

Cheshire West & Chester Council

let's talk

We valued your views from the recent Let's Talk consultation.

Direct Payment Policy Consultation

Consultation
runs from
9 July to
1 October
2018

Visit: cheshirewestandchester.gov.uk



Cheshire West
and Chester

Introduction

As a Council we are committed to delivering personalisation, 'personalisation is a way of thinking about care and support services that puts service users at the centre of the process of working out what their needs are, choosing what support they need and having control over their life'.

A Direct Payment is defined as 'a payment of money from the local authority to either the person needing care and support, or to someone else acting on their behalf, to pay for the cost of arranging all or part of their own Support' (Care Act 2014). The local authority makes a direct payment to the service user instead of arranging or providing any services itself.

The Council recognises that every person's circumstances and needs are different and that the service users and their families are experts in their own situation. Direct payments can promote independence by providing Service users and Carers with greater choice over how they use their allocated funds and the opportunity to self-manage their care and have control over the services and the care they need.

The Council has offered Direct Payments for a number of years. There are currently over 2000 recipients in Cheshire West and Chester and the Council are keen to see an increase in the take up of these.

We have revised some of our processes to ensure that our practice reflects both the Care Act 2014 and relevant Childrens legislation such as introducing a review after the first 6 weeks to check everything is working correctly.

Proposed changes to policy

The new policy makes a number of changes to current practice with an aim to:

Increase choice - The new policy extends what a Direct Payment can be spent on to allow recipients greater choice in the services they choose to meet their care needs and ensure outcomes identified in the support plan can be met creatively without the reliance on traditional services.

Smooth processes, increase clarity and efficiency – The proposed new policy and practice will ensure that service users, Carers and staff have a clear and agreed understanding of how the Direct Payment process operates. The new policy will also introduce processes that will reduce the time spent on administering the service and provide value for money such as the potential introduction of pre-payment cards and also changes to contingency payments.

Reduce bureaucracy – The proposed introduction of pre-payment cards means that financial audits can be more light touch as the council will already have a view of expenditure and whether this meets individuals needs in the care plan, rather than service users having to submit all receipts relating to spend.

Increase take up - The Council is committed to delivering personalisation and ensuring that people have a choice in what care they receive. We believe the new policy and practice will simplify the process, which will encourage service users to choose the option of Direct Payments.

Purpose of the consultation

This is to enable you to:

- Comment on the proposed changes to the current policy and practice.
- Identify any gaps in the proposed policy and processes.
- Make suggestions to help improve the proposed policy and processes.

What we are consulting on

The consultation will be based on the main changes to current practice identified in the policy. This includes.

Proposed change 1 - Permissible spend -

The new policy has extended what a Direct Payment can be spent on and only excludes what is stated in any legislation or guidance. The funding must be used to meet identified Adult Social Care Outcomes and excludes things such as gambling, general living costs and vets bills. This is to ensure that there is maximum flexibility in the use of direct payments to meet people's care needs.

Proposed change 2 - Notice period for suspension or cancellation – In line with the Care Act guidance of giving sufficient notice of ending direct payments we have introduced a 4 week notice period. This means that where direct payment are removed or ceased the council will give Direct Payments recipients 4 weeks' notice (or equivalent payment if the change is immediate) to allow recipients to give sufficient notice of redundancy to their employees / personal assistants.

Proposed change 3 - Hospital stays – Where a Direct Payment recipient is in hospital for over 4 weeks we are proposing that if the direct payment has not been used it will be adjusted and if necessary repaid following the normal audit process.

Proposed change 4 - Start-up payments -

Start-up payments will no longer be paid to direct payment recipients using an agency. The start- up payment to people employing a personal assistant will increase to £250 from the current £232 - this is to reflect that recruitment costs have increased over the last 5 years.

Proposed change 5 - Contingency costs -

We currently give all direct payment recipients an amount of money to cover unexpected circumstances such as staff sickness cover. In future we will only be making a contingency payment to people who employ a personal assistant as payment in advance, it is not felt necessary to make a contingency payment to those using an agency as expenditure in these cases are fixed.

Proposed change 6 - Pre - payment Cards –

We are exploring the introduction of payment by way of pre-payment cards. We believe the use of the card will deliver a number of benefits to the Council and also direct payment recipients and/or chosen provider such as not having to return receipts, instant adjustment to payments and the ability to complete financial audits online.

