

<b>11 October 2023</b>		<b>ITEM: 12</b> <b>Decision: 110671</b>
<b>Cabinet</b>		
<b>Direct Payment Support Services</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
<b>Report of:</b> Councillor George Coxshall, Portfolio Holder for Health, Adult Social Care, Community and Public Protection		
<b>Accountable Assistant Director:</b> Les Billingham, Assistant Director for Adults and Community Development		
<b>Accountable Director:</b> Ian Wake, Corporate Director for Adults, Housing and Health		
<p><b>This report is</b> Public with an exempt appendix</p> <p>The appendix contains exempt information which falls within schedule 12A of the Local Government Act 1972 - <i>Information relating to the financial or business affairs of any particular person (including the authority holding that information)</i>. In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>		
<b>Date of notice given of exempt or confidential report:</b> 3 October 2023		

## Executive Summary

The report outlines the statutory duty under the Care Act (2014) to provide support services to eligible direct payment users. This service enables vulnerable adults and children to live within their family home and maximise independence and choice of care provision.

This report seeks views from Cabinet, on a proposed recommendation that the procurement for this service should go to market as an open tender.

### 1. Recommendation(s)

- 1.1. That Cabinet agree that the contract be put out to tender with no fixed price point enabling the market to price against the activities required to

**ensure a sustainable service for the lifetime of a contract (four + one + one years).**

- 1.2. That Cabinet agree that the contract be resourced to ensure statutory obligations can be appropriately met and responsibility for the awarding of any tender be delegated to the responsible Director (Corporate Director for Adults, Housing and Health) in consultation with the Portfolio Holder for Adult Social Care.**

## **2. Introduction and Background**

- 2.1 At present Thurrock Council discharges its legal duties to support the use of direct payment, as defined in the Care Act (2014), via a competitive tender process that is currently fulfilled by the incumbent provider for the sum of £73,422 per annum. The contract is set to expire on February 1, 2024.
- 2.2 The Adult Social Care contract also covers children's direct payment users at present accounting for nearly a quarter of all direct payment users.

At the time of writing the broad breakdown of service usage is as follows:

- 388 active managed adult account users.
  - 489 active adult and 161 child direct payment users provided with information and advice.
  - 110 adult and 161 child direct payment users accessing Personal Assistant recruitment and / or payroll support.
- 2.3 The service currently provides:
- Personal account manager who will track the account to be able to resolve any issues quickly.
  - Direct payment holding accounts for funds.
  - Regular statement of client funds in an accessible way to assist the service user to manage their life.
  - Monitoring information at agreed times. Processing payroll and pay invoices within appropriate timeframes.
  - Pay slips for employees and liaising with HM Revenue and Customs

(HMRC) on the client's behalf as the agent.

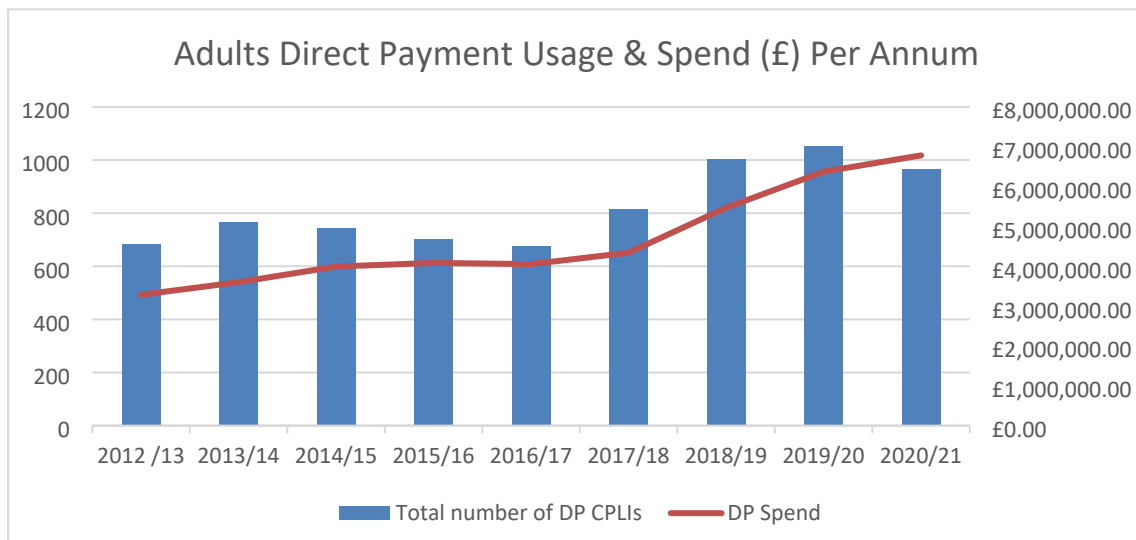
- Submitting all HMRC monthly and annual returns as required by law and making required monthly payments direct to HMRC.
- Assurance that monies exceeding the eight-week tolerance level are returned promptly to the Authority after all relevant deductions and payments are made.

