

**Time and Date**

9.30 am on Wednesday, 4th July, 2018

Place

Diamond Room 2 - Council House

Public Business

1. **Apologies**
2. **Declarations of Interest**
3. **Minutes** (Pages 3 - 4)
 - a) To agree the minutes of the meeting held on 29th March, 2018
 - b) Matters arising
4. **Managing Care Market Failure** (Pages 5 - 28)

Report of the Deputy Chief Executive (People)
5. **Review of the City Councils Direct Payment Policy 2018** (Pages 29 - 54)

Report of the Deputy Chief Executive (People)
6. **Outstanding Issues** (Pages 55 - 58)

Report of the Deputy Chief Executive (Place)

Private business

None

Martin Yardley, Executive Director, Place, Council House Coventry

Tuesday, 26 June 2018

Note: The person to contact about the agenda and documents for this meeting is Michelle Rose Tel: 024 7683 3111 Email: michelle.rose@coventry.gov.uk

Membership: Councillors F Abbott (Cabinet Member)

By invitation Councillors T Mayer (Shadow Cabinet Member)

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting
OR if you would like this information in another format or
language please contact us.

Michelle Rose

Tel: 024 7683 3111 Email: michelle.rose@coventry.gov.uk

Coventry City Council
Minutes of the Meeting of Cabinet Member for Adult Services held at 10.00 am on
Thursday, 29 March 2018

Present:

Members: Councillor F Abbott (Cabinet Member)

Other Members: Councillor T Mayer (Shadow Cabinet Member)

Employees (by Directorate):

People	S Caren
Place	M Rose

Public Business

25. Declarations of Interest

There were no Disclosable Pecuniary Interests.

26. Minutes

The minutes of the meeting held on 26th January, 2018 were agreed and signed as a true record.

27. Renewing the Section 75 Partnership Agreement for Mental Health Services

The Cabinet Member considered a report of the Deputy Chief Executive (People) regarding renewing the Section 75 (S75) Partnership Agreement for Mental Health Services.

This report sought permission to extend the existing Section 75 Partnership Agreement with Coventry and Warwickshire Partnership Trust (CWPT) for the delivery of integrated mental health services. The City Council entered into a Section 75 agreement on 1 April 2014 following Cabinet approval initially for a three year period but with provision for annual extensions. The agreement was extended from 1 April 2017 for a period of 12 months and this report sought permission for a second extension of this agreement for a further 12 months.

The Section 75 Partnership Agreement provided the legal framework to underpin joint working in Adult and Older People's Mental Health Services. Under this framework, joint Health and Social Care teams delivered mental health services from a single line management structure led by CWPT with designated Council staff seconded, and the delegation of specific social care duties. Although the service delivery elements were integrated the financial responsibilities for health and social care remain separate with this separation to continue under the extended agreement.

Coventry City Council, Warwickshire County Council and CWPT remained committed to integrated working practices as a means for delivering joined up support to people with mental ill health across Coventry and Warwickshire, the

S75 agreement continued to provide a suitable vehicle through which to deliver this.

Over the period of the previous extension a formal review of the agreement was undertaken. In summary the review had concluded that whilst there were pressures within the service that need consideration in order to enable staff and managers to deliver the integrated health and social care service and maximise the unique contribution each professional brings it remained the most appropriate way to deliver services in the City.

As an outcome of the review it was considered that seeking to continue the S75 arrangements as opposed to dissolving this and returning to single agency arrangements for mental health services was preferable. There were however a number of matters that arose within the review that needed to be addressed prior to committing to a new and longer term arrangement. The further 12 month extension enabled these changes to be made and then embedded in a revised S75 agreement from 1 April 2019.

The Cabinet Member and Shadow Cabinet Member discussed the following areas with the officer present:

- Contract options
- Partnership working
- Data

RESOLVED that the Cabinet Member

1. **Approve that Coventry City Council extends the existing Section 75 partnership arrangement to provide Integrated Health and Social Care Secondary Mental Health Care Services commencing 1 April 2018 for a 12 month period.**
2. **Approve the progression of the improvement actions identified as a result of the review with a view to, subject to satisfactory progress being made entering into a new S75 agreement from April 2019**

28. **Outstanding Issues**

The Cabinet Member considered a report of the Deputy Chief Executive (Place) that contained a list of outstanding issue items that would be submitted to future meetings and summarised the current position in respect of each item.

RESOLVED that the Cabinet Member for Policing and Equalities approves the future consideration of matters relating to the outstanding issue items listed in the report.

29. **Any other public business which the Cabinet Member decides to take as a matter of urgency because of the special circumstances involved.**

There were no other items of public business.

(Meeting closed at 10.30 am)



04 July 2018

Cabinet Member for Adult Services

Name of Cabinet Member:

Cabinet Member for Adult Services – Councillor Abbott

Director Approving Submission of the report:

Deputy Chief Executive (People)

Ward(s) affected:

All

Title: Managing Care Market Failure

Is this a key decision?

No. Although this matter affects all wards in the City, the impact is not expected to be significant

Executive Summary:

The Council is committed to ensuring that it commissions or delivers the best quality services possible within the available resources.

A key requirement of the Care Act (2014) is a duty on local authorities to ensure safe and sustainable care and support provision through effective market shaping. In addition local authorities are required to have plans in place to be used should there be failure of either a single provider organisation or a number of organisations.

The Council's approach addresses market/provider failure in relation to social care provision. This includes services that may also cater for people supported solely through the NHS through, for example, using Continuing Health Care funding.

Services covered include provision regulated by the Care Quality Commission e.g., nursing and residential homes, housing with care and home support agencies and non-regulated services such as day opportunities and community meals suppliers.

The approach is not intended to cover provision which is commissioned by the NHS such as hospitals and community health services.

In order to meet its legal duties in respect of Market Failure the Council developed a process for responding to situations ranging from large scale disruption including failure of a major care provider affecting many service users to smaller scale difficulties such as the temporary unavailability of a particular service, for example, a small care home affected by flood or fire. This

process was endorsed by the Cabinet Member for Health and Adult Services on 14th December 2015.

The Care Quality Commission (CQC) has a parallel responsibility for maintaining a Market Oversight regime designed to respond to significant care market failures likely to affect large numbers of vulnerable people in multiple authorities or smaller numbers supported in services that are very specialist and therefore difficult to replace. The Council works closely with CQC to ensure appropriate sharing of intelligence and alerts around the potential for market failure.

There have been three exits from the local market over the last 3 years (two care homes and 1 home support provider) from a total of around 120 registered services, however, these have all been small scale and well managed in cooperation with the agencies involved along with CQC and Coventry and Rugby Clinical Commissioning Group (CRCCG) colleagues.

However, the Local Government Association (LGA), Association of Directors of Social services (ADASS), CQC, Local Authorities and care market organisations recognise an ongoing risk around the potential for major market failure given well documented concerns about financial sustainability of the market in the context of ongoing austerity.

In September 2017 The Association of Directors of Adult Social Services (ADASS) produced a guide for local authorities in respect of regional responses to provider failure outlining key principles, and a checklist of prompts and questions for Regions to use in the event of market failure.

This was followed in May 2018 by a briefing designed by ADASS in conjunction with the Local Government Association (LGA) and including a series of top tips for responding to market failure in the context of 3 priorities i.e.

- *Ensuring continuity of care and support for people using the services*
- *Supporting the failing provider to retain its workforce*
- *Communicating with service users and their relatives to provide reassurance that continuity of care is the priority*

The Council's proposed contingency planning approach has been updated to reflect this additional guidance and ensure that our approach remains robust in the context of a changing landscape.

Recommendations:

Cabinet Member is recommended to approve the updated contingency plan to be used in cases of market failure.

List of Appendices included:

Appendix One Market and Provider Failure Approach

Background papers:

None

Other useful documents

ADASS/LGA Guidance

[‘Care and Continuity: Contingency planning for provider failure’](#)

ADASS: Provider Failure and Emergency Incidents
[Checklist for regional response](#)

ADASS/LGA Guidance
[‘Contingency planning tips for the business failure of a major social care provider’](#)

Ensuring the Quality of Care and Support in Adult Services.

Report to Cabinet Member for Health and Adult Services –14th December 2015

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

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Report title: Managing Care Market Failure

1. Context (or background)

- 1.1 The Council is committed to ensuring best value in its commissioning and procurement and requires on-going assurance that the quality standards for care and support outlined in its service specifications and contracts continue to be met. This includes requirements for individual outcomes to be delivered by providers working with service users and their families with dignity and respect being central to the quality of services.
- 1.2 A requirement of the Care Act 2014 is that local authorities must develop their local knowledge in respect of potential provider failure, and focus, where appropriate, on supporting providers at risk of failure. Local authorities are also required to have plans in place to manage exits from the market to ensure continuity of care. The Care Quality Commission (CQC) has parallel duties in relation to larger providers where provision spans several authority areas and there is a requirement for co-operation between CQC and local authorities. The report describes the approach taken to manage this requirement through contingency planning.
- 1.3 The Council's approach addresses market/provider failure in relation to social care provision. This includes services that may also cater for people supported solely through the NHS through, for example, using Continuing Health Care funding. Services covered include provision regulated by the Care Quality Commission e.g. nursing and residential homes, housing with care and home support agencies and non-regulated services such as day opportunities and community meals suppliers. The approach is not intended to cover provision which is commissioned by the NHS such as hospitals and community health services.
- 1.4 The Council developed a market contingency process as a result of changes in responsibilities brought about by the Care Act which was endorsed in December 2015.
- 1.5 There have been three exits from the market (two care homes and one home support provider) from a total of approximately 120 registered services over the last 3 years, however, these have all been small scale and well managed in cooperation with the agencies involved along with CQC and Coventry and Rugby Clinical Commissioning Group (CRCCG) colleagues.
- 1.6 One example of the plan being used relates to the closure of a nursing home due to quality issues and sustainability. On notification of the providers intention to close the home the Council worked with stakeholders to ensure a managed closure and that residents and their families were kept informed as appropriate throughout. Through partnership working with the provider, CRCCG and CQC, the Council was able to arrange suitable alternative provision. Application of the Market and Provider Failure approach enabled the Council to ensure that appropriate steps were taken at each stage in the process to ensure a positive outcome.
- 1.7 However, a range of organisations including LGA/ADASS, CQC, Local Authorities and care market organisations recognise an ongoing risk around the potential for major market failure given well documented concerns about financial sustainability of the market in the context of ongoing austerity. Within the last 12 months one of England's largest care home providers were required to issue assurances to local authorities and the NHS in respect of debt management arrangements and a major home support provider caused concern in respect of entering voluntary administration, although collapse of the provider was fortunately avoided.

