

SOCIAL CARE & HEALTH SCRUTINY COMMITTEE
25TH SEPTEMBER, 2018

SUBJECT:
CARMARTHENSHIRE COUNTY COUNCIL DIRECT PAYMENTS
POLICY

Purpose:

The direct payments policy has been updated in line with changes in legislation, namely the Social Services and Well-being (Wales) Act 2014.

To consider and comment on the following issues:

To recommend to Executive Board the approval of the amended policy; a summary of the substantive changes made to the previous policy are set out below.

Reasons:

The Social Services and Well-being (Wales) Act 2014 came into force on 6th April 2016, as did the Care and Support (Direct Payments)(Wales) Regulations 2015. As a result, Carmarthenshire County Council has revisited its previous direct payments policy (which was a three Counties policy across Carmarthenshire, Pembrokeshire, and Ceredigion) and amended it to reflect changes made by the aforementioned legislation. Carmarthenshire County Council has decided to initially propose that the new policy be a Carmarthenshire County Council direct payments policy. However the contents of this new policy has been shared with Pembrokeshire County Council and Ceredigion County Council.

To formulate views for submission to Executive Board/Council for consideration.

To be referred to Executive Board/Council for decision: YES

Executive Board - 22nd October, 2018

County Council - 14th November, 2018

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:-

Cllr. J. Tremlett (Social Care & Health Portfolio Holder)

Directorate
Communities

Designations:

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EXECUTIVE SUMMARY
SOCIAL CARE & HEALTH SCRUTINY COMMITTEE
25TH SEPTEMBER, 2018

SUBJECT
CARMARTHENSHIRE COUNTY COUNCIL'S DIRECT PAYMENT POLICY

Introduction

Direct payments are a means by which individuals with eligible care and support needs, can purchase their own services to meet those care and support needs. In essence the local authority gives the direct payment recipient a sum of money, which is equivalent to the estimate of the reasonable cost of the service they would have been provided with. Direct payments are an alternative to receiving services arranged or provided by the local authority. They are designed to give the recipient greater control and choice over how their care and support needs are met.

The local authority has a legal obligation to offer direct payments to anyone who has eligible care and support needs.

Direct payments are not a new concept, although it would be fair to say that in recent years the profile of direct payments has become more prominent.

Carmarthenshire County Council has previously had a direct payments policy which had been a regional 3 Counties direct payment policy, across Carmarthenshire, Ceredigion and Pembrokeshire.

In light of changes brought in on 6th April 2016 by the Social Services and Well-being (Wales) Act 2014 it became necessary to amend the existing 3 Counties direct payment policy. Initially Pembrokeshire County Council were going to amend the policy, however by January 2017, Carmarthenshire County Council took the lead in amending the policy.

As a result, the enclosed direct payments policy, reflects amendments required by the Social Services and Well-being (Wales) Act 2014, the Care and Support (Direct Payments) (Wales) Regulations 2015 and the Part 4 Code of Practice to the Social Services and Well-being (Wales) Act 2014.

Set out below are a summary of the main changes to the previous 3 Counties policy.