Proposed change 7 - Direct Payment

agreement – We have made significant changes to the written agreement between the direct payment recipient and the Council. The new agreement clearly states the reporting requirements and also the responsibilities of direct payment recipients. *Please refer to the Appendix for a copy of the current agreement.*



What my views will be used for

We want to know what you think of our proposals. Our consultation runs from **9th July to 1st October 2018** and we are really keen to hear from current and potential Direct Payment users, Carers and Service Providers. Please respond in this time to have your views taken into account.

You can share your views by:

Completing our online questionnaire at www.cheshirewestandchester.gov.uk/direct-payment

Completing a printed copy of the questionnaire (available on request by emailing commissioningandcontracts@cheshirewestandchester.gov.uk) and sending it to: The Research Team, Cheshire West and Chester, 4 Civic Way, Ellesmere Port. CH65 0BE.

Completing our 'easy read' version of the questionnaire, which is available online or in hardcopy on request.

You can email your views to

commissioningandcontracts@cheshirewestandchester.gov.uk

During the consultation period we shall also be holding face to face group discussions/workshops for Direct Payment recipients and their Carers.

What happens next?

We will be consulting on these proposals until 1st October 2018. The results will be made available on the Council's website and will inform a report to Cabinet in January 2019.

Accessing Cheshire West and Chester Council information and services

Council information is also available in Audio, Braille, Large Print or other formats.

If you would like a copy in a different format, in another language or require a BSL interpreter, please email us at equalities@cheshirewestandchester.gov.uk

Tel: **0300 123 8 123** Textphone: **18001 01606 867 670**
email: equalities@cheshirewestandchester.gov.uk
web: www.cheshirewestandchester.gov.uk

Direct Payments Agreement

This Agreement is the document that tells you about your direct payment money, how you will be paid and how it will be monitored and contains details of the following:

1. Basis of the Agreement
2. About the direct payment
3. General rules on how to use the money
4. What records you should keep
5. Review of the direct payment
6. What happens if the arrangement should breakdown?
7. Comments, complaints and compliments
8. Ending the Agreement
9. Signatures

1. Basis of the Agreement

This Agreement is made on the basis that:

- 1.1 An assessment of your needs has been completed and you are eligible to receive care services as identified/shown in your Care Plan.
- 1.2 You are willing and able to secure the care/services detailed in your Care Plan yourself or with assistance (this may be through a nominated agent or third party), and the Council is willing to make your direct payment available to you to enable you to buy the care/services you need.
- 1.3 You agree to adhere to the terms of this Agreement, and understand that failure to do so may result in further action being taken by the Council.

2. About the direct payment

Using the money

- 2.1 The Direct Payment is solely for the purposes outlined in your Care Plan. It cannot be used for any other purpose, therefore when the Direct Payment Agreement ends all of the money in the account must be returned to the Council.

When you will be paid

- 2.2 Payments will be made in advance, every four weeks.

How you will be paid

- 2.3 The payment will normally be paid onto your pre-payment card or into your nominated bank account unless it has been agreed to make the payment directly to a Third Party.
- 2.4 All money you receive for your care needs, in addition to any agreed contribution, must be paid into the same agreed account. . By making this payment into your account you are ensuring that there is enough money to pay for your care.

3. General rules about how to use the money

This Agreement is made on the basis that:

