

# EXECUTIVE MEMBER DECISION



**REPORT OF:** Executive Member for Health and Adult Social Care

**LEAD OFFICERS:** Director of Adult Social Services (DASS)

**DATE:** 7<sup>th</sup> December 2018

**PORTFOLIO/S AFFECTED:** Health and Adult Social Care

**WARD/S AFFECTED:** All

**SUBJECT:** Commencement of a Tendering and Procurement Activity to commission Self Directed Support Services under a dynamic purchasing framework.

## 1. EXECUTIVE SUMMARY

This paper sets out a series of recommendations whilst also providing an summary of historic arrangements with regards to the commissioning of Self Directed Support Services.

It is recommended that the Blackburn with Darwen Borough Council (BwDBC) commissions a newly agreed Dynamic Purchasing System (DPS) which is similar to a framework agreement. This system includes the following features: -

- New suppliers can join the DPS at any time as long as they meet the specified criteria
- Entry to and exit from the DPS will be managed completely via an electronic process
- BwDBC as the contracting authority will not impose any limit on the number of suppliers that may join the DPS
- All prospective suppliers must be assessed by BwDBC as the contracting authority within 10 working days of their application once it has been established for the first time.

By tendering a DPS our local provision can be aligned to a series of refreshed service specifications which will meet local and national requirements and of the Better Care Fund and the Care Act 2014 Compliant, whilst improving overall outcomes for people who reside in Blackburn with Darwen (BwD).

It is necessary under procurement legislation that a full tender exercise be completed for Self-Directed Support. The procurement exercise will seek to secure a sustainable viable service and increase the capacity of quality assured providers, whilst at the same time allowing flexibility and responsiveness to changing levels and types of need.

## 2. RECOMMENDATIONS

1. To approve the request to commence a tendering and procurement process to offer this service to the wider market through a Dynamic Purchasing framework, for a contract period of two years plus the option to extend for up to a further two years. This will commence in April 2019.

### **3. BACKGROUND**

From April 2011, every person starting to receive on-going council funded support should have been offered the option of receiving this via a personal budget, and by April 2013, all people eligible for such support; both new and ongoing; -should have been offered the option of a personal budget. This personal budget could then be used to ask the Council to purchase support on their behalf or take as a direct payment.

This process became a duty through the 2014 Care Act which states that councils need to assign a personal budget to all people who are eligible for support so they can have more control over their support. The personal budget is the amount of money needed to cover the cost of the support for which a person is eligible. The process which underpins this is through a social care assessment which identifies the areas of support aligned to the care Act 2014 with which individuals require support.

All people who are eligible for support from their council are then given a support plan which explains what support they need, how this support will be arranged, and an indicative budget as to how much the support will cost. People are invited and encouraged to be involved in writing up their support plan as much as possible, so that it makes sense to them and reflects their views and wishes.

And as many people as possible who are eligible for support should then be offered the chance to receive a direct payment which they can then use to arrange and pay for their care and support themselves, so that they can stay in control of their care arrangements and in control of their lives.

In order to support the use of a dynamic purchasing system updates have been made to policies and procedures as detailed below.

#### **a. Overarching Self Directed Support Policy Statement**

The updated 2018 Policy statement is Care Act compliant and reflects the Council's position on the principles of this approach which encourages service users to adopt strength based and personalised approach to their care and support needs. The statement explains the key components of personal budgets, eligibility and the process by which service users will be encouraged and enabled to take control of their support plan.

In addition the statement sets out the responsibilities both for the Council as well as service users in both using the personal budget flexibly whilst discharging council finances appropriately and with due safeguards for all parties.

The statement outlines the three main ways a recipient can use their personal budget-

- a. A managed account held by the local authority
- b. A managed account held by a third party (this is in development locally)
- c. A direct payment

Finally the statement makes clear reference to the step through the reablement process which all clients are encouraged to take, particularly those looking to take up a direct payment.

#### **b. Direct Payments Policy 2018**

The updated 2018 Policy is also Care Act compliant and builds on the principles of the Policy statement. The Policy sets out the step by step process and legal context to the provision and management of direct payments which is the system whereby a personal budget is directly managed by a user or representative on their behalf and how issues of capacity, for example, are managed

during the process.

This responsibility is underpinned by the new DPS of providers (detailed separately below) which will provide information, advice and systems to enable the direct payment recipient to manage and evidence the correct use of monies.

Social workers and other relevant officers are reminded of their responsibilities to provide the support plan and indicative budget to enable potential recipients to plan how they will arrange their support and the information and advice given at various points of the process are made clear so that recipients are informed at all stages through the council and by reference to other organisations who can provide support.

An initial period of funding following a period of reablement wherever possible (rather than a set budget from Day 1) for new recipients is also being introduced which will be reviewed through a Promoting Independence review (PIR) within twelve weeks; this will reduce the number of reclaims and ensure where possible that the ongoing budget is reflective of need.

