

Report to:	Cabinet	Date of Meeting:	4 February 2016
Subject:	Personal Budgets, Direct Payments Guidelines and Charging	Wards Affected:	(All Wards);
Report of:	Director of Social Care and Health		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	Yes
Exempt/Confidential	No		

Purpose/Summary

This report outlines the proposed approach to the development of the Personal Budgets within Sefton from 2016 - 2018.

The report also includes the presentation of Direct Payment Guidelines and highlights key issues in relation to charging and financial assessment.

Recommendation(s)

- i. Cabinet to agree the proposed Personal Budget Strategic Plan at Annex A, including the future proposed developments for Direct Payment and the review of the charging policy in respect of Personal Budgets.
- ii. Cabinet to agree to delegate the consideration of the Personal Budgets Strategic Plan operational delivery updates to the Cabinet Members for Adult Social Care and Children, Schools & Safeguarding where appropriate and receive further reports when financial impacts are identified.
- iii. Cabinet to agree to consolidate Direct Payment rates with current contracted Domiciliary Care rates, backdated to the date of the decision and the publication and implementation of the Direct Payments Guidelines 2016 at Annex B.
- iv. Cabinet to delegate authority to Cabinet Member - Adult Social Care, in consultation with Cabinet Member – Children, Schools and Safeguarding when necessary, regarding any discretion that might be applied in relation to significant reductions in Direct Payment to individual recipients as a result of iii above.
- v. Cabinet to approve the recommendation to consult on charging an arrangement fee for self-funders receiving non-residential services.
- vi. Cabinet to approve the proposal to start charging all new clients who receive a “non-residential” service from the date the service starts in line with Care Act 2014 Statutory Guidance.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		X	
2	Jobs and Prosperity		X	
3	Environmental Sustainability		X	
4	Health and Well-Being	X		
5	Children and Young People	X		
6	Creating Safe Communities		X	
7	Creating Inclusive Communities		X	
8	Improving the Quality of Council Services and Strengthening Local Democracy		X	

Reasons for the Recommendation:

Cabinet need to be aware of the legislative changes and the need for the further development and implementation of the Personalisation Strategy Action Plan that aligns to the changes to social care.

It has also been identified that as a result of the Personalisation Strategy there is a need to address the development of interlinked areas of work. These include Personal Budgets, Direct Payments and Charging.

Alternative Options Considered and Rejected:

Maintaining the status quo is not an option due to new legislation and demographic and budgetary pressures.

What will it cost and how will it be financed?

(A) Revenue Costs

To bring all Direct Payment rates in line with contracted Domiciliary Care rates, so that the Council can progress towards the future development of personal budgets, will cost approximately £170,000 in a full year. There will be a cost of approximately £33,000 in 2015/16 if rates are aligned from the date of this Cabinet decision. This will add an additional financial pressure to the Adult Social Care Budget which is currently overspent in 2015/16 and has a potential £6m funding gap in 2016/17.

In addition, when considering any future uplift to contracted Domiciliary Care rates, the additional cost associated with Direct Payments would need to be quantified. The contracted Domiciliary Care rates for 2016/17 are yet to be set and, despite very low levels of inflation, it is anticipated that an uplift will be necessary.

Education Health and Care plans and the development of personal budgets will give parents and carers greater control and flexibility on the funding assigned against the assessed needs of children. Although this report does not detail any specific revenue implications in relation to Education Health and Care plans for SEN children there will be

financial implications for children’s transport costs, respite and other Children with Disability Service areas.

The development of personal budgets may help to bring some costs down through the opportunity to explore new ways of service delivery i.e transport. It should be noted that the Children’s Services budget is currently in deficit in 2015/16 and should there be any changes to contracted rates for support services, this will add an additional burden to the Council and would need to be assessed in terms of cost and brought into the Council’s Medium Term Financial Plan.

(B) Capital Costs

Not applicable

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial	
Legal The Children and Families Act 2014 and the Care Act 2014 and subordinate legislation and statutory guidance.	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

Personalisation is a key concept underpinning the Care Act 2014 and Children’s and Family Act 2014. The Acts represents the most significant change in Social Care in recent years. The focus is for a local authority to provide, or arrange provision of, services, facilities or resources that help an individual avoid developing care and support needs, by maintaining independence and good health and promoting wellbeing.

