

## **Cabinet – 13 March 2013**

### **The future arrangements for personal budgets in adult social care**

**Portfolio:** Councillor McCracken, Social Care and Health

**Related portfolios** None

**Service:** Adult Social Care and Inclusion

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1. Summary**

- 1.1 This report seeks approval from members for the proposed actions to ensure that the arrangements for supporting and managing the use of personal budgets for adults who are eligible for social care in Walsall are fit for purpose and meet the needs of customers.

#### **2. Recommendations**

- 2.1 That Cabinet notes that the Interim Executive Director for Social Care & Inclusion is undertaking a process to review the arrangements for delivery support and management of customers' personal budgets and will accept a future report in relation to that review.
- 2.2 That Cabinet notes that the Interim Executive Director for Social Care & Inclusion may need to use his delegated powers to make any changes within the existing arrangements if either new resources are required or changes in the arrangements to secure the safety of customers.
- 2.3 That Cabinet rescinds its decision of 8 February 2012 which in Recommendation 2.5 agreed to use Walsave bank accounts as the mechanism to assist customers to manage their personal budget.
- 2.4 That Cabinet re-affirms all the other decisions taken in respect of the report of 8 February 2012.

### 3. Report detail

- 3.1 Since 2009 it has been the policy of the government that all people who need long-term support in the community for their care needs should do this through a personal budget. The policy that was put in place by the last government was reaffirmed by the coalition government when they came into power. The Minister for Social Care stated in October 2012 that by March 2013 he expected that at least 70% of people in receipt of care would receive this in the form of a personal budget. Customers may still have a choice where they ask the Council to continue to arrange for their services for them.
- 3.2 Walsall has been a strong supporter of this approach and Cabinet has considered several papers on this matter. In February 2012 cabinet approved an operating model for Walsall which laid out the local approach to the transformation of adult social care. This report confirms part of that approach but also recommends a review of the way in which personal budgets are managed.

#### What is a personal budget?

- 3.3 A personal budget is a mechanism whereby an adult who has been assessed as being eligible for social care support is advised of the sum of money that is available to them to meet their needs. A personal budget can only be used to fund services that support the service user to remain in their own home. The government is considering whether this might eventually be extended to include people who are in residential care. A personal budget will be calculated after an assessment of the person's needs, to which the person will be asked to contribute. The identified needs will be described in a "**personal support plan**" which through a financial calculation (referred to as a RAS – Resource Allocation System) identifies a sum of money that should be available to meet that support plan.
- 3.4 A personal budget can be taken by a customer in one of two ways.

#### 3.4.1 Direct Payments

There is a **Direct Payment**, where the customer is given the money that has been allocated to them as a cash sum and they then take responsibility to arrange for their own care. Most customers who choose to take their money in this way will use a **Direct Payment Support Organisation** to assist them with these arrangements. This is particularly important if the customer is going to employ staff to assist with meeting their care needs – these are usually called **Personal Assistants**. When a person employs staff there are a lot of logistics and arrangements to put in place including employer's liability insurance, PAYE, National Insurance and tax arrangements, recruitment and support for staff etc. The person who has taken the **Direct Payment** can agree with a **Direct Payment Support Organisation** what level of support is required for their personal arrangements. This model for provision of personal budgets has been in existence for over 15 years and is the most popular model of managing care with disabled adults (aged 18-64).

There are a number of advantages to the customer in taking a direct payment. They are in control over the type of service or set of services they receive, they can come up with creative solutions for their personal circumstances and if they

wish they can employ their own staff (as described above). Those customers who receive a direct payment should manage this through a bank / building society or similar account that is separate from their own personal account and their direct payment account should be open to audit by the council. The basic test always has to be that the money is being used to meet the person's stated needs.

Once a customer has chosen to take the option of a Direct Payment and has chosen the option of a support organisation to assist them, the contractual arrangement is between the customer and the Direct Payment Support Organisation. The Council will ensure that there are organisation(s) in Walsall that can carry out this task. At present Walsall has contracts with 6 organisations who provide this service for people wanting a personal budget.

