

Report from the Director of Adult Social Care

## **Direct Payments Terms and Conditions**

### **Summary**

1. This report details the City of York Council's approach to direct payments to adult social care customers in its work to make these easy to use and transparent. It includes CYC's response to concerns raised by York Independent Living Network (YILN) and Lives Unlimited (LU) about changes in terms and conditions, the use of cashplus accounts and the need for customers receiving direct payments to have a separate individual account to hold the payment.
2. Cashplus is an individual account for the direct payment holder which they receive their direct payment into and make payments through the use of a debit card.
3. Following the concerns raised by YILN and LU, further communication has been provided to YILN and LU by the Director of Adult Social Care on 2 April 2015 to explain the reasons for changes and give the following assurances:
  - No individual will be required to have a cashplus account if they do not want it.
  - All individuals will be able to exercise choice about how they manage their direct payment.
  - The only condition that the council will impose is that individuals keep their direct payment in a separate account.
  - If individuals decide to use an organisation to help them manage their direct payment, that organisation will be required to maintain an individual account for them.

4. Members are requested to acknowledge the report and be assured that the approach taken by City of York Council supports choice, control and transparency.

### **Background**

5. The Care Act 2014 puts direct payments to adult social care customers on a statutory footing. In order to ensure best practice and compliance with the legislation, City of York Council have ensured that the terms and conditions under which direct payments are offered align with the principles of the care act and the regulations and guidance that underpin this.
6. Terms and conditions were issued to direct payment customers on 9 March 2015 by the Interim Assistant Director for Adult Social Care. This followed a number of consultation meetings and events which have informed how direct payments are delivered in the city, including the use of cashplus accounts.

### **Consultation**

7. CYC engaged in specific consultation with the Citizens` Advice Bureau, Age UK, the Carers` Centre and YILN regarding direct payments. In December 2013 there was a meeting between Kathy Clark, Ralph Edwards, David Walker, and York Independent Living Network. Further, in November 2014, Ralph Edwards and Sharon Calline had a follow up meeting to discuss ongoing concerns and take back any positive or negative feedback to the card supplier. The first meeting focused on the implementation of cashplus accounts for the receipt of direct payments.
8. CYC made press releases about direct payments published on its website. The first was on 27 August 2013. On 9 December 2014 there was a press release advising that cabinet was going to be discussing direct payments when it met on 16 December 2014. There were no responses to any of this consultation.

### **Options**

9. Option 1  
The terms and conditions under which direct payments are provided by CYC remain and assurance is taken by members on the basis of this report that the approach supports choice control and transparency.

## Option2

In order to remain compliant with Care Act 2014 the terms and conditions under which direct payments are provided remain but are reviewed again, further amendments are considered and a further report is made to the Health Overview and Scrutiny Committee.

## **Analysis**

10. This section should present an appraisal of the advantages and disadvantages of each option.

## Option 1

The terms and conditions under which direct payments are provided by CYC remain and assurance is taken by Members on the basis of this report that the approach supports choice control and transparency.

11. The main objectives for the council in meeting its duties regarding direct payments is to ensure that it does so by promoting “control over day to day life” which is one of the wellbeing principles of the Care Act 2014.
12. CYC wants the individual to have full control over the management of their direct payment. Individuals can only achieve this control if there is absolute transparency around the direct payment i.e. individuals need to know how much their direct payment is, how that sum is arrived at and how much they have at any particular time. For many individuals this is not achievable at the moment because the organisation they use to manage the direct payment does not have separate accounts for individual customers.
13. CYC have been mindful of the concerns raised by YILN, LU and a number of individual customers and carers who have raised concerns about the new terms and conditions. On investigating these concerns and reviewing CYCs approach reassurances have been given as detailed in section 1.
14. Advantages of Option 1.
  - CYC is compliant with the Care Act 2014 and its associated guidance.
  - Customers have greater control over the management of the direct payment.
  - There is a greater transparency in the money received and how this is spent to meet people’s outcomes.

- The system is easier to use and customers will not have to send in paper returns to the council detailing how they have spent their direct payment.
- Customers will continue to have a choice as to how they receive a direct payment while CYC is able to offer a system which offers customer control and transparency.

15. Disadvantages of Option 1

There are no disadvantages to Option 1.

16. Option 2

In order to remain compliant with Care Act 2014 the terms and conditions under which direct payments are provided remain but are reviewed again, further amendments are considered and a further report is made to the Health Overview and Scrutiny Committee.

17. Advantages of Option 2

There is a further opportunity for customer carers and other stakeholders to engage in shaping the councils approach to direct payments.

18. Disadvantages of Option 2

- The Council is already moving to a position where all customers have access to an individual account specifically for holding only their direct payment and this should not be put at risk.
- The Council is already implementing compliance with Care Act 2014, its guidance and best practice.
- The burden of submitting paper receipts and the additional burden on both the customer and council of such processes continues.
- Engagement and consultation have taken place to inform the approach to the use of individual accounts.

## **Council Plan**

19. The proposals are part of the Council's objectives of supporting vulnerable people as part of the Council Plan 2011-2015 and the move towards greater personalisation, choice and control.

## **Implications**

20. **Financial:** The proposals give greater transparency over the use of public money and enable the council to be aware if money is unused and enable intervention to ensure that it is used to meet customers needs or reclaimed.

**Human Resources (HR):** None

**Equalities:** An equalities impact assessment has been completed, please see attachment

**Legal:** The council is able to impose the condition of use of a separate individual account by virtue of Regulation 4(1) of The Care and Support (Direct Payments) Regulations 2014. The condition is a proportionate response to the duty imposed on the council to promote control for individuals in need of care and support. It is also necessary in order for the council to be able to comply with its own audit procedures and to ensure effective use of public money as directed in paragraph 12.24 of the Guidance to the Care Act 2014

**Crime and Disorder:** None

**Information Technology (IT):** None

**Property:** None

**Other:** None

## **Risk Management**

21. There are no known risks associated with the recommendation below.

## **Recommendations**

22. The recommendation to Members is Option 1. The terms and conditions under which direct payments are provided by CYC remain and assurance is taken by members on the basis of this report that the approach supports choice control and transparency.

## Reasons

- CYC is compliant with the Care Act 2014 and its associated guidance.

- Customers have greater control over the management of the direct payment.
- There is a greater transparency in the money received and how this is spent to meet people's outcomes.
- The system is easier to use and customers will not have to send in paper returns to the council detailing how they have spent their direct payment.
- Customers will continue to have a choice as to how they receive a direct payment while CYC is able to offer a system which offers customer control and transparency.

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**Report  
Approved**

**Date** 28/5/15

### Wards Affected:

**All**

**For further information please contact the author of the report**

## Annexes

**Annex 1** – York Independent Living Network and Lives Unlimited letter

**Annex 2** – Direct Payments letter

**Annex 3** – Equalities Impact Assessment

**Annex 4** – EIA Pre-payment Cards

**Annex 5** – Direct Payment Amended Terms and Conditions

## Abbreviations

APS- Advanced Payment Solutions Limited

ATM-Automated Teller Machine

CIA- Community Impact Assessment

COLIN- Council Online

CYC- City of York Council

DP- Direct Payment  
EIA- Equality Impact Assessment  
HR- Human Resources  
LU- Lives Unlimited  
NI- National Insurance  
YILN- York Independent Living Network