- 1.8 In September 2017 The Association of Directors of Adult Social Services (ADASS) produced a guide local authorities to use in respect of regional responses to provider failure outlining key principles, and a checklist of prompts and questions for regions to use in the event of market failure.
- 1.9 This was followed in May 2018 by a briefing designed by ADASS in conjunction with the LGA and included a series of top tips for responding to market failure in the context of 3 priorities:
- Ensuring continuity of care and support for people using the services
 - Supporting the failing provider to retain its workforce
 - Communicating with service users and their relatives to provide reassurance that continuity of care is the priority
- 1.10 In the light of concerns and the additional guidance produced by ADASS and the LGA the Council's guidance has been updated and is presented for endorsement.

2. Options considered and recommended proposal

- 2.1 **Recommended Option:** A legal requirement of the Care Act (2014) is to have plans to address market failure (part of market shaping) which is key to ensuring the Council's response is robust to support people receiving care and support services where a provider exits the market. There are not considered to be any alternative viable options which would to meet the legislative requirements

3. Results of consultation undertaken

- 3.1 No specific consultation was undertaken in respect of the proposals within this report however, the methodology described in well communicated and developed with partner organisations and providers.

4. Timetable for implementing this decision

- 4.1 The market contingency process will be implemented immediately and will be used in the next instance of provider failure.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no direct financial implications arising from this report or approach. Whilst action is taken to support providers and minimise the likelihood of failure, by the very nature of such an event, there is a risk of significant cost pressures in the event of a provider failure. This may be through another provider having to be paid to meet the needs of service users affected at short notice, or if the local authority is required to staff or manage provision.

5.2 Legal implications

Section 48 of the Care Act 2014 places a temporary duty on local authorities to, for as long as considered necessary, meet and adult's (and carer's) needs for care and support which were being met by a provider immediately before he provider became unable to carry on the regulated activity. This duty also covers self-funders, who may not be known to the local authority. It is for the local authority to determine when the temporary duty is triggered.

6. Other implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

This proposal would contribute to the Council's key objectives through a contribution to protecting our most vulnerable people.

6.2 How is risk being managed?

Market Failure risks and contingencies are documented in the Council's Corporate Risk Register.

There are no identified risks with the approach outlined.

6.3 What is the impact on the organisation?

Appropriate contingency planning and management of market failure helps to meet the Council's responsibilities in relation to service continuity.

6.4 Equalities / EIA

Not applicable

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

Coventry and Rugby Clinical Commissioning Group benefits from the joint approach to market failure activities outlined in this report.

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Legal: Janice White	Team Leader – People Team	Place	11/06/18	15/06/18
Director: Gail Quinton	Deputy Chief Executive (People)	People	19/06/18	19/06/18
Members: Councillor Abbott	Cabinet Member Adult Services		20/6/18	20/6/18

This report is published on the council's website:

www.coventry.gov.uk/councilmeetings



Coventry City Council

Adult Social Care

Market and Provider Failure Approach

Contents

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9. Responses to managing market failure risk

Appendices

1. Regionally developed risk tool to identify step by step approach

1. Introduction

This document sets out the approach taken by Coventry City Council (the Council) to prevent, mitigate and respond to market and provider failure across the local social care market in Coventry.

The approach aims to ensure compliance with duties under the Care Act 2014 along with setting out definitions of provider and market failure and how the Council will work with all stakeholders, providers and system partners, to manage the risk of failure and impact on adults receiving care and support should service be disrupted.

2. Scope

This document outlines the approach that the Council will take in respect of market/provider failures of social care provision. This includes services that may also cater for people supported solely through the NHS through, for example, using Continuing Health Care funding.

Services covered include provision regulated by the Care Quality Commission e.g., nursing and residential homes, housing with care and home support agencies and non-regulated services such as day opportunities and community meals suppliers.

The approach is not intended to cover provision which is commissioned by the NHS such as hospitals and community health services.

3. Definition of Failure

Provider failure may occur for a number of reasons, including but not limited to:

- Business failure as defined in the Care Act as a financial failure of the care provider's business where regulated activity can no longer continue. Business failure is the type of provider failure that is specifically addressed by the Care Act 2014
- Decisions by the provider (or any Corporate Insolvency Practitioner that has been appointed) to change the registered care status or exit the market and therefore alter or cease trading.
- Decisions taken by the Care Quality Commission (CQC) within scope of their enforcement powers (Health and Social Care Act 2008 and (Regulated Activities) Regulations 2014) to remove a care registration or require immediate closure to protect people who use regulated services from harm and the risk of harm.
- An emergency situation such as serious infection outbreak, flooding, fire or loss of power which may be failure of a temporary nature and such that recovery is possible in order to return to business as usual.

This approach seeks to manage any provider and market failure across all types of regulated social care provision.

4. Legislative Duties

Market Shaping

Section 5 of the Care Act 2014 established a statutory duty for local authorities to facilitate a diverse, sustainable and high-quality market for their whole local population, including

those who pay for their own care, and to promote efficient and effective operation of the adult care market.

Care Act 2014 Statutory Guidance states:

Market shaping means the local authority collaborating closely with other relevant partners, including people with care and support needs, carers and families, to encourage and facilitate the whole market in its area for care, support and related services. This includes services arranged and paid for by the state through the authority itself, those services paid by the state through direct payments, and those services arranged and paid for by individuals from whatever sources (sometimes called 'self-funders'), and services paid for by a combination of these sources. Market shaping activity should stimulate a diverse range of appropriate high quality services (both in terms of the types of services and the types of provider organisation), and ensure the market as a whole remains vibrant and sustainable.

The core activities of market shaping are to engage with stakeholders to develop understanding of supply and demand and articulate likely trends that reflect people's evolving needs and aspirations, and based on evidence, to signal to the market the types of services needed now and in the future to meet them, encourage innovation, investment and continuous improvement. It also includes working to ensure that those who purchase their own services are empowered to be effective consumers, for example by helping people who want to take direct payments make informed decisions about employing personal assistants. A local authority's own commissioning practices are likely to have a significant influence on the market to achieve the desired outcomes, but other interventions may be needed, for example, incentivising innovation by user-led or third sector providers, possibly through grant funding.

Market Oversight

The Care Act 2014 places a general duty on local authorities to oversee the care market; ensuring that services are sustainable and can continue to meet the care and support needs of adults and their carers when a registered care provider becomes unable to carry on a regulated activity, establishment or agency as a result of business failure.

Care Act 2014 Statutory Guidance states:

The Care Act places new duties on local authorities to facilitate and shape their market for adult care and support as a whole, so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual themselves, or in other ways. The ambition is for local authorities to influence and drive the pace of change for their whole market, leading to a sustainable and diverse range of care and support providers, continuously improving quality and choice, and delivering better, innovative and cost effective outcomes that promote the wellbeing of people who need care and support.

Importantly, local authorities need to have a good knowledge of their social care market in order to:

- Shape the quality, diversity and sufficiency of care
- Understand which providers may be experiencing challenges and are at risk of business failure

- Know which providers would be able to take the place of exiting providers in meeting local needs if any care providers fail.
- Be prepared to deal with the consequences of providers failing, exiting the market or being temporarily unable to provide services because of natural disasters or other emergencies.

The Care Act 2014 also introduced a market oversight scheme, started in April 2015, requiring the Care Quality Commission (CQC) to protect people using care services, their families and carers from the anxiety and distress that may be caused by the failure of a major care provider. This is done by monitoring the performance and finances of large-scale social care providers and providing local authorities with an early warning of where a provider is at risk of failure that is likely to result in a registered care service ending.

The scheme is intended to identify potential failure so that timely action can be taken to prevent large-scale failure. The duty on CQC to mitigate the risk of provider failure is present throughout sections 48-55 of the Care Act and is focussed on supporting providers through sustainability plans and business reviews as opposed to stepping in to prevent failure. In addition the Act allows CQC to request financial information from providers whilst ensuring that information sharing across all stakeholders is in place.

Temporary Duty

Section 48 of the Care Act 2014 places a temporary duty on local authorities in the event that a regulated care provider becomes unable to provide a service or regulated activity to an individual due to a financial business failure. This duty applies regardless of whether an individual's care is funded by the local authority or not and whether another local authorities originally made the arrangements to provide care services.

It is important to recognise that there may be instances where the local authority can charge individuals or other local authorities for arranging 'emergency care' under this duty.

This temporary duty is engaged when all of the following criteria are met:

- The provider is a registered care provider
- The provider is unable to carry out the particularly activity
- The activity is a regulated activity.

5. Role and Responsibilities

The Council will have responsibility for managing the instances of provider and market failure along with ensuring continuity of care for all part-funded and fully adult social care funded placements commissioned by the Council.

The responsible agency for fully health funded individuals receiving care from providers at risk of failure is Coventry and Rugby Clinical Commissioning Group (CRCCG). This also includes responsibility for coordinating arrangements on behalf of individuals whose care is fully funded and commissioned by other health bodies, i.e. "Out of Area" CCGs. In any such circumstances the Council will work jointly to find alternative provision, ensure that any move is well managed, and enable risks and costs to be shared accordingly.

It is important to recognise that all individuals receiving a social care service (funded or not, fully or in part, by the Council) will have broader health needs that are supported by GP involvement. Therefore, all health needs should be a consideration regardless of whether health / CHC funding is in place.

In addition, the Council will have responsibility for co-ordinating care continuity and ensuring the immediate welfare of all self-funders and other individuals funded or commissioned by local authorities 'Out of Area'; ensuring that any move to alternative provision is well managed. However, funding responsibility and the detailed longer-term care planning responsibility for affected individuals will remain with the placing authorities.

6. Priorities and Principles

The Department of Health and Social Care, the Association of Directors of Adult Social Services (ADASS) and the Local Government Association (LGA) jointly developed a '[Care and Continuity: Contingency planning for provider failure](#)' guidance to assist local authorities in relation to business failure, particularly on a large scale.

Priorities and principles are the same regardless of the scale of the failure.

Whilst each case of market failure will be different the three key priorities in all cases will be to:

- Ensure continuity of care and support for people using the services delivered in the local authority's area and ensure the safeguarding of individuals
- Support the failing provider to retain its workforce during this time
- Ensure communication with service users and their relatives to provide reassurance that continuity of care is the priority.

Whatever the nature of market failure or emergency incidents a number of key principles apply:

- Person-centred care – individuals' needs are paramount and any process/practice should maintain dignity and respect.
- Safeguard – while providers may fail, service continuity should not. The local authority's duty to safeguard and ensure continuity of care comes first.
- Communicate – service users, carers, their families and care workers themselves must never be left out of the loop.
- Managing information – holding good, accessible data on people receiving care.
- Management of personal data will be crucial in fulfilling the duties defined in the Care Act and ensuring continuity of care for all individuals in a locality, including self-funders.
- Be prepared – preparing, testing and regularly reviewing contingency plans

7. Market management and sustainability

Market analysis

The Council and CRCCG are aware of and have up to date information regarding market capacity across all sectors within Coventry. In addition to this information regarding capacity in Warwickshire is readily available and up to date.

Market engagement to support major events

A focussed engagement exercise has taken place with a selection of key providers in the City from which the Council has developed a framework of providers (across all sectors) who have committed to mobilise support at short notice should the need arise.

The following section details the commissioning and procurement activities being taken to ensure that Coventry has a sustainable market that has the capacity to respond in potential provider and market failure situations.

Area / Issue	Key Project to initiate	Timescale
Care Home contingency	Care Home Re-commissioning	April 2019
Home support contingency	Home support Contract Management	Ongoing – review March 2019
Housing with care contingency	HWC review and re-commissioning	March 2019
Day Centre contingency	Re-commissioning. Internal provision / contracted provision	November 2018, however, Capacity exists within existing provision
Advocacy support (general)	Re-commissioned 2018 (Warwickshire lead)	Part of current contractual arrangements
IMCA / IMHA / Dols support	Re-commissioned 2018 (Warwickshire lead)	Part of current contractual arrangements
Voluntary Sector Preventative Provision	Re-commissioned 2017 – Grant basis	Part of current grant management arrangements
Provision with CQC ratings less than “Good”	Key focus in quality assurance regime	Already commenced

8. Scenarios / scope of market failure

The table below details those stakeholders with a regulatory and/or quality assurance responsibility/interest in each service type, who will need to be involved should market failure materialise and what type of resource is required.

<u>Service / Provider Type</u>	<u>CCC</u>	<u>CRCCG</u>	<u>CQC</u>
Residential (national)	Financial / Operational	Operational	Oversight
Residential (local)	Financial / Operational	Operational	Oversight
Nursing (National)	Financial / Operational	Financial / Operational	Oversight
Nursing (Local)	Financial / Operational	Financial / Operational	Oversight
Extra Care (national)	Financial / Operational	Operational	Oversight
Home Support (National)	Financial / Operational	Operational	Oversight
Home Support (local)	Financial / Operational	Operational	Oversight
Day Service (National)	Financial / Operational	Operational	None
Day Service (Local)	Financial / Operational	Operational	None
Sheltered (non-social care)	Information	None	None
Third Sector (Large)	Information	Information	None
Third Sector (small and local)	Information	Information	None

Scope of risk mitigation by organisation

The following section aims to outline the pro-active process of managing a provider where significant risks are presented which may impact on their ability to continue providing services.

Coventry City Council

Initial scope

- Identify and record provider delivery issues and risk of failure
- Engage with provider through senior level meetings including CQC where applicable
- Identify all people in receipt of services including private clients and Out of Area placements
- Strategy meeting to review information, evaluate risk, co-ordinate urgent action and lead development of an action plan
- Action plan developed, implemented and monitored on a weekly basis
- Instigate enhanced monitoring at Provider Escalation Panel (PEP) if not already in place
- Instigate large scale investigation if required
- Identify social care resource to undertake reviews of all people affected, to ensure up to date understanding of individual needs and requirements and invoke safeguarding processes where appropriate
- Development of a communication plan including letters to people in receipt of services / carers,
- Development of press and media statements/response as appropriate
- Produce and provide Cabinet Member briefings
- Appropriate liaison with OOC placing local authorities
- Market Identification of checks for alternative capacity

Continuous scope should provider continue to be on the verge of failure

- Liaison with CQC at a greater level to jointly work on provider failure
- Communication (face to face meetings) with individuals receiving care and their families and carers where applicable
- Reviews of all individuals receiving care including mobilisation of advocates and IMCA / DOLS assessments (and Best Interest processes where applicable)
- Ensure ICT / Council systems are set up to react to potential changes
- Liaison with providers regarding their own ICT systems and use of E-Systems
- Engagement of wider provider market to ascertain definitive capacity and the ability to : -
 - a) Accept care placements of current individuals receiving care
 - b) Explore the market appetite/options to transition care delivery to an alternative provider
 - c) Assess and gather information in relation to potential TUPE undertakings
- Ensure measures are in place for continuity of care for current clients through staff levels and competencies
- Explore the potential of using the existing building to avoid unnecessary disruption to individuals' care and support

Coventry and Rugby Clinical Commissioning Group (CRCCG)

Initial scope

- Joint meetings with City Council
- Joint communication plan where necessary
- Identification of review resource for health funded clients
- GP engagement
- Identification of nursing team to provide specialist assessment and support with health related needs (e.g. tissue viability concerns / falls / nutrition and hydration / medication needs / health checks etc)
- Identify risk to UHCW re: capacity and discharges for both current and future intended placements
- Ensure continuity of medication supplies as appropriate

Continuous scope should provider continue to be on the verge of failure

- Mobilisation of nursing team to work jointly with CCC social work teams

CQC

Initial scope

- Joint meetings with Council
- Establish and communicate enforcement action including any action to restrict or remove registration
- Ensure compliance notices are in place and implemented

Large Scale Market Failure

For large scale market failure affecting more than one local authority in the West Midlands/nationally action would be as per approach 1 but should be co-ordinated by West Midlands regional ADASS following the [checklist for regional response](#).

This would not replicate detailed local authority plans but would identify steps to be taken regionally. This would include ADASS regional chair or vice chair identifying a DASS lead who would coordinate the response including ensuring identification of key contacts holding initial meeting, deciding governance arrangements, clarifying roles and responsibilities, developing a regional action plan, managing communications and ensuring lessons learned are captured and shared.

9. Responses to managing market failure risk

The following section details the high level actions and decisions that will need to be taken should market failure occur. Example scenarios are detailed below for illustrative purposes although it needs to be recognised that the characteristics of each situation can be unique which results in different options presenting: -

Provider Type	Key Factors	Risk Management Process
Care Homes	e.g. Building(s) closed down	Approach 1
Housing with care	e.g. Building(s) still available	Approach 1
Home Support	e.g. Branch closed immediately	Approach 2
Day Centre	e.g. Building (s) closed down	Approach 1

Under differing scenarios, although a provider may exit the market buildings may or may not remain available for use in the short/long term

Approach 1

Issues	Options	Key Involvement / Factors
Accommodation	Source alternative accommodation	<ul style="list-style-type: none"> • Building availability within CCC and private market • Cost of building (rent / charges etc.) • Suitability of building and adaptations needed • Where no capacity exists an option to use cross border accommodation
	Use existing building (s)	<ul style="list-style-type: none"> • Suitability of building and adaptations needed • Arrangements with current landlord (this may be a creditor) • Risk assessments to be undertaken (CCC Health and Safety to be mobilised)

	Re-provide service in another building (e.g. HWC or another vacant care home)	<ul style="list-style-type: none"> • Building availability within CCC and private market • Source increased staffing levels • Health input mobilised • Suitability of building and adaptations needed • Change of tenure / tenancy arrangements – cost implications and arrangements to be formalised
Staff	CCC / CRCCG TUPE staff	<ul style="list-style-type: none"> • Policies and processes to be implemented swiftly • Council / CRCCG terms and conditions – do they become permanent statutory services employees with same conditions?
	A new provider takes over the staffing	<ul style="list-style-type: none"> • Agreement of which provider takes over and agreed mobilisation period • Which terms and conditions and policies and procedures are used? Existing or new providers? • The need to line up providers within procurement processes for this type of scenario
	Enhanced rates for new provider	<ul style="list-style-type: none"> • Short term enhanced rates for new provider • Agreed cost split between CCC and CRCCG
Clients	Reviews	<ul style="list-style-type: none"> • Social Care reviews on all residents including private clients where needed • Options appraisal / risk assessments • Advocates / IMCA arrangements in place
	Health and well-being checks	<ul style="list-style-type: none"> • CRCCG health reviews on all residents

Approach 2

Issues	Options	Key Involvement / Factors
Staff	CCC / CRCCG TUPE staff	<ul style="list-style-type: none"> • Policies and processes to be implemented swiftly • Council / CRCCG terms and conditions – do they become permanent statutory services employees with same conditions?
	A new provider takes over the staffing	<ul style="list-style-type: none"> • Agreement of which provider takes over and agreed mobilisation period • Which terms and conditions and policies and procedures are used? Existing or new providers? • Integrate calls within new providers existing staff group • The need to line up providers within procurement processes for this type of scenario
	Enhanced rates for new provider	<ul style="list-style-type: none"> • Short term enhanced rates for new provider • Agreed cost split between CCC and CRCCG (where joint packages exist)
Clients	Reviews	<ul style="list-style-type: none"> • Social Care reviews on all residents including private clients where needed • Options appraisal / risk assessments • Advocates / IMCA arrangements in place
	Health and well-being checks	<ul style="list-style-type: none"> • CRCCG health reviews on all residents

Communications

A clear approach to communications is required in every situation. The exact contents of communications and the approach will vary dependant on the situation at hand but would generally include consideration of:

- Letters to clients and families (From provider if possible, content approved by local authority)
- Meetings with clients and families (Led by provider if possible, otherwise local authority and CRCCG)
- A contact point within the City Council to clients and families
- Cabinet Member and ward Councillor briefing
- Local media press release / plan for press release
- Provider engagement
- Shared information across neighbouring authorities

Safeguarding

Safeguarding duties will be applied to individuals affected as required and appropriate. Dependant on the nature of the failure Large Scale Investigation protocols may be instigated. If this is the case this would include:

- Information gathering of customer needs
- Mobilisation of CCC / CRCCG operational teams and / or nursing / therapist staff
- Current provider engagement
- Contract and quality assurance site visits (daily)

Business continuity plans (BCP's)

BCP's are a pre-requisite of every organisation contracted to the City Council. These plans vary in detail but all will have a focus on provider assurances to facilitate a range of actions should an incident (small or large) require.

BCP's are checked as part of the regular quality assurance monitoring. Plans for the Council's internal provision were refreshed early 2018 and signed off by the Head of Commissioning and Provision

In line with provider BCP's, there will be scenarios, as identified within this document, where the Council will need to mobilise actions and support swiftly. The market and provider failure approach will be used, through market engagement and planning, as a mechanism to react to such scenarios.

Appendix: Regionally developed risk tool to identify step by step approach

PROVIDER FAILURE CHECKLIST						Appendix B
Area	√ or x	-	Date Planned	Progress		Date Completed
Communications				Establish legal status and full details/intentions of existing provider/Administrator/Receiver.		
				Check that the actions of other local authorities affected by the failure do not affect our plan.		
				Establish urgent dialogue with potential alternative provider(s).		
				Set up a Communications/Project Group with relevant representatives.		
				Secure permission to make urgent payments (if not already covered).		
				Confirm the full contact details for new/alternative provider.		
				Telephone call to our customers using predefined script by appropriately briefed workers.		
				Telephone call to private customers using predefined script by appropriately briefed workers.		
				Letter to our customers to confirm new provider and transfer arrangements.		

					Letter to private customers to confirm new provider and transfer arrangements.
					Telephone call to existing staff.
					Approach In-house services (e.g. Re-ablement) to allocate capacity and other external providers.
					Inform new providers re In-house and external cover providers' contact details.
					Communication to members/unions/Health/CQC.
					Communication to internal teams and other relevant managers.
					Staff consultations/measure letters for new provider.
					Change resource/service directory to show new provider details.
Provider					Administrators to confirm if existing office can continue to be used/rented etc.
					Address use of ICT systems e.g. continued temporary use and access issues.
					Payment of staff through the Administrator or the provider (new or old).
Management					Issue letters of Intent to new provider.

				Sign actions letter from Administrator and return.	
				Issue contract to new provider (and subsequently chase).	
				Issue service Proposals to new provider.	
				Update client record system for all customers.	
				Ensure new provider set up on finance systems.	
				Ensure team administration and finance officers made aware of changes.	
				Inform CQC re registration change and ensure provider complies.	
				Check and implement if required the need to underwrite risk of staff challenge by staff on T&C's.	
				Ensure new provider entered on Contracts Register system.	
Data				Confirm to existing provider that the Council is acting as intermediary for data exchange.	
				Transfer of customer information to new provider.	
				Transfer of staff information to new provider.	
				Check and implement any retention of information needed by the Council.	

Finance					Compile a list of all outstanding invoices.	
					Compile details of any counter charges.	
					Audit Administrator's accounts i.e. what paid against what they require - seek unused amounts.	
Legal					Prepare defence against factoring company as required.	
Market management					Discussion with other providers re building capacity/viability in the affected area.	
Review					Arrange for process from lessons learnt/pre-planning for future.	

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4 July 2018

Name of Cabinet Member:

Cabinet Member for Adult Services, Councillor Abbott

Director Approving Submission of the report:

Deputy Chief Executive (People)

Ward(s) affected:

None

Title:

Review of the City Councils Direct Payment Policy 2018

Is this a key decision?

No. Although the matter within the report can affect residents from all wards in the City, it is not anticipated that the impact will be significant and it is therefore not deemed to be a key decision.

Executive Summary:

The underlying principle of self-directed support is to enable adults, carers, young carers and parents of disabled children to take greater control of their lives and the support they receive so that they can make decision, manage their own care and support arrangements and risks. This puts people at the centre of assessing their own needs and tailoring their own support.

Direct Payments enable adults, carers, young carers and parents of disabled children to have control over spending their social care funding and facilitate a greater degree of choice than would otherwise be available in how their support is delivered. This can be achieved for example through employing one or more personal assistants or through spending all or part of a personal budget with an agency who supply support workers to assist with meeting social care eligible needs.

A review of the existing Direct Payments Policy 2013 has been undertaken to ensure the policy enables Coventry City Council to embed personalisation in practice giving adults, carers, young carers and parents of disabled children more choice, control and flexibility over their care and support improving life chances, and leading to independent and fulfilling lives. A key mechanism for delivering choice and control is by offering and arranging direct payments for adults, carers, young carers and parents of disabled children. It was recognised that the 2013 Policy needed to be reviewed to ensure it was more user friendly for the public, service users and staff. This has taken some time to complete due to the amount of work involved in amending the policy. Any changes made to the policy have been made in line with the Care Act (2014) and the Children and Families Act (2014). This report outlines the changes to policy.

Recommendations:

The Cabinet Member are requested to approve the revised Direct Payment policy updated in line with legislation.

List of Appendices included:

Appendix 1 Direct Payment Policy 2018

Background papers:

None.

Other useful documents

- **Direct Payments Policy 2013**
http://www.coventry.gov.uk/downloads/file/13680/direct_payments_policy
- **Cabinet Members** (Health and Community Services & Children and Young People), 2 August 2012 – Outcome of consultation on proposals for a new Direct Payments Policy and revised proposals for further consultation
<http://democraticservices.coventry.gov.uk/ieListDocuments.aspx?CId=124&MID=2221#A12736>
- **Cabinet Member** (Adult Services), 5 October 2017 – Money Management Support – Direct Payment Support Services
<http://democraticservices.coventry.gov.uk/ieListDocuments.aspx?CId=710&MID=11457>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Updating the City Councils Direct Payment Policy 2018

1. Context (or background)

A review of the Direct Payments Policy 2013 has been undertaken to ensure the policy enables Coventry City Council to embed personalisation in practice giving adults, carers, young carers and parents of disabled children more choice, control and flexibility over their care and support improving life chances, and leading to independent and fulfilling lives. A key mechanism for delivering choice and control is by offering and arranging direct payments for adults, carers, young carers and parents of disabled children. It was recognised that the 2013 Policy needed to be reviewed to ensure it was more user friendly for the public, service users and staff. This has taken some time to complete due to the amount of work involved in amending the policy. Any changes made to the policy have been made in line with the Care Act (2014) and the Children and Families Act (2014).

The updates to the policy include the following:

- Arrangements for Disclosure and Barring Checks
- Paying family members living in the same household to administer direct payments
- Reviewing direct payment arrangements within the first 6 months
- Direct Payment rate
- Proportionately monitoring direct payments based on the risks involved
- Legal rewards
- Direct payments for Carers, Young Carers and Replacement Care

2. Options considered and recommended proposal

- 2.1 As there is a requirement to review the policy in line with the above Acts, there were no options to be considered or rejected. The Cabinet Member is requested to endorse the incorporation of the requirements within the existing, previously agreed, policy which have been amended in line with legislation.

3. Results of consultation undertaken

- 3.1 No formal local consultation has been undertaken as the 2013 Policy was fully consulted on previously. The amendments made to that Policy have been made to ensure it reflects current legislation, which were fully consulted on prior to implementation.
- 3.2 There is an Independent Living steering group led by the City Council with membership across key stakeholders ensure direct payment policy, practice and process are improved. This group were consulted during the review of the policy and approved the final version.

4. Timetable for implementing this decision

- 4.1 The updates to the policy will be implemented as soon as is practicable dependant on the outcome of the Cabinet Member meeting.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no direct financial implications arising from the amendments to the policy. The value of direct payments is calculated based on the assessed needs of an individual and funded from within existing budgets.

5.2 Legal implications

Direct Payments support services assist with delivery of the City Council's statutory obligations under the Care Act (2014), the Mental Health Act (1983) and the Care and Support (Direct Payments) regulations 2014 and the Children and Families Act (2014). The local authority is obliged to provide a direct payment to someone who meets the conditions in the Act and Regulations. The updates to the policy are all in line with the Care Act 2014 and the Children and Families Act 2014.

The Care Act 2014 and Children and Families Act (2014) did not significantly amend the previous legislation in relation to direct payments, however it was recognised that the 2013 Policy needed to be reviewed to ensure it was more user friendly for the public, service users and staff.

Public authority decision makers are under a duty to have due regard to, i) the need to eliminate discrimination, ii) advance equality of opportunity between people who share a protected characteristic and those who do not, and iii) foster good relations between persons who share a relevant protected characteristic and people who do not (public sector equality duty - s149(1) Equality Act 2010). The applicable protected characteristics are disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy or maternity.

Decision makers must be consciously thinking about these three aims as part of their decision making process with rigour and with an open mind. The duty is to have "due regard", not to achieve a result but to have due regard to the need to achieve these goals. Consideration being given to the potential adverse impacts and the measures needed to minimise any discriminatory effects.

6. Other implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Direct Payments assist towards meeting Council plan objectives of:

- Improving Health and Wellbeing of local residents
- Protecting our most vulnerable people
- Active Communities and empowered citizens

The underlying principle of self-directed support is to enable adults, carers, young carers and parents of disabled children to have greater choice and control over their lives and the support they receive, to improve their wellbeing, life chances and they are able to live independent lives.

6.2 How is risk being managed?

The policy will continue to be monitored on a regular basis to ensure compliance with the appropriate national Acts.

6.3 What is the impact on the organisation?

No implications.

6.4 Equalities / EIA

An Equalities Impact Assessment was undertaken for the review of the policy and the existing policy which identified that overall this policy would overall have a positive impact on adults, carers, young carers and parents of disabled children. The existing and revised policy

enables adults, carers, young carers and parents of disabled children to take greater control of their lives and the support that they receive so that they can make decisions and manage their own care and support arrangements by enabling them to assess their own needs and tailor their own support. The policy allows them to have control over spending their personal budget and facilitates a greater degree of choice about how their support is delivered.

6.5 Implications for (or impact on) the environment

No implications.

6.6 Implications for partner organisations?

The existing policy already encourages collaborative working with partner organisations such as the Coventry and Rugby Clinical Commissioning Group and third sector organisations, for example, Penderels Trust Direct Payment Support Service and Age UK. The amendments to the policy will not change this.

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People

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www.coventry.gov.uk/councilmeetings

Direct Payments Policy 2018

Version	V3.0
Lead Author/s	Maxine Shakespeare
Designation	Independent Living Practice Adviser
Head of Service	Andrew Errington Head of Practice Development & Safeguarding (Adults Principal Social Worker)
Target Audience	All staff members responsible for direct payments
Approved By	Adult Social Care Management Team, Childrens Strategic Leadership Team, Cabinet Member (Adult Services) Cabinet Member (Children and Young People)
Approval Date	4 July 2018
Review Date	TBA

Version Control Sheet

Version	Date	Author	Status	Comment / changes
V1.0	05/04/18	Maxine Shakespeare	Ready for ratification	Comments received from legal and Adult Social Care Management Team (ASCMT) Ratified by Children's Strategic Leadership Team (CSLT) on 05/04/18
V2.0	07/06/18	Maxine Shakespeare	Ready for ratification	Comments received from legal and Adult Social Care Management Team
V3	14/06/18	Maxine Shakespeare	Ready for ratification by ASCMT	Ratified by Adult Social Care Management Team on 14/06/18

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INTRODUCTION

Coventry City Council is committed to promoting wellbeing of Coventry children and adults and to supporting independence through preventing, reducing or delaying the need for care and support.

Direct payments are monetary payments to enable adults, carers, young carers and parents of disabled children to make their own arrangements to meet eligible care and support needs. Direct payments are the government's preferred mechanism for personalised care and support as they promote independence, choice, control and flexibility over how needs are met.

Direct payments may also be used as a way of arranging aftercare services provided under s117 of the Mental Health Act 1983. This Policy has been created to provide guidance in line with the following legislation relating to direct payments:

Care Act 2014: www.legislation.gov.uk/ukpga/2014/23/contents

Care and Support Statutory Guidance: www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance

Care and Support Direct Payment Regulations:
www.legislation.gov.uk/uksi/2014/2871/pdfs/uksi_20142871_en.pdf

Mental Health Act 1983: www.legislation.gov.uk/ukpga/1983/20/section/117

Children and Families Act 2014: www.legislation.gov.uk/ukpga/2014/6/contents/enacted

The Special Educational Needs (Personal Budgets) Regulations 2014:
www.legislation.gov.uk/ukdsi/2014/9780111114056

Children Act 1989: www.legislation.gov.uk/ukpga/1989/41/section/17A

Equality Act 2010: www.legislation.gov.uk/ukdsi/2017/9780111153277

This Policy will be implemented on 1 August 2018.

This Policy replaces Coventry City Council's Direct Payment Policy and Guidance 2013 in the light of subsequent changes in legislation and guidance. Coventry City Council must provide direct payments in accordance with legislation as highlighted above.

Separate practice guidance for staff working in adults and children's social care services is available on the Coventry City Council's Beacon intranet pages in relation to direct payments, the legislation governing the rules of direct payments and how the legislation should be applied.

When a request for a direct payment is made by an adult, carer or parent of a disabled child who is assessed eligible for social care, Coventry City Council shall:

- Provide information and advice about direct payments, including the terms and conditions that apply to their use and refer to the local Direct Payment Support Service;
- Seek to identify a third party or organisation to manage the direct payment if the person lacks the mental capacity or capability of an adult or a parent to consent to or manage a direct payment themselves (called a 'nominated authorised person or organisation');
- Decide whether the direct payment is appropriate and agree the level of funding;
- Require the adult, carer, young carer, parent of a disabled child, or the nominated authorised person or organisation to set up a direct payment bank or building society account.
- Make arrangements to pay the direct payment to the adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation to manage the direct payment, including setting up of a bank account to receive the payment (if required);
- Make a starter pack available which includes "frequently asked questions" about direct payments to all new recipients, or a continuation pack to people continuing to receive direct payments following a review.

For the duration of the direct payment, Coventry City Council shall:

- Ensure the person is using the direct payment to make the necessary care arrangements to meet their eligible needs at each stage of review;
- Provide more information, advice and support if someone requires more help in managing a direct payment;
- Monitor how the direct payment is spent to meet the assessed eligible care needs;
- Require any unspent direct payment that has not been used to meet eligible needs or overpaid funding to be paid back to Coventry City Council upon request;
- Continue to review the appropriateness of a direct payment, assess the risks involved (e.g. if needs change or if the person managing the payment is unable or unwilling to continue to manage the payment) and if appropriate, formally notify the individual of a suspension or cessation of the arrangement;
- Support the person nominated to manage a direct payment to close the direct payment account and the associated arrangements should the direct payment need to end;
- End the direct payment if Coventry City Council determines the carer, adult or child is no longer eligible for care and support;
- Arrange care and support directly if the adult, carer or parent does not wish to continue to receive direct payments or if the direct payment is suspended or terminated.

SECTION 1 – RECEIVING A DIRECT PAYMENT

1.1 Who can receive a direct payment?

1.1.1 Legislation states that the following groups of people (who are assessed by the Coventry City Council as needing a service) are eligible for a direct payment:

- People with disabilities aged 16 and over (including those with physical and learning disabilities and sensory impairments);
- Adults who meet the eligibility criteria in accordance with the Care Act 2014;
- Adults (including people who are entitled to after care in accordance with section 117 of the Mental Health Act) if they are not subject to certain exemptions;
- Adults with parental responsibility for disabled children in order to meet the disabled child's needs;
- Young carers and adult carers providing regular and substantial care.

1.1.2 The following conditions must be met to receive a direct payment:

- The person agrees a direct payment;
- Coventry City Council is not prohibited from making a direct payment as set out in legislation;
- Coventry City Council is satisfied that the person is able to consent to and capable of managing a direct payment with or without support;
- Coventry City Council is satisfied the making of a direct payment is an appropriate way to meet eligible needs.

1.1.3 There are cases where a direct payment will not be appropriate to meet eligible needs. For example, direct payments cannot be made to people subject to a court order for a drug or alcohol treatment programme or similar scheme.

1.1.4 A direct payment must be an appropriate way to meet the eligible unmet needs set out in the Care and Support Plan, Child in Need plan or the Early Help plan. Everyone who is eligible has to consent to receiving the direct payment and be able to manage it, with support if required.

1.1.5 The decision about whether a direct payment is appropriate rests with the service manager (or equivalent level) of the relevant social care team. They will take into account the best interests of the person, any evidence which indicates that the direct payment is not appropriate and the views of all relevant parties including formal and informal support networks. In the event that the request for a direct payment is refused, the person or person making the request shall be provided with written reasons that explain the decision, and be made aware of how to appeal against the decision through Coventry City Council's [Complaints Procedure](#). The written reasons will set out which of the conditions contained in legislation have not been met, the reasons as to why they have not been met, and what if anything the person may need to do in the future to obtain a positive decision. The appeal process should be completed as quickly as is reasonably practicable, and Coventry City Council will provide interim arrangements to meet eligible care and support needs during this period.

1.1.6 It should be made clear to all potential direct payment recipients early on in the support planning process that they are under no obligation to continue to receive a direct payment should they not wish to do so and that their eligible needs could then be met by means of a Coventry City Council arranged service.

1.2 Assessing mental capacity and capability to receive direct payments

- 1.2.1 Before a direct payment can be arranged an assessment of capacity may need to be undertaken where there are questions about a person's ability to consent to or manage this. Under the 2005 Mental Capacity Act, a person lacks capacity in relation to a matter if at the time they are unable to make a decision in relation to a specific issue because of an impairment or a disturbance in the functioning of the mind or brain.
- 1.2.2 Where there is any doubt about the capability or capacity of an adult, carer, young carer or parent (of disabled child or adult) to consent to or to manage a direct payment, Coventry City Council will assess whether or not the person has capacity to consent before making a direct payment available.
- 1.2.3 Inability to consent to receiving a direct payment or capability to manage does not mean an adult, child, carers or young carers with eligible needs cannot receive a direct payment. The intention is for adults, carers or parents of disabled children to consent and manage the direct payment themselves or with the help of family and friends (if appropriate). Further guidance on the different options available to manage a direct payment will be made available by the allocated worker.

1.3 Receiving a direct payment

- 1.3.1 A request for a direct payment can be made directly to Coventry City Council at any time by requesting an assessment or review through the relevant social care team.
- 1.3.2 For adults, carers, young carers and parents of disabled children who are receiving a direct payment and require support, they could be referred to the Direct Payments Support Service funded through the Coventry City Council. This is currently Penderels Trust www.penderelstrust.org.uk/ or telephone 024 7651 1611. Potential direct payment recipients can also gain advice and support from any or all of the following:
- Other advice and information services;
 - Family/friends/a circle of support;
 - An advocate.
- 1.3.3 Coventry City Council will require an agreement to be signed between the necessary persons arranging and agreeing to the conditions of the direct payment referred to as a "Letter of Agreement". Such agreement shall be prepared on a case by case basis and will cover terms and conditions that are reasonable and proportionate in relation to the management of the direct payment.
- 1.3.4 It is the responsibility of adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation to ensure that the necessary registration requirements for care agencies and personal assistants are complied with, e.g. registration with the Care Quality Commission, HM Revenue and Customs (HMRC), etc.

- 1.3.5 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation managing a direct payment, personal assistants and care agencies will co-operate with any investigation or serious issues resolution by Coventry City Council or any of its partners concerned with quality and compliance. This will apply to all providers regardless of whether or not they hold a current contract to deliver services on behalf of Coventry City Council.
- 1.3.6 Any agreement will be monitored by Coventry City Council to ensure compliance and shall be reviewed accordingly. Any non-compliance with the terms and conditions could result in the direct payment being terminated and alternative arrangements being made e.g. care and support being arranged by Coventry City Council, where it is assessed as necessary to meet eligible care and support needs.

1.4 Person's contributions

- 1.4.1 A financial assessment will be undertaken to determine whether an adult needs to make a financial contribution towards their care and support needs. Coventry City Council will deduct the assessed contribution from the total amount of direct payment payable. If the direct payment is managed by a third party who has no legal authority to manage the individual's income or is a third party organisation, the direct payment should be paid in full and the adult will be sent an invoice to pay their assessed contribution directly to Coventry City Council. This will apply to both one off and ongoing direct payments. The guidelines about applying the adult's assessed charge can be found at www.coventry.gov.uk/directpayments and can also be made available by an allocated worker on request.
- 1.4.2 Any non-payment of the assessed charge could result in the direct payment being terminated and where appropriate, care and support being arranged by Coventry City Council. Non-payment could result in a review of the adult's assessed eligible needs if they are managing to meet their eligible needs within a smaller budget and/or Coventry City Council initiating debt recovery processes or legal action to recover payments owed.

1.5 Frequency of payments

- 1.5.1 Coventry City Council will pay ongoing direct payments in advance at four-weekly intervals.
- 1.5.2 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation will be allowed to retain a sum up to the value of four weeks worth of their direct payment in their Direct Payment Account for any additional costs incurred as a result of managing the direct payment.
- 1.5.3 Coventry City Council may only provide retrospective payments upon receipt of evidence confirming that services, support or goods were purchased to meet unmet eligible needs

For any new or existing direct payment this would be dependent on when the adult, carer, young carer or parent of a disabled child contacted the relevant social care

team, the outcome of the assessment and is subject to approval by Coventry City Council's funding panel.

- 1.5.4 Direct payments may be backdated to the date that the package was approved and/or the date the support was required to start, subject to approval by Coventry City Council's funding panel.

1.6 Payment method

- 1.6.1 Coventry City Council will pay the direct payment amount agreed in the Care and Support Plan, the Child in Need plan or the Early Help plan. When making the payment to an adult this amount will be net of the person's contribution (unless a nil contribution applies) into a specific 'Direct Payment Account'. Adults have to pay their assessed contribution into this account, unless a third party is managing the direct payment. In this instance, they will receive an invoice for their assessed contribution towards their care and support.
- 1.6.2 Coventry City Council will pay a one off direct payment amount for adults, carers, young carers and children into either a personal bank account unless there is a separate 'Direct Payment Account' already set up for the purposes of an regular, ongoing direct payment.

1.7 Bank accounts

- 1.7.1 Coventry City Council will pay direct payments directly into bank accounts set up for care and support only. These accounts are called 'Direct Payment Accounts'. This bank account must be opened in the name of the person(s) who has been nominated to manage the direct payment.

1.8 Contingency and reserves

- 1.8.1 The Care and Support Plan, the Child in Need Plan and the Early Help plan may include a contingency element that can be used to cover fluctuating needs. The use of the contingency will be monitored by Coventry City Council to ensure that it is being spent to meet the adult, child, young carer or carers assessed needs as detailed in their plan.
- 1.8.2 Sufficient funds should be held in a Direct Payment Account to cover all planned expenditure. Any funds held or banked that has not been agreed as part of the person's care and support plan over the four weeks allowance will be recovered by Coventry City Council in line with section 4.2 – 4.4.

SECTION 2 – HOW TO SPEND DIRECT PAYMENTS

2.1 What can direct payments be used for?

- 2.1.1 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation shall only use sums paid by means of a direct payment for the sole purpose of meeting the identified eligible needs and outcomes of the Care and Support Plan, the Child in Need Plan and the Early Help plan. This needs to be

evidenced by providing bank statements, timesheets, invoices and/or receipts. All evidence should clearly demonstrate how the direct payment has been spent.

2.1.2 A direct payment can be used to pay personal assistants to provide care and support to children in their own home. There are requirements for personal assistants to register to be a childcare provider in certain circumstances. For guidance on this refer to:

[Become a registered early years or childcare provider in England - GOV.UK](#)

2.1.3 Direct payments cannot be used for property adaptations or equipment that are funded through the Disabled Facilities Grant (DFG). However, Coventry City Council can commission arrangements for an eligible adult or a parent of a disabled child who wishes to choose their own property adaptation or equipment funded by a DFG and/or would like to contribute from their own resources.

2.1.4 Direct Payments funded by social care cannot be used for the following:

- a) Anything illegal
- b) Purchase of alcohol, tobacco or gambling
- c) Long term residential care longer than 4 consecutive weeks
- d) A health need that should be provided by the National Health Service (NHS) unless under certain circumstances where individuals can request a Personal Health Budget (see section 2.1.19)
- e) Promoting independence/Enablement
- f) Funeral expenses
- g) Parental responsibilities
- h) Services provided directly by Coventry City Council. If a direct payment recipient wishes to receive a service directly from Coventry City Council that is included in their Care and Support Plan the Child in Need Plan or the Early Help plan, it is likely that this will be arranged by Coventry City Council and the direct payment will be reduced accordingly.

2.1.5 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation can purchase care and support from a different Council if they require a particular service included in their Care and Support Plan, the Child in Need Plan or the Early Help plan that Coventry City Council does not provide.

2.1.6 Where an adult, carer, young carer, parent of a disabled child, nominated person or organisation has made a decision to employ a personal assistant this must be recorded in the Care and Support Plan, the Child in Need Plan and the Early Help plan, the direct payment will include funds to employ a personal assistant. The costs involved with employing a personal assistant include recruitment costs (where required), employers national insurance contributions, income tax, employers' liability insurance, pension and other associated costs. Coventry City Council will provide information and support on how to begin employing a personal assistant and will provide regular monitoring to ensure payments are being made correctly, however Coventry City Council is not responsible for the services secured by the recipient of a direct payment. Becoming an employer carries with it certain responsibilities and obligations, in particular in relation to paying Tax, National Insurance, minimum wage

requirements and ensuring that any person employed has the right to work in the UK.

- 2.1.7 If for any reason a person would like to spend their direct payment on anything other than care or items that would not meet their eligible needs as outlined in their Care and Support Plan, the Child in Need Plan or the Early Help plan they will need to contact their relevant Adult Social Care or Children's Services team prior to purchase. Any change in spend may require a review of the adult's, child's or carers' needs.
- 2.1.8 Direct payments can be used to pay for short term stays in residential care which amount to four consecutive weeks or less in any one period or a combination of different periods in a twelve month period.
- 2.1.9 Adults and children who are living in residential care homes may receive direct payments in relation to non-residential services and day time activities where these are assessed as being necessary to meet their eligible care and support needs. This will be considered on a case by case basis.
- 2.1.10 Adults in receipt of direct payments can employ personal assistants who used to be their foster carers when they were under 18 years of age as long as the person satisfies the criteria to have a direct payment.
- 2.1.11 An adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation managing a direct payment can adjust their hours in any week and 'bank' hours as long as their eligible needs are being met. The direct payment recipient will need to inform Coventry City Council's Independent Living Team if they are planning on banking hours and saving up funding if the amount is above the four week allowance. If the hours being banked are not used within a twelve month period Coventry City Council will require the funding to be returned.
- 2.1.12 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation managing a direct payment can pay towards care and support that they receive at the same time or towards a joint intervention that meets their eligible care and support needs. This is called a 'pooled direct payment'.
- 2.1.13 Coventry City Council will not allow for a direct payment to be used for everyday living expenses for the adult, carer, young carer or child. This includes paying for the costs of transport, meals and domestic bills. This does not include supporting an adult or child with everyday tasks they cannot undertake because of a physical or mental illness or impairment. For adults, these expenses can be taken into consideration by the financial assessment officer when assessing the adult's ability to contribute towards the costs of their care and support.
- 2.1.14 Coventry City Council will allow a direct payment to be used towards the management costs and expenses of using volunteers, unless these costs are related to everyday living expenses for the adult or child.

- 2.1.15 Direct payments can be used towards the costs of covering personal assistant/agency worker expenses. However, additional funding is not provided for their expenses.
- 2.1.16 Expenses incurred that are part of 'everyday living' for the personal assistants and/or agency staff such as paying for food; paying for household bills for live-in staff, purchasing toiletries, travel to and from work should be covered by the staff themselves.
- 2.1.17 Direct Payments can be provided in conjunction with other social care services provided by Coventry City Council. This is known as a mixed package of care and support.
- 2.1.18 Direct payments are available to disabled adults accessing work or training through Access to Work funding from the Department of Works and Pensions (DWP). These payments are usually made to the adult in arrears to employ a personal assistant to support them to access training and employment.
- 2.1.19 Personal Health Budgets (PHBs) are now available and offered by the NHS. If health funding is available to the adult or child with care and support needs, requests for PHBs should be through the Clinical Commissioning Group (CCG).

To find out more about PHBs email contactus@coventryrugbyccg.nhs.uk or telephone 024 7655 3344.

- 2.1.20 Personal Budgets are now available and offered by Coventry City Council's education department. If education funding is available to the child or young adult with additional needs to achieve their educational outcomes through their Educational Health and Care Plan, families can request a personal budget and elements of the plan could be taken as a direct payment. These request should be through the Special Educational Needs team within Coventry City Council.

To find out more about personal budgets for Education email SEN@coventry.gcsx.gov.uk or telephone 024 7683 1614.

2.2 Paying family members

- 2.2.1 A direct payment cannot be used to arrange care and support to be provided by a spouse, a family member or a partner who lives in the same household as the person except in circumstances where it has been assessed as necessary. Any such arrangement will need to be approved by the relevant Head of Service or Service Manager.

2.3 Legal rewards

- 2.3.1 Coventry City Council allows direct payments to be used to pay family and friends a 'legal reward' towards meeting an adult or child's eligible unmet social care needs. This can be up to £250 to comply with taxation law. The person who receives this reward will need to clarify whether this will affect their welfare benefits. In these

instances, the direct payment recipient does not need to legally employ this person receiving the reward.

2.4 Employment Duties

- 2.4.1 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation are responsible for the day to day management of the direct payments including that of employing suitable workers (i.e. personal assistants) where necessary to provide the support identified within their Care and Support Plan, the Child in Need Plan or the Early Help plan.
- 2.4.2 Coventry City Council will refer adults, carers, young carers and parents of disabled children to direct payment support service to assist them in their role as employer.
- 2.4.3 When an adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation employs personal assistants the person shall comply with their legal duties and obligations as an employer in the United Kingdom including that which is required by HMRC and the UK Border Agency. The nominated authorised person shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to its workers, register as an employer with HMRC and ensure all checks are made of their potential employees including DBS checks and the right to work in the UK.
- 2.4.4 The adult, carer, young carer and parent of a disabled child or the nominated authorised person or organisation employing personal assistants will need to ensure there is Employers Liabilities Insurance in place. The policy and premium receipts must be produced on demand when requested by Coventry City Council. If this not adhered to then the direct payment may be suspended or terminated. See section 5 for ending a direct payment.
- 2.4.5 Coventry City Council will not be liable for any employment responsibilities. This is the responsibility of the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation who agrees to manage the direct payment. It must be clearly stated in the employee's contract of employment or written statement of work that they are employed solely by the person or the nominated authorised person.
- 2.4.6 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation will be expected by Coventry City Council to ensure that there are provisions for cover in emergency situations or when their personal assistants are not able or not due to attend to support them, such as in cases of holiday or sickness. This will be included in the Care and Support Plan, the Child in Need Plan or the Early Help plan.
- 2.4.7 In the event that normal contingency arrangements for the provision of services paid for with a direct payment breaks down, Coventry City Council will ensure that the person receives appropriate services to meet their eligible needs for that period. Any monies paid by Coventry City Council shall be recovered accordingly.

2.4.8 Coventry City Council will only advise on the health and safety implications for the authority, employees of the Council and for direct payment recipients. Therefore, direct payment employers must take reasonable steps to minimise risks to the health and safety of the staff they employ and develop a Risk Management Plan. This plan should include any training to be arranged for staff.

2.4.9 The adult, carer, young carer, parent of a disabled child or the nominated authorised person or organisation can use their direct payment funding to pay for the costs of training personal assistants if the training will enable their staff to meet their assessed eligible care and support needs. This needs to be evidenced through receipts, invoices or through bank statements.

2.5 Safeguarding

2.5.1 The nominated authorised person managing the direct payment shall ensure that, when employing anyone who will provide unsupervised support to young children or a vulnerable adult, they conduct an enhanced DBS (Disclosure and Barring Service) check to ensure that the person has no relevant criminal convictions that would preclude them from working with children or vulnerable people. Direct payments can be used to cover the costs of the DBS check if an adult who receives a direct payment plans to employ their own personal assistants. To find out more about children's and adults safeguarding visit:

http://www.coventry.gov.uk/info/158/safeguarding_adults/404/worried_that_someone_you_know_is_being_harmed_or_neglected/1

http://www.coventry.gov.uk/info/158/safeguarding_adults/404/worried_that_someone_you_know_is_being_harmed_or_neglected/2

2.5.2 The adult, carer, young carer, parent of a disabled child, nominated authorised person or organisation must share information with Coventry City Council when there are concerns about information on the DBS check which could result in a risk to the adult or child by contacting their allocated worker or the relevant intake (duty) team.

2.5.3 During periods where there are concerns about personal assistants, carers or agencies whether the arrangements continue will depend on the outcome of a risk assessment.

2.5.4 Any concerns about the registration status or practices of care agencies should be reported by the allocated worker to the Care Quality Commission (CQC). CQC will advise Coventry City Council on the information that can be shared with the managing agent of the direct payment and Coventry City Council shall make decisions about whether the Direct Payment should continue.

SECTION 3 – DIRECT PAYMENT RATES

3.1.1 The value of the direct payment will be an amount which is a reasonable cost of securing the provision of the service concerned in the local social care market to meet the eligible needs of adults, carers, young carers or disabled children. There is no limit on the maximum or minimum amount of the direct payment rate however

guideline rates have been agreed by Coventry City Council and shall be applied accordingly on a case by case basis. These guideline rates can be found at www.coventry.gov.uk/directpayments and will be made available by an allocated worker on request. Where the guideline rates have been applied, adults, carers and parents will be asked to make additional contributions to the costs of their care and support, if their chosen provider is more expensive than other providers who are available locally who could meet their eligible care needs.

- 3.1.2 Direct payments can include associated costs that are necessarily incurred in securing the provision of services. The costs involved may vary and include recruitment costs, National Insurance, statutory holiday pay, statutory sick pay, maternity pay, employer liability insurance, public liability insurance and VAT.
- 3.1.3 In the event that an adult, carer, young carer or parent of a disabled child wishes to challenge the proposed direct payment amount, they can do so through Coventry City Council's [Complaints Procedure](#).

SECTION 4 – REVIEW OF DIRECT PAYMENTS

4.1 Monitoring and review of direct payments

- 4.1.1 The adult, carer, young carer or parent of a disabled child or the nominated authorised person to manage the direct payment bank account is expected to submit paper copies or electronic copies of their bank statements and/or returns to the Independent Living Team on a scheduled date every six months. This is to provide evidence of how they are spending the direct payment provided to meet the eligible needs agreed in the Care and Support plan, the Child in Need Plan or the Early Help plan. This needs to be evidenced by providing bank statements, timesheets, invoices and/or receipts. All evidence should clearly demonstrate how the direct payment has been spent. If the direct payment recipient is managing the direct payment well, for example, submitting returns on time, returning unspent funding and spending the direct payment in line with the support plan and direct payment letter of agreement then the agreed schedule to send in this documentation might reduce to once per annum. If this not adhered to then the direct payment may be suspended or terminated. See section 5 for ending a direct payment.
- 4.1.2 The third party organisation nominated to manage the direct payment is expected to provide evidence of expenditure via accounting reports, invoices, timesheets and wage slips on a quarterly basis. This is to provide evidence of how they are spending the direct payment provided to meet the eligible needs agreed in the Care and Support plan, the Child in Need Plan or the Early Help plan. This needs to be evidenced by providing bank statements, timesheets, wage slips invoices and/or receipts. All evidence should clearly demonstrate how the direct payment has been spent.
- 4.1.3 New direct payments will be reviewed at least once within the first six months or more frequently depending on how well the direct payment is being managed. Subsequently, the direct payment will be reviewed annually in adults, every six months in children's, or as required in conjunction with the social care assessment of need by an allocated worker. This review will include how a direct payment is being

managed, whether the eligible needs or circumstances have changed and how the eligible needs are being met. A risk analysis will also be undertaken as part of the review to determine whether any additional reviews are required in the future and whether bank statements and/or returns need to be sent to Coventry City Council every six months or annually.

4.1.4 Coventry City Council requires the adult, carer, young carer, parent of a disabled child, or their nominated authorised person or organisation nominated to manage the direct payment to retain evidence of their expenditure (e.g. invoices, receipts, timesheets and bank statements) for seven years from the date the direct payment commenced. This means evidence can only be destroyed when it is older than seven years.

4.1.5 Coventry City Council has the right to increase, decrease, suspend or terminate the direct payment in line with a review or reassessment of the person's assessed eligible care needs.

4.2 Recovery of direct payments

4.2.1 Coventry City Council reserves the right, after consultation with the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation, to adjust future payments to recover any overpayments or under spends after taking into consideration banked hours as agreed in the Care and Support plan, the Child in Need Plan or the Early Help plan, or any other expenses the person is required to meet in relation to their direct payments such as statutory holidays and payments due to the HMRC.

4.3 Unspent direct payments

4.3.1 The adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation managing the direct payment should return any unspent money exceeding the value of four weeks of their agreed weekly payment at least every six months in consultation with Coventry City Council, unless it has been agreed that they could keep some or all of this funding as specified in 4.2.1.

4.3.2 Coventry City Council reserves the right after consultation with the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation, to recover any unspent money exceeding the value of four weeks of their agreed weekly amount. Bank accounts will be monitored at least every six months to ensure the level of unspent monies does not accumulate unless as specified in 4.2.1. Coventry City Council will recover any direct payment funding that been banked for more than a year unless it is explicitly agreed that the funding could be used towards meeting needs in the future.

4.4 Wrongful use of direct payments

4.4.1 Coventry City Council is required to ensure that the nominated authorised person is using the direct payment to achieve the eligible needs and outcomes agreed in the Care and Support Plan, the Child in Need Plan or the Early Help plan. In the event that fraud, abuse or misuse of the direct payment is suspected Coventry City Council

shall investigate and terminate/suspend the direct payment as appropriate. Any potential criminal activity shall be referred to the Police for further investigation. Coventry City Council will provide the care and support in the interim or in the long-term if the direct payment has been terminated.