Main changes to Policy

- As stated above the previous policy was a 3 Counties direct payment policy. Whilst Carmarthenshire County Council remains committed to working in partnership across the region, and has consulted with both Pembrokeshire County Council and Ceredigion County Council on the amended contents of the enclosed policy, the Policy is currently only a Carmarthenshire County Council policy, which can be adopted by the other Councils at a later date. It was considered essential to have an up to date direct payments policy as soon as possible, particularly as a recent internal audit identified a concern about the fact the previous policy was out of date.
- The previous Policy was also intended to be a practitioner guide, so it was entitled 'policy and practice guidance.' However that policy, like the current policy, is a substantial document, which does not work particularly well as a practice guide for practitioners. Practitioner's need easily accessible material to refer to, in order to aid them in their day to day practice. As a result, Carmarthenshire County Council has developed separate practice guidance for staff, and the new policy is no longer also a practice guide for staff.
- The new policy reflects certain changes made by recent legal developments, for example it reflects the fact that a person receiving direct payment can use the direct payment to purchase a service from the local authority, or use the direct payment to purchase a care home placement. Whilst the Council does not expect that individuals will regularly choose to do this, the policy reflects the fact that they can.
- The new policy reflects, a change in approach in the law, towards using a direct payment to employ a family member in the same household, to meet the person's care and support needs. Previous legislation only allowed this to happen in exceptional circumstances. However recent changes in legislation mean that unless it does not promote the well-being of the direct payment recipient, there is nothing preventing a family member living in the same household being employed by the direct payment recipient to provide for their care and support needs.
- Previously Carmarthenshire County Council provided carers grants, which were small sums of money to address emergency situations e.g. if the washing machine, which the unpaid carer used to wash the person they were caring for's clothes, broke down; the grant could be quickly accessed to support the carer in their caring role. However the Social Services and Well-being (Wales) Act 2014, in general terms, prevents local authorities giving sums of money, unless they are through a direct payment. Therefore the carers grant has been changed to a specific type of direct payment, called the Carers Exceptional Circumstances Direct Payment, to mirror the purpose of the previous carers grant.
- Carmarthenshire County Council has slightly changed its approach to requiring Disclosure and Barring Service checks for individuals that the direct payment recipient intends to employ. Whilst the local authority supports the individual's right to choose to

employ whoever they want to meet their care and support needs through a direct payment, it is believed that it is important that the direct payment recipient should make an informed choice. As a result, Carmarthenshire County Council are making it a requirement for all direct payment recipients to obtain a disclosure and barring service check of any criminal convictions of the person they are proposing to employ to meet their care and support needs. This approach aligns with the approach of all of the other local authorities in Wales.

- Under the previous policy when a person moved to another County in Wales, Carmarthenshire County Council would continue to provide a direct payment for an additional period of time to allow the new local authority time to assess the person's needs. This was a reciprocal arrangement which was in place with most local authorities, but was not a legal requirement. In light of changes in the law, if a person is thinking of moving to a new local authority in Wales, Carmarthenshire County Council should inform that new authority, and the new authority should assess the person's needs before they move. In light of this, the agreement to continue to fund someone when they move to a new local authority is no longer necessary.
- Carmarthenshire County Council previously had one direct payment agreement for the recipient to sign, as a means of entering into a contract with the local authority for the provision of such payments. However given that some people will not have mental capacity to enter into such agreements, the Council has developed a slightly different second agreement for individuals who have authority to act on the incapacitated person's behalf i.e. Lasting Powers of Attorney and Deputies.
- Finally in accordance with existing practice, Carmarthenshire County Council has acknowledged that where a personal assistant to a direct payment recipient, is required to regularly take that direct payment recipient on journeys which exceed 3 miles, an additional allowance to be provided to cover those additional travelling costs.

OTHER OPTIONS AVAILABLE AND THEIR PROS AND CONS

- Leave the previous direct payments policy in place, which will not be in compliance with the current legal requirements, which has already been identified as such in a previous internal audit.

DETAILED REPORT ATTACHED ?

Yes - Policy attached.

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Neil Edwards** Interim Head of Integrated Services

Policy, Crime & Disorder & Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

1. Legal

The enclosed direct payments policy has been amended in accordance with the provisions of the Social Services and Well-being (Wales) Act 2014 and the Care and Support (Direct Payments) (Wales) Regulations 2015. If the updated direct payments policy is not adopted, and the Council continues to adopt the previous policy, it will not be in compliance with the current legislative framework.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: **Neil Edwards** Interim Head of Integrated Services

1. Local Member(s) - N/A

2. Community / Town Council – N/A

3. Relevant Partners - the contents of this new policy has been shared with Pembrokeshire and Ceredigion County Council.

4. Staff Side Representatives and other Organisations - N/A

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Carmarthenshire County Council Direct Payments Policy		See attached.