The impact of the Personalisation Strategy will ensure that service delivery is person centred and monitored. It has also been identified that as a result of the Personalisation Strategy there is also a need to address the development of interlinked areas of work. These include Personal Budgets, Direct Payments and Charging. All these developments will impact on service delivery and will need to be supported by appropriate learning and development, processes and procedures for all staff.

What consultations have taken place on the proposals and when?

The Chief Finance Officer (FD.3994/16) and the Head of Regulation and Compliance (LD.3277/16) have been consulted and any comments have been incorporated into the report.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting.

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Background Papers:

None

1. Introduction/Background

- 1.1 Under the Care Act, everyone whose eligible assessed unmet needs are met by the Council must receive a Personal Budget as part of their support plan. In relation to children a Personal Budget is an amount of money identified by the local authority to deliver parts of the provision set out in an Education, Health and Care (EHC) Plan.
- 1.2 The personal budget is the mechanism that, in conjunction with the care and support plan or EHC plan, enables the person, and their advocate if they have one, to exercise greater choice and take control over how their care and support needs are met. It means:
- Knowing, before care and support planning begins, how much money is available to meet eligible, assessed needs and having clear information about the proportion the local authority will pay, and what amount (if any) the person will pay.
 - Being able to choose from a range of options for how the money is managed, including direct payments, the local authority managing the budget and a provider or third party managing the budget on the individual's behalf (an individual service fund), or a combination of these approaches.
 - Having a choice of over who is involved in developing the care and support plan for how the personal budget will be spent, including from family or friends.
 - Having greater choice and control over the way the personal budget is used to purchase care and support, and from whom.
- 1.3 The personal budget is an important tool that gives the person clear information regarding the money that has been allocated to meet the needs identified in the assessment and recorded in the plan.
- 1.4 An indicative amount should be agreed with the person, and anybody else involved, at the start of care and support planning, with the final amount of the personal budget confirmed through this process. The detail of how the personal budget will be used is set out in the care and support plan, or EHC plan.
- 1.5 Development work outlined in this report includes;
1. Implementation of a Personal Budgets Strategic Plan and the associated Direct Payments Guidelines.
 2. Further review of all rates paid – following on from the implementation of Direct Payment Guidelines.
 3. Review and develop processes around Personal Budgets and Direct Payments including how cases are recorded on the Liquid Logic system and information and advice given.
 4. Greater alignment of the Direct Payment processes between Adult Social Care and Children's Services.

2. Personalisation Strategy

2.1 Sefton Council is committed to delivering Social Care in accordance with the Personalisation Strategy. Its approach will always be based on helping people to help themselves and in so doing to promote progression and maximise independence.

2.2 Sefton's Personalisation Strategy is focused on six key objectives aligned to the Borough's Health and Wellbeing Strategy:

1. Ensure all children have a positive start in life.
2. Support people early to prevent and treat avoidable illnesses and reduce inequalities in health.
3. Support older people and those with long term conditions and disabilities to remain independent and in their own homes.
4. Promote positive mental health and wellbeing.
5. Seek to address the wider social, environmental and economic issues that contribute to poor health and wellbeing.
6. Build capacity and resilience to empower and strengthen communities.

3. Personal Budgets Strategic Plan 2016 - 18

3.1 The development of the Personalisation Strategy for Sefton, which was approved in August 2015, included actions around the review of the direct payments process and also the development of an overall Personal Budgets approach for the local authority.

3.2 The attached Personal Budgets Strategic Plan outlines the following objectives:

- Review Sefton's Direct Payment processes – whole system approach.
- Provide enhanced and expanded choice for Personal Budgets for Sefton citizens.
- Monitoring and audit of Personal Budgets is delivered to a high standard.
- Provide whole system approach to Personal Budgets and Personal Health Budgets for both adults and children.
- The calculation of the Personal Budgets is clear and transparent.

3.3 The Strategic Plan also identifies actions, outcomes and accountability.

3.4 Cabinet are asked to endorse the Strategic Plan and delegate the resulting operational delivery updates to Cabinet Member where appropriate and receive further reports when/where financial impacts are fully identified.

