

Cabinet Member for Adults' Services**Indirect Payments****Report by Director for Adults' Services and Head of Commissioning**

Key Decision:

Yes

Part I or Part II:

Part I

Electoral
Division(s):

N/A

Executive Summary

A principal aim for the delivery of Adults' Social Services is to maintain the independence of those in need by giving individuals greater choice and control over the way in which their needs are met. Direct payments have given a large number of people that opportunity. A group of Service Users are not eligible for direct payments because they lack the capacity to agree to and manage the arrangements. A pilot scheme for making indirect payments via an agent has proved successful and it is proposed that such a system of indirect payments be established.

Appendix 1 to this report describes the outcome of the pilot and identifies a number of issues of a practical nature which need to be resolved if the policy is to be effective.

Appendix 2 provides the overall context for a range of initiatives for self managed support within community care services of which the indirect payments arrangement forms one part.

Recommendation

That arrangements for providing indirect payments to those eligible for adults' social care services and described in this report be made available as soon as the practical requirements identified in the pilot have been resolved.

1. Background

- 1.1 All individuals have the potential to benefit from the opportunity to have greater control over the services they need and how these should be provided in a way that offers real benefits. The basic principles are therefore the same and the various schemes and pilot projects for enhancing service user involvement are closely connected. Adults' Services uses the term *self directed support* to bring together these different ways of responding to individual need. The proposals for the range of self directed support are fully set out in Appendix 2 to this report.
- 1.2 Self directed support includes a number of different models all of which focus on greater control and independence. Direct Payments, whereby a Service

User will receive funds linked to their assessed needs, which they will manage direct, enable people to have choice and to pay for the assistance needed to carry on living independently often through the appointment of a Personal Assistant.

- 1.3 The intention is that the benefits of direct payments should be extended. However, it was recognised that some people are not eligible usually as a result of their lack of mental capacity to engage with those arrangements for handling funds and making choices. The In Control pilot has highlighted how more person centred and transparent assessment and allocation of funds can transform the lives of people with learning difficulties. An Indirect Payments pilot was, therefore, set up to test out the issues. This has now been completed and a report on the pilot is attached as Appendix 1.

2. Discussion

- 2.1 The option to receive Direct Payments is open to people who are assessed as eligible for a community care service and who give consent to payments being made. Direct Payments can offer a person greater choice and control for instance in greater flexibility of service delivery. Where a person is unable to give consent the Local Authority may not make a Direct Payment. This means that Direct Payments are not available to people who are not able to give consent because they lack the mental capacity to do so. In adult services the interpretation of the ability to consent has been as inclusive as reasonably possible. However, this excluded some people such as those with severe dementia or profound learning difficulties. This was considered to be unfair.
- 2.2 Following discussion between Adults' Services and the Independent Living Association a protocol for Indirect Payments was drawn up. This proposed an adaptation of the existing Direct Payments scheme in which the Local Authority entered into an agreement with a person (an 'agent') acting for a service user who lacked capacity. The agent would undertake to receive the money and use it to arrange the required services making choices with the service user.
- 2.3 A pilot scheme was undertaken with up to six people, with a view to considering whether a change in policy should be recommended. It is noted that the Green Paper, 'Independence, Wellbeing and Choice', describes the Government's intention to extend the range of means by which Local Authorities can enable people to exercise choice and control of social care services and Indirect Payments is one of the options considered.
- 2.4 To date the Indirect Payment pilot has been used by five people and this has given the opportunity to test out a new way of working, provide an evidence base and identify issues to be addressed.
- 2.5 The conclusion of the pilot is that Indirect Payments will extend the benefits of control, choice and flexibility associated with Direct Payments in situations where people are currently ineligible. Appendix 1 identifies a number of lessons and practical issues arising from the pilot and arrangements are already in hand to address these matters so that the scheme is more

workable and so that Social Workers have a clearer framework and set of criteria within which to operate the scheme.

- 2.6 There is no specific statutory power through which the County Council may implement indirect payments, nor is there any rule which prohibits the introduction of such arrangements. The Government is clearly intending to introduce a power in the future. In the meantime, the County Council will rely upon the general "well-being" power of the Local Government Act 2000.

3. Proposals

- 3.1 Once the practical issues identified in the recommendations set out in Appendix 1 have been settled, it will be possible to make indirect payments more widely available and it is this which this report is recommending.
- 3.2 It is proposed that the County Council uses the provision of "well-being" powers set out in the Local Government Act 2000 whereby the County Council may implement any policy which is considered to be for the benefit of the general well-being of the community, provided there is no legal rule prohibiting such a decision. It is suggested that this report explains how the overall benefit to those with community care needs is enhanced by the implementation of a scheme for indirect payments.

4. Consultation

- 4.1 Feedback on the experience of the Indirect Payments pilot has been received and the comments, which fall into two categories - the process and the actual use of these payments, have been noted and addressed.
- 4.2 The Adults' Services Select Committee considered the results of the pilot at its meeting on 30th September, where the proposal to adopt the pilot as a policy direction for West Sussex Adults' Services was endorsed.

5. Resource Implications

- 5.1 Administering an Indirect Payments scheme is not significantly different from administering the existing Direct Payments scheme. It can therefore be achieved without additional resources, except where there would be an issue of capacity if large numbers of people were referred. This will be monitored.

6. Risk Management Implications

- 6.1 It will be necessary to monitor the extent and nature of referrals in order to ensure that the practical problems arising through the pilot are addressed and in order to ensure that the service has the capacity to meet demand. A key factor will be the assessment of the suitability of agents who will manage the service user's funds, and a need to strike a balance between independence and control over the quality of what is paid for.

7. Crime and Disorder Act Implications

- 7.1 Not applicable

8. **Human Rights Act Implications**

- 8.1 The emphasis of the policy is on the need to plan services that give greater choice and control and are in the best interests of those using services both now and in the future. Article 8 (the right to respect for private family life and home) is of direct relevance to the values which this policy seeks to support.

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No background papers

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