Some staff have used a phrase called a "managed account" where the person who is eligible for services has chosen a direct payment and has then asked a support organisation to manage their account for them. This is still a Direct Payment – where the agreement is between the service user and the support agency (and not the council with either party). In Walsall the phrase "nominated account" will be used to describe this process.

If those who are entitled to receive care wish to do that through the assistance of a Personal Assistant (PA) then their only option is to achieve that through a Direct Payment.

### **3.4.2 Managed Accounts**

The other way in which a personal budget can be taken is through a "**managed account**". This is a process whereby the council completes the assessment with the customer and develops the support plan with the customer but the customer, who will be advised of the sum of money that is available to meet their care needs, chooses to ask the council (or a third party) to then manage those arrangements for them. The council (or the third party) is required to have a **brokerage function** that assists people to make the arrangements for their care. This approach is a new development in adult social care as it requires the amount of money available to the customer to be clear but the management of this money remains with the council (or a third party) i.e. with the "broker". This approach has proved to be much more popular than Direct Payments with older people, who often advise staff that they do not want to take responsibility for managing their own care arrangements. Most often this arrangement is in place when an older person receives a single set of services from one domiciliary care or other support for living at home services agency. The role of the **broker** is to ensure that the customer can exercise some choice over both who might provide the service and how it might be provided. If a third party is taking on this responsibility then it is their responsibility to contract with the care agency on behalf of the customer. At present one organisation is providing this service on a small number of cases in Walsall.

There are different levels at which a managed account can operate. At its simplest (which is the way in which most councils currently appear to operate this service) it is just a statement of the money being spent on services that have been commissioned or procured by the council / third party. At a more complex level, each week the money spent is totalled up and checked against the

personal budget that is available. This gives customers flexibility to have more services one week than another or to use more expensive services less frequently e.g. respite care.

In terms of managed accounts within Walsall, the Council has been working towards a system where managed accounts have the flexibility laid out in the latter scenario. A proposal had previously been reported to Cabinet and work initiated for this service to be outsourced and operated via a Walsave Bank Account. It is the view of officers that the Council is not quite ready to make that step at this time, but would not preclude that or a similar approach being commissioned in the future. At this stage, the proposal is that the Council undertake a review of the existing arrangements and their future provision.

For the coming weeks whilst this review takes place any new customers who become eligible for a personal budget will be given the option of taking a Direct Payment or having a managed account where the Council is the broker. There may be some cost implications for this as the council has closed down some of its former brokerage functions following previous reports to Cabinet on this matter and decisions that were taken. The Interim Director is clear that at this stage there is no clear arrangement where this service could be run at the scale required without much more work. This is certainly an option to consider for the future.

### **3.5 Conclusion**

Walsall Council has had arrangements in place for some time to move towards every eligible customer having access to a personal budget (which is what government policy requires and is likely to be enshrined in legislation if the current Social Care Bill becomes law). The review of current arrangements and future proposals will ensure they are fit for purpose and meet the needs of customers so that every new customer will have the choice of taking a personal budget which will be either in the form of a Direct Payment (for which people will be positively encouraged as the council's preferred approach) or a managed account where this is the individuals choice. This managed account will either be managed internally within the council or the brokerage function will be a service provided by a third party that the council procures.

### **3.6 Other issues**

The Council will continue its very strong and effective emphasis on prevention to reduce demand on social care in Walsall. We will continue to work with customers where a short term small amount of help may avoid, defer or delay a need for longer term help. This includes our re-ablement and intermediate care services as well as using equipment (including telecare) and other approaches that we know will assist people without necessarily bringing them into the care system. To this end people will not be considered or assessed for a personal budget until we have exhausted other options in our approach to assist them. The most important measure of success in Walsall is that those people we can assist at the initial stage do not go on to need longer term help. For those who do need longer-term help in the community then a personal budget is the approach we will take. Those who are assessed as needing residential care (again after a period of rehabilitation / reablement) are not currently eligible for a

personal budget (though new legislation may change this) and their care will be procured by the council with the customer in a placement of their choice (taking into account the Council's policies and financial procedure and contract rules regarding this).

