

Policy and Sustainability Committee

10:00am, Tuesday, 23 May 2023

Self Directed Support – Direct Payments

Executive/routine
Wards
Council Commitments

1. Recommendations

- 1.1 It is recommended that the Council:
- 1.2 Note that briefing sessions have recently been provided to staff on Self Directed Support, including direct payments.
- 1.3 Note that officers have committed to revising information for recipients of direct payments by September 2023 and publish this on the Edinburgh Health and Social Care Partnership website.

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Self Directed Support – Direct Payments

2. Executive Summary

- 2.1 On 16 March 2023, Full Council received a report on Self Directed Support (SDS) in response to a motion by Councillor Nicolson. It was agreed that a further report would be received by Policy and Sustainability Committee within one cycle. This report provides information on what outcomes SDS, and specifically direct payments can be used to support.

3. Background

- 3.1 On 16 March 2023, Full Council received a report on SDS in response to a motion by Councillor Nicolson. It was agreed that a further report would be received by Policy and Sustainability Committee within one cycle requesting that the report:
- 3.1.1 Details how the parameters of use for SDS can be made as broad as statutory guidance encourages, by delivering care and support through the widest means possible including options to support people with the cost-of-living crisis;
 - 3.1.2 Outlines how the ‘recovery’ procedure can be developed to support assessors where it may be surmised that currently limited assurance can be given that every locality and practitioner follows the same process.
- 3.2 Full Council agreed to Recommendations of the following:
- 3.2.1 Full publication of the ‘considered process’ to provide opportunity for public scrutiny of the Self Directed Support ‘recovery’ process thus enabling improved transparency and assurance for those in receipt of SDS;
 - 3.2.2 Evidence is circulated that Finance and Audit processes are regularly reviewed to ensure they align with SDS values and practice and that feedback from supported people is included in the review of finance and audit processes.

4. Main report

Supporting people with the cost of living crisis

- 4.1 A Direct Payment is provided in lieu of a community care or children's service, of the kind described in the SDS Scotland Act 2013, that would otherwise be provided by the Council or an external provider. It is not a state benefit, personal income stream or cost of living payment. There could be some risk of disentitlement to certain state benefits were direct payments treated otherwise.
- 4.2 Decisions about who can receive care and support are based on an assessment of need. The Edinburgh Health and Social Care Partnership gives priority to people who are at the greatest risk. To ensure the Health and Social Care Partnership's decisions are as fair as possible, agreed criteria are in place to assess people's eligibility to receive care services and support. Eligibility criteria enables the Council to identify the degree of risk to an individual's capacity for independent living, or health and wellbeing, taking account of each person's circumstances.
- 4.3 An increase in cost of living is not in itself reason to provide a service or make a direct payment. Where, however, people's needs are assessed for reasons that may be consequent on the impact of cost of living, i.e., there are major or significant risks to an individual's capacity for independence or health and wellbeing which is likely to call for the immediate or imminent provision of social care services, then a service or direct payment in lieu thereof, might be relevant.

How the 'recovery' procedure can be developed to support assessors

- 4.4 It is important to note that a review of someone's needs will consider whether that service or the direct payment is being used to meet that person's needs. During that review, it is good practice to adjust, if appropriate, the person's level of service in line with the person's personal support plan. That may include continuation with the service/direct payment at the same level, an increase, or a decrease of service/direct payment. The report, [Self Directed Support](#), submitted to Full Council on 16 March 2023 outlines the process for that recovery of unused funds – which were unused in an agreed period – undertaken in collaboration with the person or their carer.
- 4.5 Briefing sessions have recently been delivered in localities and to relevant others on SDS with a particular focus on direct payments. The purpose of the briefing sessions is to increase or refresh staff's knowledge regarding direct payment and staff's duties under the act and ensure a more consistent approach to the use of SDS, including direct payments, across the city.
- 4.6 Officers have committed to revising the operational procedure for direct payments to include reclaiming of unused funds. This procedure will be used as written

documentation to further support Assessors and complement briefings provided to staff.

Publication of the process

- 4.7 An accessible, public facing version of the procedure will be published on the Edinburgh Health and Social Care Partnership website so that recipients of direct payment will be aware of the process to better illustrate that unused funds are appropriately recovered. An update is also being made to the Direct Payment Agreement Form that will state that any unused funds can be reclaimed. These actions will be undertaken by September 2023.

Evidence is circulated that Finance and Audit processes are regularly reviewed

- 4.8 The views of people receiving a direct payment are included within the review process and would therefore be recorded on SWIFT. Obtaining feedback for reporting purposes remains a challenge due to the capacity of SWIFT, however, effective case file audit would highlight any concerns regarding recording or practice. A refreshed case audit programme is being developed and will audit recording and evidence of effective practice. Any significant requirements and remedial action identified through audit will be escalated and where appropriate, reported through the Edinburgh Health and Social Care Partnership's Clinical and Care Governance Framework.

5. Next Steps

- 5.1 To draft an operational procedure for staff to ensure improved consistency of practice and publish an accessible version to ensure greater transparency for those in receipt of a direct payment.

6. Financial impact

- 6.1 There are no further financial implications as a result of this report.

7. Stakeholder/Community Impact

- 7.1 There has been no community engagement in developing this report.
- 7.2 As the recovery of direct payment funds is based on unused funds, there should be no adverse impacts on the individual. As stated in the report submitted to Full Council (see 8.3), care is taken to ensure that sufficient funds remain in the direct payment account to purchase in full on an ongoing basis, the original outcome identified on the person's approved support plan.

8. Background reading/external references

8.1 The legislative background underpinning direct payments:

National Assistance Act 1948 - <https://www.legislation.gov.uk/ukpga/Geo6/11-12/29>

Social Work (Scotland Act) 1968 -
<https://www.legislation.gov.uk/ukpga/1968/49/section/12A>

Community Care Act 1990 Part IV Scotland -
<https://www.legislation.gov.uk/ukpga/1990/19/contents>

Children (Scotland) Act 1995 - <https://www.legislation.gov.uk/ukpga/1995/36/contents>

Direct Payments Act 1997- <https://www.legislation.gov.uk/uksi/1997/734/contents/made>

Community Care and Health (Scotland) Act 2002 -
<https://www.legislation.gov.uk/asp/2002/5/section/22>

Social Care (Self-directed Support) (Scotland) Act 2013 -
<https://www.legislation.gov.uk/asp/2013/1/contents/enacted>

8.2 Most recent guidance :

<https://www.gov.scot/publications/statutory-guidance-accompany-social-care-self-directed-support-scotland-act-2013-2/>

8.3 Full Council Report - Motion by Councillor Nicolson – [Self Directed Support 16 March 2023](#)

9. Appendices

None.