4. Adult Direct Payment Guidelines

4.1 Direct Payment Guidelines attached to this report outline the current practice within Sefton for adult recipients. This document is a consolidation of current documentation to provide clarity on processes and rates for both Council and Service Users. Key points of clarification within this document are:

- Purpose
- Definitions

- Legal context
- Associated policies
- Informing people, promoting choice and advocacy
- Who can receive direct payments
- Conditions for receiving direct payments
- Declining a request for direct payments
- Using direct payments
- What direct payments cannot be used for
- Managing direct payments
- Direct payment recipients as employers / Disclosure and Barring Services
- Payment of direct payments
- Integrated direct payments
- Direct payments agreement
- Monitoring and review of direct payments
- Discontinuing direct payments / requiring repayment

4.2 At this present time Personal Budgets in Sefton are offered via a Direct Payment for the following;

Service Type	How Payments are Calculated
Homecare / Community Support	Based on assessed number of hours. Rates paid are based on the Domiciliary Care contract geographical areas and the hourly rates paid under contracts as at 1 st April 2012
Carers Support at Home	One-off payment based on up to 25 hours of care/support. Rates paid are based on the Domiciliary Care contract geographical areas and the rates paid under contracts as at 1 st April 2012
Day Care	Rates are paid per day – based on dependency level of the Service User. <ul style="list-style-type: none"> • Low Dependency • Medium Dependency • High Dependency
Respite	Paid for Residential and Nursing Care. Rates are based on historic care home rates.
Carers one-off Payment	One-off payment to purchase equipment or a break to support the carer in their role

4.3 Currently, for Direct Payments for Homecare and Community support there are in the region of 800 Adult Social Care Service Users. In many existing cases and all new cases, the rates paid are based on the 2012 rates for the area in which they reside in. However, there are some historic cases where rates paid are based on different rates, as these payments commenced when Direct Payments were

established and a formal decision to align them with the domiciliary care rates had not been taken.

- 4.4 In addition, for all new Direct Payment cases, Service Users are required to sign the new Direct Payment agreement, which clarifies their responsibilities, relating to having in place Employers & Public Liability Insurance and also their responsibility for making any redundancy payments to staff they have employed.
- 4.5 With respect to rates paid for Homecare, Community Support and Carers Support at Home, the area-specific rates paid have not changed.
- 4.6 The implementation of this guidance will result in the consolidation of current Direct Payment recipients onto current practice and provide a clear framework for new recipients.
- 4.7 As a result of the Care Act and operational issues there is now an impetus to reconcile the system before the Council can progress towards the future development of Personal Budgets and Direct Payments processes including any change of payments
- 4.8 Cabinet are asked to endorse this consolidation of Direct Payment practice and process, presented in the guidelines to provide clarity to Council and Service Users and approve its publication.

5. Future Direct Payment Development

5.1 Immediate Work Proposals (January 2016 – April 2016)

In order to ensure that Sefton is Care Act compliant and to ensure that the differences highlighted above, relating to rates paid and agreements, are addressed the following actions are proposed;

1. Review all current Direct Payment Service Users so that;
 - a. Care Act requirements are met.
 - b. They are 'transferred' onto the current area-specific rates.
 - c. They are 'signed up' to the new Direct Payment agreement.

Implementing these proposals will be undertaken as part of the re-assessment process. Service Users and/or their advocates will require an explanation of the new agreements and changes to the rates, as it will most likely mean that the Service Users whom are on the historic rates will receive a positive or negative adjustment to the amounts paid to them.

5.2 Further Work Proposal (Post April 2016)

The proposal, post April 2016, is to continue to align the area-specific Direct Payment rates so that they mirror rates paid to contracted Domiciliary Care providers, including any agreed annual uplift.

- 5.3 Continue the work relating to the pilot project for Pre-Paid Cards and the potential procurement of a permanent solution should the pilot identify that this would contribute to the improved delivery of Direct Payments.
- 5.4 Review of rates and potential continued alignment to contracted Domiciliary Care provider rates. Going forward Personal Assistant rates may also need to be determined and take into account the wider issue of the potential impacts of the implementation of the new national Minimum / Living Wage.

6.0 Charging and Review of Financial Assessments

6.1 Self funders (admin charge)

The Care Act enables self-funders i.e. those with capital above £23,250 (2015-16 rate) with eligible needs to ask a local authority to arrange their care, thereby allowing them to access authority provider rates. The Care Act permits local authorities to charge an 'arrangement fee' for putting the necessary arrangements in place for non-residential services.

