

a summary of responses  
to Cheshire East Council's

# Direct Payments Policy Consultation 2024



# Executive Summary

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## 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](mailto:RandC@cheshireeast.gov.uk) for further information.

# Introduction

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## 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.

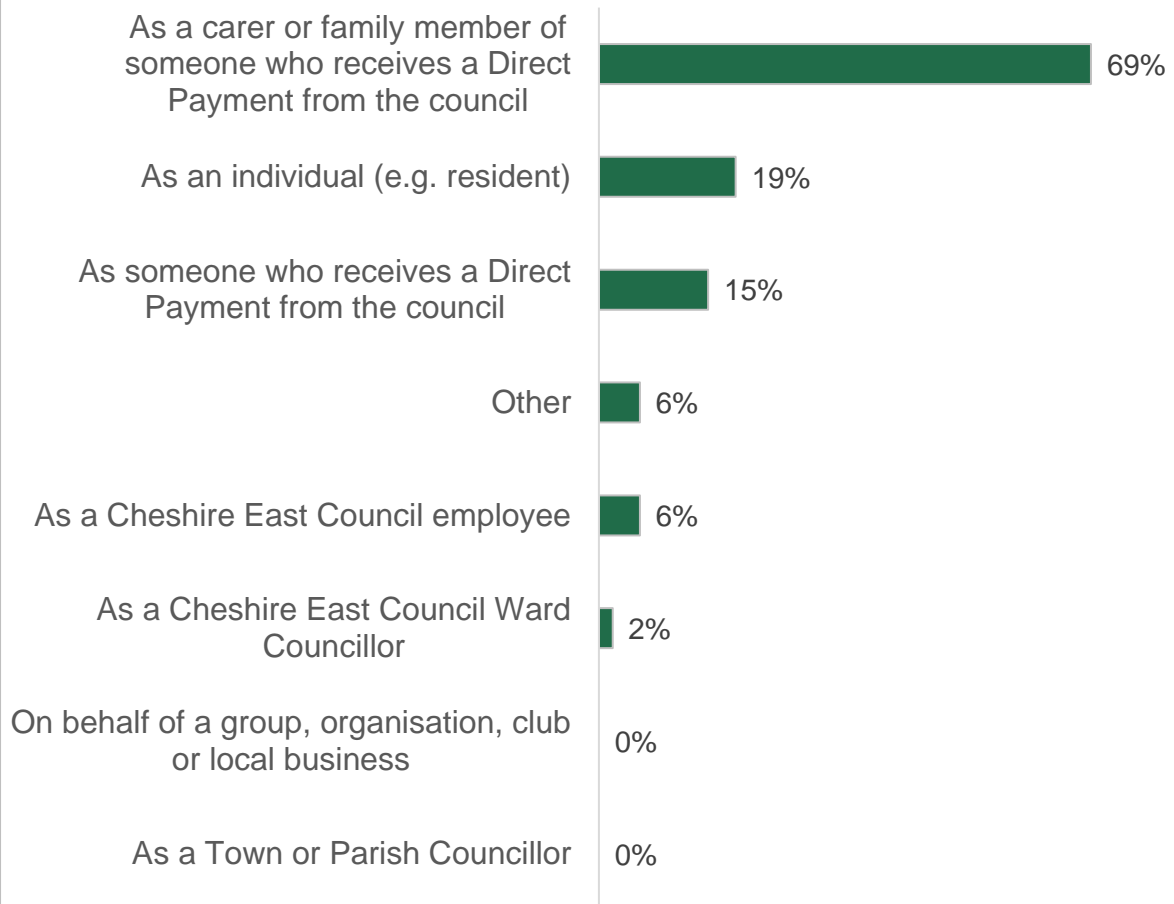


## About survey respondents

### 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.

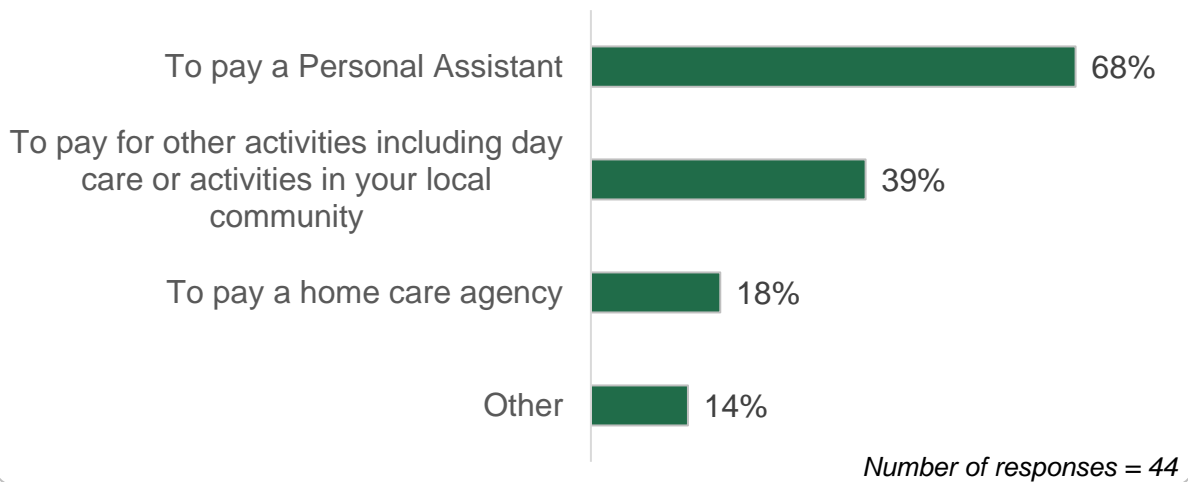
#### How are you responding to this survey?



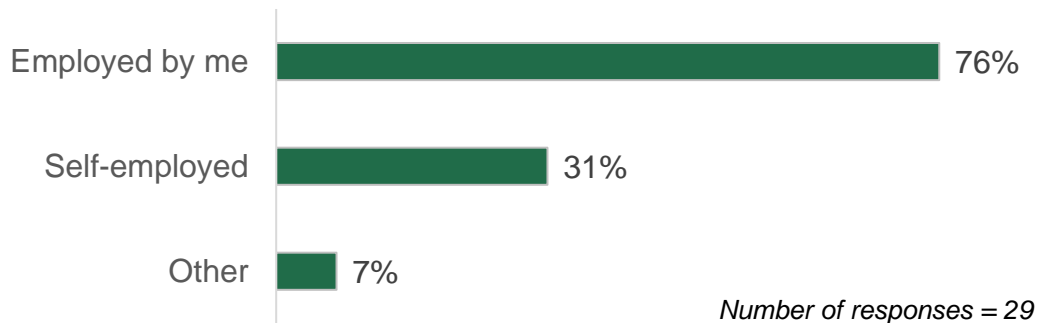
*Number of responses = 52*

### 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.

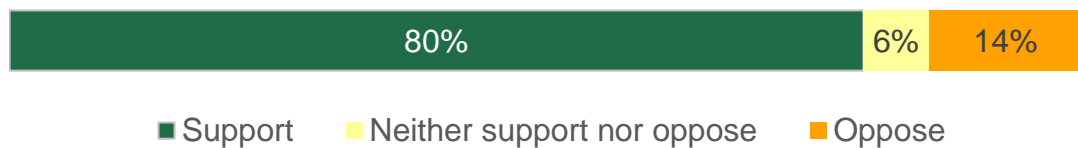
Now too tired.

## 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

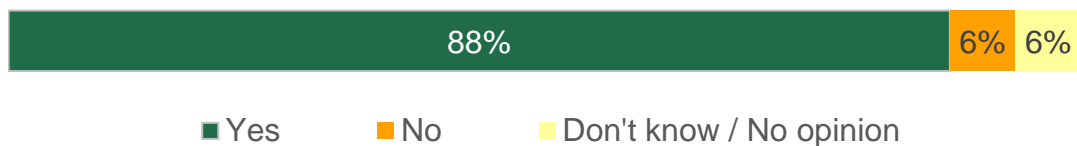
## Section 17: Personal Assistants and self-employed Personal Assistants

### 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?



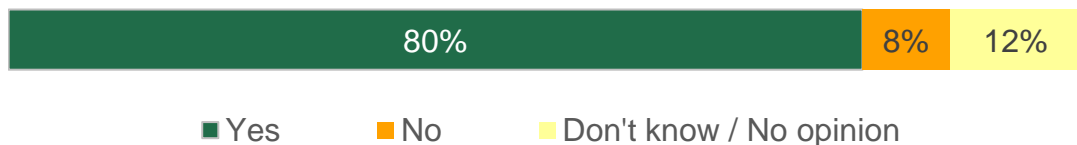
Number of responses = 49

### 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?

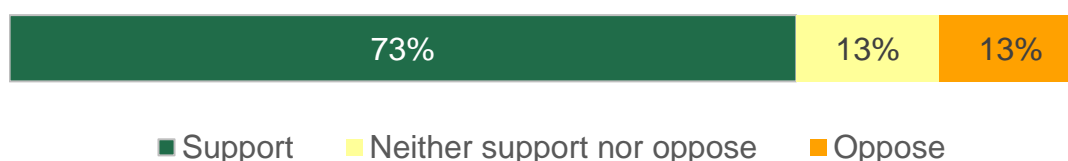


Number of responses = 49

### 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**

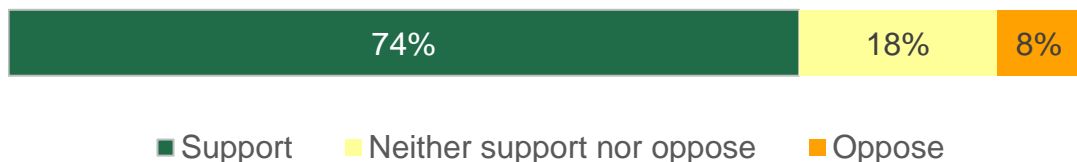
Am not able to continue employing PA due to 'paperwork' involved

## 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.

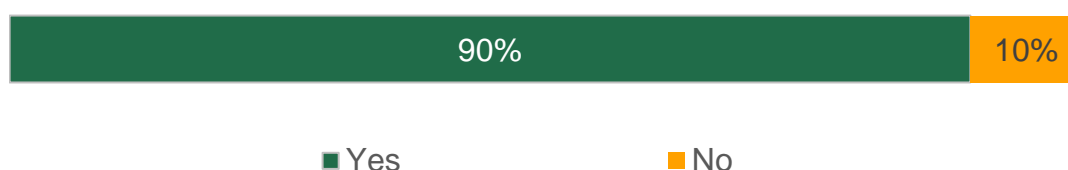
We explored several options but none were suitable as the subject's care is a mixture of personal assistant and parental care.

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

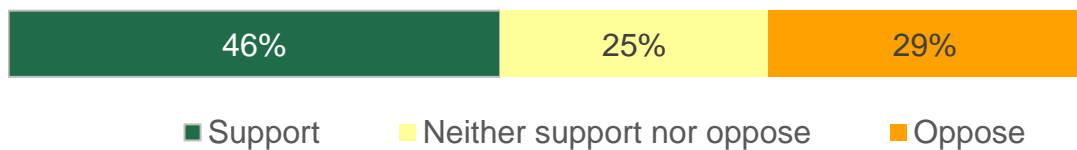
Aware of DBS process but not safeguarding procedure. What about right to work checks - no idea how to do these.

## 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

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### **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

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### 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 <sup>1</sup>

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.

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<sup>1</sup> UNCRDP, general comments 7 (2018). Retrieved from [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/7&Lang=en](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 3<sup>rd</sup> 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 3<sup>rd</sup> 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](mailto: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%
<b>Total valid responses</b>	<b>43</b>	<b>100%</b>

### 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%
<b>Total valid responses</b>	<b>46</b>	<b>100%</b>

### 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%
<b>Total valid responses</b>	<b>46</b>	<b>100%</b>