The Policy has clear guidance on the use of budgets to pay for agencies and personal assistants and reinforces the Council's position that, except in exceptional circumstances, recipients are expected to manage within their indicative budget or use their personal funds as a top up.

Importantly it also clearly defines the Council's position on the auditing and governance of the monies allocated in this way including the expectations on users to comply with certain obligations as a recipient so that the Council can be assured that monies are being used appropriately. A risk assessment process has been introduced to agree the regularity of financial monitoring based on the direct payment amount and other factors eg if the recipient is new to the process.

The Policy now reflects the audit and assurance recommendations set out from the Audit and Assurance 2017/18 Personalised Budgets Report.

The final Policy, once signed off, will be introduced later in 2018.

### **c. Dynamic Purchasing System**

In order to stimulate this important market and increase choice, quality and flexibility it is recommended that a dynamic purchasing system be established in the following six areas within a costing framework.

1. Support planning and brokerage
2. Managed account service
3. PA recruitment and a Disclosure and barring service
4. Payroll service
5. Ongoing employer support

This will have a number of benefits including-

- Encourage market development especially for small, voluntary, third sector and social enterprise organisations which will stimulate the market and provide greater choice to the DP user.
- More specialised advisory services that help people to explore options including peer support, use of charities and specialist organisations e.g. dementia as well as peer support and experts by experience
- Ensure comprehensive and impartial information and advice is available
- Service user choice
- Underpin the auditing and oversight of direct payments and greater assurance by encouraging the take up of a managed account

- Provide strength based and personalised services which encourage community capacity building and the use of universal services
- Simplify systems and give maximum control to DP users
- Establish a level of quality standards and associated quality assurance through the DPS of accredited providers
- Standardise costings across the market and oversight at centre within the Department; currently a 'clawback' system is used for overpayments; this system would allow for a higher level of oversight and reduce or negate the need for such activity resulting in efficiencies for the Council.

An additional benefit is that the small team of in-house officers will be enabled to spend more time overseeing and reviewing direct payment packages, reducing the number and amount of reclaims and thereby providing a more accurate forecast of direct payment budget forecasting as well as timely reviews.

A service specification has been drawn up for the proposed service; this included the expected outcomes and quality standards to be delivered within a ceiling target price.

#### **4. KEY ISSUES & RISKS**

##### **Development of a mixed economy of providers for direct payments**

It is acknowledged that currently access to, and support to take up and manage a direct payment is, apart from the instances below, a council led function. Potential DP users are provided with a support and care plan through the social work assessment process and an indicative budget calculated through the framework price agreement linked to domiciliary care providers in the Borough.

At this point, if the individual requires further support planning or some level of brokerage, this can be provided by the in-house team or, more frequently local providers are charging the department a non-fixed rate (as there is no DPS in place) to provide this service.

The council has an implied contract with two payroll services; it would be advantageous to develop this market particularly along the lines of credit unions who can also provide wider financial advice and support to help people manage their general budgets.

In addition given that no pricing framework is currently in place apart from that established with the managed account organisations, self-directed support providers have been able to set their own fees and charges which has led to an increased cost to the department as users of direct payments are currently free to use any organisation they choose. By establishing cost and quality controls this situation will be addressed and equity established across providers.

#### **5. POLICY IMPLICATIONS**

There are no negative implications to current policy and indeed the specifications for services will support the policy directions around prevention, the promotion of independence; recovery and personalisation.

#### **6. FINANCIAL IMPLICATIONS**

Over the last twelve months there has been a steady increase in the number and cost of direct payment packages as below-

### March 2017

Number of clients 377 Weekly overall budget £103,000 average per person £273

### April 2018

Number of clients 395 Weekly overall budget £113,000 average per person £286

In order to support the growing take up of personal budgets and direct payments and to ensure the Council is compliant with the relevant aspects of the Care Act relating to self-directed support, a work-plan has been developed to achieve the 2018/19 Business Plan priorities.

The work-plan has also been cross referenced to good practice guidance eg the Think Local Act Personal (TLAP) minimum process framework.

## 7. LEGAL IMPLICATIONS

The tender process will need to comply with the EU procurement rules and the Councils Contract and procurement procedure rules and be sufficiently wide in scope to allow other interested organisations to benefit from the framework agreements if they chose to do so.

The DPS Contract will be in a form approved by Legal Officers in the Council's legal team.

## 8. RESOURCE IMPLICATIONS

The management and implementation of the tender will be undertaken by Blackburn with Darwen Strategic Commissioning Team.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

A consultation event will be held in September 2018 with all local providers.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

**12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	<b>Lynne Haworth – Adults Communities and Prevention</b>
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<b>DATE:</b>	18 <sup>th</sup> September 2018
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<b>BACKGROUND PAPER:</b>	
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