- 6.2 The arrangement fee could either be a flat rate fee based on an average cost to arrange a service, or a variable fee based on the actual work involved, but should not include any profit (Care Act 2014 Statutory Guidance paragraphs 8.57 and 8.58).
- 6.3 The Council has identified that there are 67 self funders receiving non-residential services.
- 6.4 It is proposed that the Council approves the commencement of consultation regarding introducing an arrangement fee for self funders who receive non-residential services.

6.5 Next steps for self funders

- Due to the small numbers involved, the Council will take a light-touch approach to consulting on a proposed arrangement fee.
- A paper will be presented to Sefton Public Engagement and Consultation Panel, with the intention of inviting self funders to a forum to discuss the proposed arrangement fee.
- For benchmarking purposes work has begun in gathering information from other Councils on the level of their arrangement fee.

6.6 "Non-residential" charging process

When a new financial assessment is carried out for "residential services", any charge is backdated to the date when the service started, however, charges for "non-residential" have not been backdated to the start of the service. Instead they have been implemented from the Monday following the financial assessment. This was informed by an ombudsman decision re Kent Council on the 24th May 2013.

The implementation of the Care Act 2014 has clarified the position in regards to Local Authority powers to charge for "non-residential" services which means that charges can now be made from the date when services start. Should there be an

unreasonable delay in Council staff carrying out the financial assessment then it would not be reasonable to back-date the charge.

6.7 Next steps for “non-residential” charges

- It is proposed that the Council starts to charge all new clients who receive a “non-residential” service from the date the service starts.
- As this will have no impact on existing clients, who already receive a service, a full consultation exercise is not required.

6.8 It is intended that a paper will be presented to Sefton Public Engagement and Consultation Panel, regarding this proposal.

6.9 Review of existing charging policy

As part of the implementation of Personal Budgets it is intended that the Council’s charging policy be reviewed to ensure that it is compliant with the Personalisation Strategy. It is proposed that approval is granted, to allow Officers with responsibility for the Financial Assessment service, to proceed with the review of the charging policy.

7. Risk and Challenges

7.1 Risks will be mitigated by the following;

- Stabilising the delivery of Adult Social Care services through the implementation of efficient processes and procedures to enable Sefton to meet its duties under the Care Act.
- Provision of an effective structure and plan for the Sefton workforce to enable the staff to perform at their optimum in relation to policies and procedures.
- Provide a basis for delivery, and provide supporting evidence to counter challenges and complaints.
- Provision of a non-fragmented service for Service Users and Carers by providing a comprehensive ‘offer’ around Personal Budgets and Direct Payments.

8.0 Policy Change, Communication, Consultation & Engagement

8.1 The Care Act 2014 and Children’s and Families Act 2014 make considerable changes to the law and practice around Social Care. However, it is important to note that the care system is developing not changing, in the sense that the legislation builds on current practice, adjusts it and embeds best practice in the law. The Council will review and update its policies and guidance in light of these changes in a way that will continue to meet assessed need.

8.2 The need for consultation and engagement is dependent on each policy and guidance area and the nature of any service change as a result. Therefore, where

significant change is applicable an appropriate level of consultation with key stakeholders will be undertaken.

- 8.3 A presentation to the Consultation and Engagement Panel will ensure that due process is followed. Effective engagement will ensure that any effects on Sefton citizens of potential policy developments are understood and communicated in a transparent way.

9.0 Equality Act 2010 Duty and Impact Assessments

- 9.1 As the Council puts actions into place to deliver the elements of the legislative changes there is a need to be clear and precise about processes and impact assess any potential changes, identify any risks and mitigate these as far as possible. Where any equality implications present, the impact assessments, including any feedback from consultation or engagement where appropriate, will be made available in compliance with the Equality Act 2010.

10.0 Conclusion

- 10.1 With regard to delivering and implementing the new legislation the scale and pace of the change required cannot be underestimated. The Council needs to identify, develop and implement new models of care and the potential associated impact on the community will require appropriate capacity to deliver change.
- 10.2 The combined impact of demographic pressures, new policy and statutory requirements present a significant challenge that requires a sustained and robust Council wide response with continued engagement with key stakeholders and partners. This will require the Council to develop solutions which ensure people remain independent for as long as possible; support carers to continue caring; encourage people to plan in advance for their care needs; and promote wellbeing, independence and community inclusion. Only a strategic approach can mitigate the demand and financial pressures that will continue to be faced by Social Care.