and Carers. All Partners have confirmed to SCEP that they have DA training in place.
9. Work with Public Health re GP access, Lifestyle of Prescription and Alcohol screening tools



Self-Neglect 7 Minute Briefing

SELF-NEGLECT AND

ALCOHOL AND SUBSTANCE MISUSE

This briefing is part of a series on self-neglect. Each briefing should be read alongside your Safeguarding Adults Board multi-agency policy, procedures, and practice guidance.

THE ISSUE

- Self-neglect can impact on an adult's wellbeing but the cause of this is not directly a result of physical or mental impairment or illness but arises from acts of their own, such as drug and alcohol misuse and risks associated with this.
- Attachment to their substance of choice and prioritising this above all else, can impact on their relationship with others.
- Definition of addiction is the loss of the ability to make choices. The Latin meaning for addiction implies enslavement.

LINKS TO ABUSE AND NEGLECT

- Increased risk of deterioration in physical and mental health.
- Risk of overdose or contaminated substances if drugs purchased on the street.
- Risk of engaging in criminal activity to fund drug or alcohol use.
- Increased risk of violence from others.
- Exploitation by others, including sexual exploitation.
- Increased risk of domestic abuse.
- Increased risk of suicide or misadventure.
- Financial difficulties can occur due to expenditure on drugs/alcohol resulting in debts and inability to pay for basic needs.
- Increased risk of homelessness if unable to adhere to tenancy agreements.
- Emotional or psychological harm due to increased social isolation.

A MULTI-AGENCY RESPONSE

Self-neglect cases involving drug and alcohol misuse require a multi-agency response, whether this is under safeguarding adults' procedures or as part of multi-disciplinary working more generally. There needs to be a clear understanding of the person's needs as a whole (not just in relation to their substance misuse). A team-around-the-person approach often works well, with a small core group of professionals established to closely monitor risks and the plans to manage risks.



Minute Briefing – PAM

1 Background:

A referral was made to SCEP in 2019 following the death of Pam who was unlawfully killed by her boyfriend in August 2019. The Partnership agreed that the criteria for a Domestic Homicide Review were met.

Pam was 53 when she died. She had experienced childhood trauma and as an adult suffered from anxiety, depression and suicidal thoughts. She was also Alcohol dependent.

Pam had 5 children, one sadly died shortly after birth. Her adult children contributed to the DHR

Pam was known to many different services and MARAC

"It is easy to see someone who is a drinker and assume they are trouble, but my mum was not just a drinker, she was kind, loving, funny and a caring mum to us all"

Her perpetrator was a Serial Domestic Abuse Perpetrator and had a diagnosis of Huntington's Disease. He was sentenced to an Indefinite Hospital Order in April 2020

7

Resources and further information:

Cheshire East Domestic Abuse Hub:
Tel: 0300 123 5101 or
cedah@cheshireeast.gov.uk
Huntingdon's Disease Association:
Helpline 0151 331 5444
Change, Grow, Live:
Eastcheshire.info@cgl.org.uk
St. Mary's Sexual Assault Referral
Centre: 0161 276 6515
Rape and Sexual Abuse Support Centre:
0330 363 0063

6

Implementing change:

Discuss the themes with your team or service and consider how they may affect your practice. Determine what you or your team could do to act on these and implement any necessary changes.

5

Practice implications:

When anyone discloses Domestic Abuse, it is essential to listen and believe them and promote safety and wellbeing. When there is a concern for a person's safety, it may be necessary to override consent. Information sharing and accurate record keeping is essential.