- 3.1 You can only use the direct payment to buy the services as detailed in your Care Plan and you must ensure that contingency arrangements are in place in case of any emergencies.
- 3.2 The law requires that you must use the direct payment in line with the guidance we give you. If you decide to employ a Personal Assistant you must meet the legal requirements of being an employer and also we recommend you carry out a full Disclosure and barring check.
- 3.3 If you wish to use a care agency we recommend that you purchase care from a provider who is registered with the Care Quality Commission who inspect the standards provided by agencies nationally. You can find details of local providers by contacting the Community Access team on 0300 123 7034.
- 3.4 If you choose to employ a personal assistant we encourage you to seek advice from the Arrangement of care and support service (previously referred to as Brokerage) on becoming an employer. Contact Cheshire Centre for Independent Living on 0845 340 2777.
- 3.5 Your Personal Assistant cannot assist you with managing your direct payment, i.e. they cannot be a signatory on your bank account and they cannot support you with record-keeping.
- 3.6 Any third party person helping you to manage your direct payment cannot have any financial interest in, or be a director of any company providing services funded through the direct payments either as a Personal Assistant or through a care agency (unless agreed by the Council).
- 3.7 If you intend to employ a Personal Assistant, the law says you have to buy Employers Liability insurance before your staff start working for you. The policy should also cover you for Public Liability Insurance Policy.
- 3.8 You cannot use the direct payment to employ:
 - 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
 - A close relative means a person that you are related to in one of the following ways: Parent or Parent in law, Aunt or Uncle, Grandparent, Son/Daughter, /Son in law/Daughter in law, Step Son or Daughter, Brother or Sister and Partner of any of the above.We will only agree to this if we feel it is necessary to meet your care needs in this way and we will write to you to inform you of any decision and how it's been made.
- 3.9 You cannot use the direct payment to buy services from Cheshire West and Chester Council.
- 3.10 You cannot use the direct payment to pay for long term residential or nursing care.

4. What records you should keep

- 4.1 You are responsible for using your money wisely with the Care of your agent or third party. Any bank charges, legal charges or HM Revenue and Customs costs will be your responsibility.
- 4.2 If you are using a prepaid card the information required should be available to us. We will inform you of any additional information you will need to send us.
- 4.3 If you are not using a prepaid card you will need to keep financial records, e.g. bank statements and invoices of how the money has been spent and complete financial returns forms which will need to be submitted to the Council regularly (as agreed with the Council). These records will help you, (your agent or third party) and the Council to review the services and your direct payment at your annual review. You will need to keep these records for at least seven years.
- 4.4 If you do not send in your financial information your direct payment could stop.

5. Review of your needs

- 5.1 The review will be carried out initially in the first 6 to 8 week and at least annually thereafter, and will help you look back over the year at what you have achieved and if your payment will remain the same based on your needs. If your needs have remained the same, the payment will continue at the same rate.
- 5.2 If anything changes in you circumstances you must let the Council immediately, this includes going into hospital or if your needs change in any way or your need for direct payment ends.

6. If your arrangements break down or your needs change

- 6.1 If things go wrong you should contact the Community Access Team who will assist you to identify other forms of support to meet your assessed needs. However, if this is unsatisfactory then we will try to provide the necessary services.

7. Data Protection and how your information may be used

- 7.1 Your data will be held securely at all times by the Council. It will be shared appropriately for the purposes of your welfare and care needs within the Council and also with any external partner organisations.
- 7.2 We will also share your data within the Council and external partners or agencies as appropriate for the purpose of making financial payments, audits and fraud investigation.

8. Data Protection and how your information may be used

- 8.1 Either you or we may terminate this Agreement by giving four weeks' notice in writing to the other party.
- 8.2 We may terminate this agreement with immediately effect if, after investigation, it is found you are using the money illegally or not in your best interests or the best interests of the person receiving the direct payment or you are not complying with any part of this Agreement.
- 8.3 Before terminating the Agreement, we shall work with you (and your agent or third party) to find a solution to the problems wherever possible.

- 8.4 You will need to complete all outstanding payments to your employees, HM Revenue and Customs and agencies and then provide financial returns forms to the Council to finalise your direct payments account.
- 8.5 Any money left in the direct payment account will need to be returned to the Council but we will write to you regarding this.

- 8.6 In the event of death we will take into account your legal or employment responsibilities before finalising the direct payments account
- 8.7 We may ask for money to be repaid if it has not been used to buy the Care set out in your Care Plan or you have employed your spouse, partner or close relative as detailed in paragraph 3.8 above.

This agreement is between:

Cheshire West and Chester Borough Council HQ, 58 Nicholas Street, Chester CH1 2NB

(Referred to in this document as ("Council" 'we' or 'us')

Signed:

Date:

And

The person(s) receiving the direct payment

Name

P Number:

Address Line 1

Address Line 2

Postcode

(Referred to in this document as ('you')

Signed:

Date:

(Delete as appropriate)

And Your agent/representative (the person supporting you with your direct payment)

Name

P Number:

Address Line 1

Address Line 2

Postcode

(Referred to in this document as (third party)

Signed:

Date: