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**PRE DECISION SCRUTINY OF: DIRECT PAYMENTS**

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**Purpose of Report**

1. To give Members background information to aid the scrutiny of the draft report to Cabinet entitled 'Direct Payments for Vulnerable People' The full draft report is attached at **Appendix 1** and has **4** appendices:
  - **Appendix A** – Options Appraisal Paper
  - **Appendix B** – Consultation Findings
  - **Appendix C** – Equality Impact Assessment
  - **Appendix D** – Letter from Cllr McGarry, Chair of Community & Adult Services Scrutiny Committee.
2. The Cabinet is to consider the report and its recommendations regarding Direct Payments at their meeting on 19 January 2017. At this committee meeting Members will have the opportunity to hear from internal witnesses and will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet.

**Background**

3. The Social Services and Well-being (Wales) Act 2014 sets out the duties of a local authority in meeting needs for care and support, or support in the case of a carer, following an assessment. Sections 50, 51, 52 and 53 in Part 4 of the Act detail the requirements regarding direct payments. The Part 4 Code of Guidance (meeting needs) details the requirements and guidelines for local authorities

regarding direct payments. This is available on the Care Council for Wales' website at: <http://www.ccwales.org.uk/getting-in-on-the-act-hub/>

4. The Code of Guidance states:

*'Direct payments are monetary amounts made available by local authorities to individuals, or their representative, to enable them to meet their care and support needs; or in the case of a carer, their support needs. Direct payments are an important mechanism by which people can exercise choice, voice and control to decide how to meet their needs for care and support and achieve their personal outcomes. As such direct payments are an integral part of meeting people's needs through care and support planning, and must not be seen as a separate, secondary, consideration.'*

5. As part of the papers for the Committee Meeting on 7 December 2016, Members received further information on the requirements for local authorities regarding Direct Payments and on the current position including the take up rates of Direct Payments. These papers are available to view at:

<http://cardiff.moderngov.co.uk/ieListDocuments.aspx?CId=141&MId=2784>

6. In 2005, the Council appointed Cardiff and Vale Coalition for Disabled People (now part of Diverse Cymru) to provide support to service users who wished to use Direct Payments to recruit a Personal Assistant or use an Agency. Following feedback from service users, the scheme was extended to include support with banking via managed accounts. The value of this contract is approximately £700,000 per annum, with a fixed annual fee for the first twelve months of £881 per person and £721 post twelve months per person. The Council currently offers two separate hourly rates for Direct Payments, of £10.02 for a PA and £11.96 for an Agency. The performance results for Quarter 3 show that there were 707 adults using Direct Payments.

## Review of Direct Payments

7. The Budget agreed by Full Council on 25 February 2016 included a saving of £200,000 from a review of the administrative arrangements for Direct Payments, including *‘the current contract with a support provider. Consideration to be given to alternative service delivery focussing on quality and best use of resources whilst continuing to maintain existing service user support to those receiving a direct payment.’*

## Proposed Recommendations to Cabinet

8. The report to Cabinet contains the following recommendations:
  - a. *‘Approve the proposed model for the provision of direct payments support services for service users as set out in the body of the report’;*
  - b. *‘Authorise the proposed procurement process; if the proposed recommendation is approved, all stages of the procurement process to be delegated authority to the Director of Social Services in consultation with Cabinet Members for Finance and Health, Housing and Wellbeing, the Council’s Section 151 Officer and the Director of Governance and Legal Services, to determine all aspects of the procurement process up to and including the award of contracts and all ancillary matters pertaining to the procurement.’*

## Proposed Model

9. The proposed model for the provision of direct payments support service for service users is set out at **points 12 – 16 of Appendix 1**. These state that there will be a *‘clear single point of contact for information and advice’*. The Council’s role will be more clearly defined and will include:

- a. the promotion and encouragement of the use of Direct Payments
- b. the development of training pathways for individuals who may wish to become personal assistants in Cardiff
- c. visits prior to referral to the support provider to ensure that the option of Direct Payments is fully understood and that advice on the widest range of independent living services are explored.

10. The Cabinet report sets out the scope for the support service and the Direct Payment Managed Account Service, underneath **point 15** of the report.