4.4.2 Coventry City Council is not responsible for any losses incurred by the person

4.5 Direct payments and hospital stays

4.5.1 If an adult, carer, young carer or child who is a recipient of support from a care agency funded by a direct payment is admitted into hospital, a review of their care needs will take place. The review shall consider whether the direct payment needs to continue, depending upon the circumstances of the individual.

4.5.2 If an adult, carer, young carer or child who is a recipient of support from personal assistants funded by a direct payment is admitted into hospital, they should continue to be paid for four weeks. This is to enable them to pay their personal assistants a full retainer payment for four weeks whilst a direct payment recipient is in hospital. If an adult or a child is in hospital for longer than four weeks a review will need to take place. Any additional payments after the four weeks may be made on a case by case basis.

4.5.3 During the review consideration will be given to how the direct payment may be used in hospital to meet non-health needs or to ensure employment arrangements are maintained.

4.5.4 In some cases, the nominated authorised person managing the direct payment may require a hospital stay. In these cases Coventry City Council must be notified and an urgent review will be conducted to ensure that the person continues to receive care and support to meet their needs.

4.6 Direct payments – periods away from home

4.6.1 Personal assistants, but not care agencies, should continue to be paid in full for up to four weeks for the period whilst a direct payment recipient is away for short periods. Any additional payments after the four weeks may be made on a case by case basis.

4.6.2 If an adult, carer, young carer or child is away from their home for four weeks or more a review will take place and payments may be reduced or stopped should the person be assessed as permanently residing in a different area.

4.6.3 The adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation retains responsibility of ensuring that arrangements are in place to pay the wages of their employee/s in the UK if they wish to retain them while they are away from home.

4.6.4 Coventry City Council will allow direct payments to be used to purchase care and support to meet the eligible needs of adults, carers, young carers and children when they are temporarily staying in another location for up to four weeks and any additional payments after the four weeks may be made on a case by case basis.

This includes whilst on holiday both in the United Kingdom and abroad, as long as the individual undertakes the necessary safety checks and ensure that the care provider is appropriately registered.

SECTION 5 – ENDING DIRECT PAYMENTS

5.1 Terminating direct payments

- 5.1.1 Direct payments will only be terminated as a last resort. Coventry City Council will take all reasonable steps to address any situations to avoid the termination of the payment. Pending decisions, Coventry City Council will seek to ensure that there is no gap in the provision of care and support.
- 5.1.2 Direct payments may need to end for a number of different reasons. Where it has been identified there is evidence of abuse or neglect related specifically to the direct payment, where direct payment conditions are not being met or where fraud has been detected, the direct payment should be ended immediately.
- 5.1.3 The adult, carer, young carer, parent of a disabled child or their nominated authorised person will be given additional support, advice and guidance if they have not been complying with the conditions of a direct payment. Following this, if direct payment recipients continue to not comply with the conditions of the direct payment Coventry City Council will suspend or end the direct payment by letter giving the recipient four weeks' notice. If there is no response to the notice of suspension the direct payment will be ended and Coventry City Council will arrange the care and support. Any non-compliance by the nominated third party organisation will be managed through Coventry City Council's contract compliance process.
- 5.1.4 When the direct payment has ended because the adult, carer, young carer, parent of a disabled child or their nominated authorised person decides they would prefer Coventry City Council to arrange their support directly, the recipient of the direct payment should finalise any outstanding payments including returning any unspent money to Coventry City Council and close the direct payment account within six months.
- 5.1.5 When the direct payment has ended because the adult, carer, young carer or child has died, the direct payment recipient and/or executor of the estate should be contacted by Coventry City Council within six weeks to finalise the payments and close the direct payment account.
- 5.1.6 Direct payments will end when an adult, carer, young carer or child has permanently moved out of Coventry unless there has been an agreement by Coventry City Council to continue to fund this adult or child's eligible needs. This could happen when the Council has arranged for the adult, carer, young carer or child to be placed out of city for non-residential placements. This does not apply when someone temporarily moves out of Coventry and still retains their permanent address in Coventry, for example, young people who live away for school, college or university.
- 5.1.7 When a direct payment has ended, the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation should pay any

outstanding invoices and payments to personal assistants, return any unspent and overpaid money to Coventry City Council and close the direct payment account within three months, following the direct payment having ended. If the managing agent has not returned unspent money or repaid the overpaid funding to Coventry City Council and closed the account within three months, Coventry City Council may instruct debtor proceedings to recover the monies from the adult, carer, young carer, parent of a disabled child or their nominated authorised person or organisation.

5.2 Discontinuing direct payments in the case of persons with capacity to consent to the direct payment

- 5.2.1 Where an adult or young person aged 16 or 17 with capacity is in receipt of a direct payment but loses capacity to manage the direct payment, Coventry City Council will discontinue direct payments to that person and consider making payments to an nominated authorised person instead. In the interim, Coventry City Council shall make alternative arrangements to ensure continuity of support for the person concerned.
- 5.2.2 In the event that the loss of capacity to consent is temporary, Coventry City Council may continue to make payments if there is someone else who is willing to manage the payment. This will be a temporary measure until the person has regained capacity.

5.3 Discontinuing direct payments in the case of persons lacking capacity to consent

- 5.3.1 Coventry City Council shall discontinue direct payments if the nominated authorised person or organisation is not acting in the best interests of the person within the meaning of the Mental Capacity Act 2005.

5.4 How to discontinue direct payments

- 5.4.1 Coventry City Council will discuss as soon as possible with the relevant person the reasons why consideration is being given to discontinuing direct payments to afford them the opportunity to explore all available alternative options.
- 5.4.2 Should Coventry City Council decide to withdraw direct payments, it will need to conduct a review of the care plan and agree alternative care and support provision with the appropriate persons.
- 5.4.3 A four-week notice period will normally be given before any direct payment is terminated, however Coventry City Council reserves the right to terminate direct payments on an emergency basis.
- 5.4.4 Coventry City Council reserves the right to recover direct payments in full or in part if it is satisfied that the money has been used inappropriately.

SECTION 6 – CARERS DIRECT PAYMENTS

6.1 Carers direct payments in adult social care

- 6.1.1 Any Carer that receives a direct payment in their own right will require a support plan which will detail how the Direct Payment will be utilised and how this will meet eligible needs and identify a date in which this plan will be reviewed.
- 6.1.2 A Carers Direct Payment cannot be used to meet the needs of the cared for person.

6.2 Direct Payments for replacement care

- 6.2.1 The person with support needs can be assessed for the use of replacement care hours of support to help their carer plan flexibly for any breaks. A direct payment can be made for the replacement care hours to be organised in a flexible way giving the carer and the person they care for choice and control over their support. The amount of hours required and appropriateness of the support should be assessed and determined by the allocated worker who is assessing the cared for person.
- 6.2.2 Replacement care is provided to the person being cared for and therefore, this is a chargeable service. Any charge incurred will be the responsibility of the cared for person so it is important that they are in agreement with the support plan.
- 6.2.3 Replacement care cannot be utilised in instances where a carer is unwilling or unable to provide care.

6.3 Direct Payments for residential respite care

- 6.3.1 A Direct Payment can be utilised to purchase residential respite care. As part of the assessment a practitioner would need to determine the amount of weeks required and outline this within the recipient's support plan. The direct payment cannot be used to fund more than four consecutive weeks in any twelve month period (see section 2.1.8).
- 6.3.2 If there is a necessity for more long term provision which exceeds the four week rule a practitioner would need to consider directly commissioning this support.

6.4 Direct Payments for parent carers, foster carers and young carers

- 6.4.1 Young carers, carers over the age of 18 and foster carers who provide care to a disabled child under the age of 18 can be assessed as needing short breaks and can decide to receive a direct payment to organise these breaks flexibly giving them choice and control over the support.

SECTION 7 - Direct payments policy review

- 7.1.1 The direct payments policy will be reviewed two years following ratification or if required before this date if the necessity arises.
- 7.1.2 Each request for a direct payment shall be dealt with on its own merits and this policy is not intended to be exhaustive and should be used as guidance only.



Cabinet Member for Adult Services

4th July 2018

Name of Cabinet Member:

Cabinet Member for Adult Services – Councillor F Abbott

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

None

Title:

Outstanding Issues

Is this a key decision?

No

Executive Summary:

In May 2004 the City Council adopted an Outstanding Minutes System linked to the Forward Plan, to ensure that follow up reports can be monitored and reported to Elected Members. The appendix attached to the report sets out a table detailing the issues on which further reports have been requested by the Cabinet Member for Adult Services, so that she is aware of them and can monitor progress.

Recommendations:

The Cabinet Member for Adult Services is requested to consider the list of outstanding issues and to ask the Member of the Strategic Management Board or appropriate officer to explain the current position on those which should have been discharged at this meeting or an earlier meeting.

List of Appendices included:

Table of Outstanding Issues

Background papers:

None

Other useful documents:

None

Has it or will it be considered by Scrutiny?

No

Has it, or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report author(s):

Name and job title:

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Governance Services Officer

Directorate:

Place

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Enquiries should be directed to the above persons.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Names of approvers: (Officers and Members)				

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	Subject	Date for Further Consideration	Responsible Officer	Proposed Amendment to Date for Consideration	Reason for Request to Delay Submission of Report
1	Workforce Development Strategy and Practice Quality Assurance in Adult Social Care 2017-2019 Further report providing an update on the Workforce Development Strategy and Quality Assurance (Minute 22/17 of the Cabinet Member for Adult Services refers – 26 th January, 2018)	To be confirmed - further report to be submitted when update information is available	Deputy Chief Executive (People) Pete Fahy Andrew Errington		
2	Renewing the Section 75 Partnership Agreement for Mental Health Services new S75 agreement from April 2019 (Minute 27/17 of the Cabinet Member for Adult Services refers – 29th March, 2018)	March 2019	Deputy Chief Executive (People) Pete Fahy Sally Caren		

* Identifies items where a report is on the agenda for your meeting

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