#### **4. Council priorities**

The Corporate Plan for Walsall Council states: "While working towards this shared partnership vision for 2021, it is important that as an organisation we focus on what we need to deliver in the shorter term. As such we have committed to three priorities to focus on between now and 2014. These are: communities and neighbourhoods; the economy; and health and wellbeing". This paper covers the health and well-being part of the plan and how it will be carried out in Walsall.

#### **5. Risk management**

There are a number of risks associated with personal budgets. This is a key feature as the model passes some of the risks from the council to the customer. The customer is expected to take more responsibility for managing their own care in a way that the council would have done this for people in the past. This is not a bad thing, but the Council will want to ensure that mechanisms are in place which both ensure that this responsibility is being carried out and that no one is abusing or being abused by the situation.

The risks are similar for Direct Payments and for Managed Accounts. The Interim Director of Social Care and Inclusion will consider the risks associated with the current arrangements before making recommendations on the future of the various services.

#### **6. Financial implications**

The Interim Director for Social Care and Inclusion in reviewing these arrangements will need to ensure that the customer is not paying for any the costs of these support services from within their personal budget.

He will also need to identify an appropriate methodology for ensuring that those agencies who support people with their personal budgets are on a sound financial footing which includes their arrangements with the Council.

The review will also need to identify whether the function of running managed accounts is best carried out by a third party or by the Council. Internal Audit has recommended that the previous systems in place in the Council should be strengthened if the Council continues with this service. If the Interim Director determines during this review that the service should be carried out in-house then a project team will be established to ensure that there is a safe system that can run the brokerage function, keep account of the money and make the required payments.

Some of these services did exist in the past but were reduced when proposals to provide this service externally were progressed. If these services are required to be provided internally they will need to be rebuilt on a sound footing. Cabinet

should be aware at this stage that there is a risk that this would result in some additional costs, as some of the savings that have been made in the past by reducing this function may be lost.

If these services are required to be provided in-house they will need to be rebuilt on a sound footing and costs of the service may be in the region of around £500k per annum. The exact structure and costs would be identified as part of the project, however at this stage it is envisaged that resources are available within the Directorate to cover the likely costs.

The council may also wish to carefully consider using an independent third party to carry out this task on its behalf, and as part of the review would need to identify the costs relating to this provision.

## **7. Legal implications**

The provision of personal budgets, including direct payments, is enshrined in current legislation and statutory ministerial guidance, and is included in the Care and Support Bill currently before parliament.

The current contractual arrangements for providing both Direct Payment Support Services and managed accounts brokerage services will need to be carefully considered before any proposals are made to change the existing arrangements.

The Council's Contract Rules and any relevant procurement legislation will need to be followed in future procurements of managed account brokerage services.

## **8. Property implications**

There are no property issues directly arising from this report.

## **9. Staffing implications**

If the service is to be run internally within the council there are likely to be some new jobs created to which existing staff, including redeployees, can apply. This will need to be managed through the normal redeployment and recruitment processes.

## **10. Equality implications**

An equality impact assessment has been carried out and there are no direct implications.

## **11. Consultation**

Extensive consultation and engagement has already taken place with a range of stakeholders as part of the move to personal budgets (as reported to Cabinet in February 2012). Communication with customers and their carers about the changes must continue and the directorate will be sensitive to people's concerns and ensure that we address them. We will use a project plan to manage the

changes which will include an “issues register” which will require a response when matters of concern are raised by any person around these changes. Regular consultation processes will also continue.

## Background papers

Cabinet Report – Adult Social Care Transformation – 8<sup>th</sup> February 2012.

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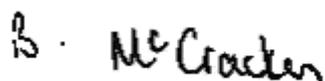
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4 March 2013



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4 March 2013