### **Proposed Procurement Process**

11. The proposed procurement process, to be delegated, is set out in **points 17 - 29 of Appendix 1**. These state that the approach to commissioning will be strongly aligned to the Co-operative Values that the Council has signed up to and details the principles underpinning the recommissioning, at **point 24**. The Cabinet report states that:

- a. The contract for Direct Payments will be delivered as a whole package by tendering to the market for providers
- b. Providers will be secured to a 3 year contract, with the option to extend for three further years if they are delivering best value, quality of service and cost
- c. Evaluation criteria will be weighted equally on quality and value for money
- d. Consideration is being given to using the Open procedure for procurement, which would be subject to a separate report (director level).

12. The report to Cabinet states, at **point 22**, that '*The Directorate recognizes it is working to a tight timescale. Transition and contingency arrangements are in place and will be administered by social services for a period leading up to the new contract. All directorate involved in the project have been briefed and are ready to respond as and when necessary.*'

13. The report to Cabinet contains details of the consultation process, with consultation findings attached at **Appendix B** of **Appendix 1**.

### **Previous Scrutiny**

14. This Committee has regularly scrutinised Direct Payments as part of performance monitoring scrutiny and scrutiny of the Director of Social Services Annual Report.

15. Following scrutiny of the 2016/17 budgetary proposals at their meeting on 15 February 2016, Members made the following comment regarding the proposed saving linked to the review of Direct Payments:

*'Line 145 – Members note that the existing contract will expire in January 2017 and the £200,000 saving should flow from the 3 months thereafter. Members also note the comments that the Local Safeguarding Adults Board wishes to raise awareness of the risks of financial abuse and that work on this area should happen this year.'*<sup>1</sup>

16. Members carried out policy development scrutiny at their committee meeting on 7 December 2016, including hearing from internal witnesses on the work to date to consider options and develop recommendations for the Cabinet to consider. Following the meeting, the Chair wrote to Councillor Susan Elsmore, Cabinet Member for Health, Housing and Wellbeing, stating the following:

*'Members note the objectives of improving arrangements for those using Direct Payments by simplifying the referral pathway and increasing choices. Members also note the aim of achieving value for money for the Council whilst ensuring quality of provision. Underpinning these is the need to increase the numbers of personal assistants available to provide care and support. Members support these goals, which will help us to meet our legal duties.'*

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<sup>1</sup> Letter from Cllr McGarry, Chair CASSC, to Cllr Bale, Leader, dated 16 February 2016

*'Members recognise that there is a real opportunity to make a difference for service users and carers by ensuring the direct payment system works for them. Members also recognise the need to ensure value for money for the Council. However, Members are concerned about the tight timescales outlined at the meeting. Members recognise that officers are working hard to deliver to these timescales. However, Members would like assurance that more time will be taken if it is needed to ensure that the best possible scheme is developed.'*<sup>2</sup>

17. Members also requested additional information be provided as part of these papers, on the following:

- *The respective roles of Social Services and Preventative Services in the new pathway;*
- *The monitoring requirements built into the specification;*
- *The evaluation criteria and weighting;*
- *The transition arrangements, to ensure continuity and no detriment to service users; and*
- *Comparator information on Direct Payments rates.*

18. This information is provided at **Appendix 2** of this report, which is the response from Councillor Elsmore, Cabinet Member for Health, Housing and Wellbeing, to Councillor McGarry, Chair of this Committee.

19. The Children and Young People Scrutiny Committee carried out pre-decision scrutiny of this report at their meeting on 10 January 2017. The letter from Councillor Richard Cook, Chair of that Committee, to Councillor Lent, Cabinet Member for Early Years, Children and Families, is attached at **Appendix 3** of this report.

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<sup>2</sup> Letter from Cllr McGarry, Chair CASSC, to Cllr Elsmore, Cabinet Member, dated 9 December 2016

## **Way Forward**

20. The item will commence with Councillor Susan Elsmore (Cabinet Member – Health, Housing and Wellbeing) being invited to make a statement. Sarah McGill (Director of Communities, Housing and Customer Services and Senior Responsible Officer for this project), Tony Young (Director of Social Services), Amanda Phillips (Assistant Director of Social Services – Adults, and Project Lead for this project), Denise Moriarty (Project Manager) and Samantha Harry (Commissioning and Procurement) will be in attendance to assist in answering Members' questions.

## **Legal Implications**

21. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

## **Financial Implications**

22. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this

report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

## **RECOMMENDATIONS**

23. The Committee is recommended to:

- a. consider the information in the report, appendices and at the meeting;
- b. decide whether they would like to make any comments to the Cabinet on this matter in time for its meeting on 19 January 2017; and
- c. decide the way forward for any future scrutiny of the issues discussed.

**DAVINA FIORE**

**Director of Governance and Legal Services**

**12 January 2017**