2

The Purpose of a Domestic Homicide Review:

- Establish the facts that led to the death and whether there are any lessons to be learned from the case about how local professionals and agencies worked together to safeguard Pam
- Identify these lessons, both within and between agencies, how and within what timescales they will be acted on, and what is expected to change.
- Prevent domestic abuse and carer related deaths and improve service responses where these issues are identified and responded to at the earliest opportunity.
- Contribute to a better understanding of the nature of domestic abuse
- Ensure that the experiences of Pam and her family are heard regarding their lived experiences and the impact of Domestic Abuse

Key Emerging themes:

Gender: Women are much more likely than men to be the victims of high risk or severe domestic abuse: 95% of those going to MARAC or accessing an IDVA service are women. Pam's case was heard at MARAC on 5 occasions between 2018/19

Assessing Risk and Safeguarding: It was noted that a significant number of VPAs had been submitted but not all agencies received them. This led to missed opportunities for information sharing including previous incidents of abuse, liaison and assessments under the Care Act

Health Vulnerabilities and Complex Needs: At least 20% of high-risk victims of abuse report using drugs and/or alcohol. Pam was more vulnerable to abuse due to complex health needs. She had a good relationship with her GP and IDVA. There was a pattern of accessing services at crisis points but would disengage leading to case closure. Care Act eligibility includes "substance misuse and brain injury".

Previous criminality of the perpetrator: Pam's perpetrator did not engage with services including harm reduction schemes. The review highlighted limitations of the wider criminal justice systems in holding perpetrators to account.

Housing Provision: Offers of refuge were declined due to distance and accessibility. The perpetrator

4

Recommendations:

It should be noted that some actions have been put into place since the incident and the DHR publication.

The DHR made the following recommendations:

- Vulnerable Person's Assessments (VPAs) should be clear and a robust pathway to be established
- Multi Agency Professionals Meetings/Full MARAC meetings to be held for High Risk/Complex cases
- Promote Behaviour Change Programmes for Perpetrators
- Mental Capacity Assessments to be completed to evidence decision making
- Risk Indicator Checklists to be completed including Honour Based Abuse and Stalking
- The DA Partnership to collate and measure successful prosecutions
- Multi Agency Training regarding Domestic Abuse, Adult Safeguarding/VPAs and to create opportunities to understand roles and responsibilities

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Resources

1. [Executive summary DHR for Pam](#)
[\(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)
- [Domestic Abuse Act 2021 - GOV.UK](#) (www.gov.uk)
- [Key findings from analysis of domestic homicide reviews: October 2019 to September 2020](#)
[\(accessible\) - GOV.UK](#)
[\(www.gov.uk\)](http://www.gov.uk)
- Violence against Women and Girls Strategy
- [Safer Film 2 Keeping Women Safe](#) (vimeo.com)
- [Safer Film 5 Safety Bus](#) (vimeo.com)
- [Safer Film 3 Good Sam App](#) (vimeo.com)
- [Safer Film 4 Reporting Crimes](#) (vimeo.com)
- [Domestic Abuse Getting Help](#) (cheshireeast.gov.uk)

Thank You

- Cheshire East Adult Social Care:
- Tel 0300 123 5010 Office Hours/0300 123 5022 Out of Hours
- Cheshire East Domestic Abuse Hub:
- 0300 123 5101 or 999 in an emergency
- cedah@cheshireeast.gov.uk

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cheshire East Health and Wellbeing Board**
held on Tuesday, 23rd January, 2024 in the Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

Board Members

Helen Charlesworth-May, Executive Director Adults, Health, and Integration
Councillor Janet Clowes, Cheshire East Council
Councillor Sam Corcoran (Chair), Cheshire East Council
Councillor Carol Bulman, Cheshire East Council
Councillor Jill Rhodes, Cheshire East Council
Mark Groves, Healthwatch Cheshire
Dr Matt Tyrer, Director of Public Health (attended virtually via Microsoft Teams)
Kathryn Sullivan, CVS Cheshire East (attended virtually via Microsoft Teams)
Mark Wilkinson, Cheshire East Place Director
Deborah Woodcock, Executive Director of Children's Services
Michelle Davis, Guinness Housing
Peter Skates, Acting Executive Director of Place, Cheshire East Council
Isla Wilson, Cheshire East Health and Care Place Partnership
Charlotte Wright, Cheshire Fire and Rescue Service

Cheshire East Officers and Others

Alex Jones, Better Care Fund Programme Manager
Ceri Kay, Legal
Guy Kilminster, Corporate Manager Health Improvement
Rob Polkinghorne, Chief Executive
Dr Susie Roberts, Public Health Consultant
Karen Shuker, Democratic Services Officer

10 APOLOGIES FOR ABSENCE

Apologies for absence were received from Dr Paul Bishop, Louise Barry, Superintendent Claire Jesson and Claire Williamson.

Mark Groves attended as a substitute.

11 DECLARATIONS OF INTEREST

There were no declarations of Interest.

12 MINUTES OF PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on 22 November 2023 be confirmed as a correct record.

13 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

14 ADOPTING A REFRESHED 'ALL TOGETHER FAIRER' AS THE CHESHIRE AND MERSEYSIDE HEALTH AND CARE PARTNERSHIP STRATEGY

The Board received a presentation from the Cheshire East Place Director in respect of Adopting a refreshed All Together Fairer as the Health Care Partnership (HCP) Strategy.

Following feedback which highlighted a health service bias to the content in both documents it was agreed that the HCP should be more focused on aligning its strategic intent to address the wider determinants of health.

The Board shared their concerns and agreed that there was a need to make sure that people were not working in silos, that they needed a collegiate approach to avoid duplication. Maintaining an emphasis on the recommendations of the All Together Fairer report was important but this had to be owned by the system as a whole, both the Cheshire and Merseyside Health and Care Partnership and the Cheshire and Merseyside Integrated Care Board.

RESOLVED:

That the presentation be noted.

15 BETTER CARE FUND 2ND QUARTER 2023-2024

The Board received a report which provided a summary of Quarter 2 performance for 2023/24 of the Better Care Fund. The report noted that the system was on track to meet its targets in respect of:

- Avoidable admissions – There had been initiatives to support avoidable admissions including carers payments to facilitate discharge and GP out of hours support.
- Discharge to normal place of residence – there had been a 21% increase in the number of hours delivered compared to the same time last year. The number of people waiting had vastly reduced. The challenges faced included the fragility around the care market recruitment and retention and rising costs.
- Falls - recent intervention included the falls pathway within the Urgent Community Response (UCR) service at Mid Cheshire Trust going live taking referrals for falls from North-West Ambulance Service (NWAS). Falls Awareness week held in September 2023.
- Residential admissions – The figure was below the planned rate and there were challenges around demographic changes in Cheshire East that were seeing an increasing older population

compared to the national picture, particularly in the upper age bands who are more likely to require their needs to be met via a permanent placement.

- Reablement – this was on track with performance above the same quarter last year.

In respect of capacity and demand this had generally reduced in the hospital trusts. The additional discharge funded schemes continued to make an impact to facilitated discharge and hospital preventions across the system although there were challenges such as the ongoing RACC issues at MCHFT and the return of Maternity at East Cheshire Trust which had reduced availability of beds.

Board members agreed that better communication was required in respect of virtual wards as uptake in Cheshire East had been slow. It was suggested that circulating the Home First animation that had been produced would help in explaining the concept. It was agreed that there was more work needed around how to evaluate the impact of virtual wards.

RESOLVED: That:

The Cheshire Health and Wellbeing Board

1. notes and approves the performance against the following metrics: avoidable admissions, discharge to normal place of residence, falls, residential admissions, reablement. Alongside the metrics where appropriate the achievements and challenges have been noted.

16 JOINT STRATEGIC NEEDS ASSESSMENT UPDATE

The Board received a report which provided an update of progress in the JSNA work programme since September 2023.

The update included the following

- The Children and Young People's Emotional and Mental Wellbeing JSNA had been completed and had been submitted to the Executive Director for Adults, Health and Integration, and the Director of Public Health for approval and onward publication.
- The Tartan Rug dashboard was ready for publication and a video user guide was in the final stages of development to be published alongside it.
- The Special Educational Needs and Disability JSNA data collection was nearing conclusion with draft recommendations being developed and a target approval date of April 2024.

A virtual JSNA conference was planned for the end of February which would cover the following:

- The reviews undertaken during 2022/23
- The experience of working on a JSNA
- How stakeholders could use the JSNA
- Planned next steps in terms of further adaptation of products, topics for review in 2023/24 and 2024/25
- A consensus building conversation event was planned to prioritise recommendations from the 2022/23 JSNAs across partners in Cheshire East Place.

A councillor briefing session was also planned during the first half of 2024 to familiarise councillors with the range of products, and the ways they can be utilised and should be interpreted.

RESOLVED: That:

The Health and Wellbeing Board

1. Note the progress
2. Contribute to the JSNA conference
3. Utilise the JSNA to inform continue challenging decision making in relation to public sector budgets
4. Await further review publications over the first half of 2024.

The meeting commenced at 2.00 pm and concluded at 2.45 pm

Councillor S Corcoran (Chair)

Adults and Health Committee

Work Programme 2023 – 2024

Report Reference	Adults & Health Committee	Title	Purpose of Report	Lead Officer	Consultation	Equality Impact Assessment	Corporate Plan Priority	Part of Budget and Policy Framework	Exempt Item
June 24									
AH/22/2023-24 & CF/18/23-24	24/06/2024	Substance Misuse Service	To provide information about the proposed substance misuse service model and for a decision to re-commission the substance misuse service	Executive Director of Adults, Health & Integration	Yes	Yes	Fair	Yes	No
AH/01/2024-25	24/06/2024	Service Budgets 2024/25 (Adults & Health Committee)	The purpose of the report is to set out the allocation of budgets for 2024/25, for all Committees, following Council's approval of the Medium Term Financial Strategy in February 2024	Director of Finance and Customer Services	No	No	Open	Yes	No
AH/02/2024-25	24/06/2024	LD Respite Review and Redesign.	Briefing on proposal for new model	Executive Director of Adults, Health & Integration	Yes	Yes	Open	Yes	No
AH/05/2024-25	24/06/2024	Supported Employment	Report for scrutiny by Committee	Executive Director of Adults, Health & Integration	No	No	Open	No	Yes
AH/06/2024-25	24/06/2024	Income Development	Report for scrutiny by Committee	Executive Director of Adults, Health & Integration	Yes	Yes	Open	Yes	Yes
AH/08/2024-25	24/06/2024	Revised Joint Health Scrutiny Protocol	To consider the revised Joint Health Scrutiny Protocol.	Executive Director of Adults, Health & Integration	TBC	TBC	TBC	TBC	TBC
September 2024									

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AH/33/2023-24	23/09/2024	Care4CE report	Report for scrutiny by Committee	Director of Adult Social Care	Yes	Yes	Open	No	Yes
AH/07/2024-25	23/09/2024	Update on Falls Prevention Strategy	To provide an update in terms of the delivery against the action plan	Executive Director of Adults, Health & Integration	No	No	Open	No	No
AH/04/2024-25	23/09/2024	MH Partnership Board	Update Report for Committee (Scrutiny)	Executive Director of Adults, Health & Integration	Yes	No	Open	No	Yes
AH/03/2024-25	23/09/2024	LD Partnership Board (including LD Plan)	Update for Committee (Scrutiny)	Executive Director of Adults, Health & Integration	Yes	No	Open	No	Yes
November 24									
AH/28/2023-24	18/11/2024	Care Provider Consortium	This report seeks approval to commission services for individuals with Complex Needs through a Cheshire East Care Provider Collaborative (CPC).	Executive Director of Adults, Health & Integration	Yes	Yes	Open	Yes	No