2.4 These are either services that the Council is unable to provide due to lack of appropriately skilled staff or system functionality which precludes the Authority taking on this role. Moreover, the staffing budget required to manage such activities would render internal provision financially unappealing.

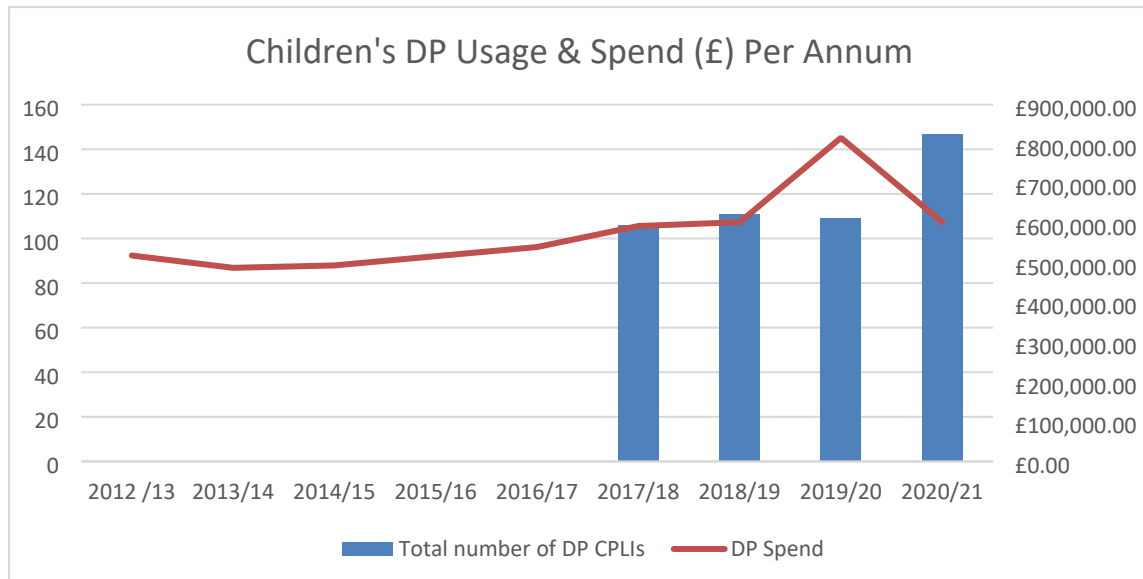
2.5 There was only bidder due to the limited funding available. When challenged on the sustainability of the support contract the incumbent provider stated it was only sustainable given the economies of scale they currently operate. Given the current financial climate these efficiencies will be increasingly strained and difficult to maintain.

2.6 The last two times the service was contracted for (covering nine years) the funding to support statutory requirements saw no significant increases, being commissioned at a yearly price of £70,200 per annum in 2013 rising to £71,984 in 2019, a rate which is set to last until this contract expires. This equates to only a **4.3% increase over what will be a ten-year period** and has resulted in funding not keeping pace with demand, usage and external pressures.

2.7 During this time, although the funding has not increased, direct payment usage and spend has increased dramatically as can be seen below:



- 2.8 Spend on adult direct payment provision over this period has increased by **107%** while volumes of care package line items (individual commitments of spend) have increased by over **41%**. The current Adult Social Care resource panel states all new cases should consider a direct payment, meaning that numbers are likely to continue to rise placing further strain on the contract.
- 2.9 Children's data below<sup>1</sup>, while less drastic than adults, shows increased usage and spend over the same period and account for only 8% of spend but 23% of overall individuals accessing direct payments in 2020/21.



- 2.10 Inflation pressures alone would account for a cumulative percentage increase of **23.3%**<sup>2</sup> for 2013 to 2021. This would account for **£16k** on the bottom line of original contract price before demand increases, employer pension contributions, National Insurance rises or demand factors are even considered.
- 2.11 Soft market testing before the previous tender exercise in 2018/19 indicated that the contractual value was too low. Activity and pricing comparisons against external organisations indicated the funding of the contract was at around only 45% its required level, based on adults users only. A typical account management service, transactional costs and processing costs would amount to over £325 per person per annum (based on only two transactions per four weekly period). This was undertaken again in 2021/22 and a similar level of disparity was found.
- 2.12 Given the situation outlined above the annual contract price is being reviewed as the current rate is now viewed as unsustainable but options are limited given the financial situation.

<sup>1</sup> Children's service were unable to provide number of individuals accessing Direct Payments before 2017/18.

<sup>2</sup> [RPI All Items: Percentage change over 12 months: Jan 1987=100 - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/rpi/all-items/percentage-change-over-12-months-jan-1987=100)

### **3. Issues, Options and Analysis of Options**

#### **3.1 Undertake Commissioning Exercise with a Declared Price (not recommended)**

This would leave the budget for procuring direct payment support services 'as is' and offer no additional support for the administration of the direct payment support function.

This would limit the effectiveness of any competitive tender, for example only a single bid was received on the last tender exercise due to the extremely low contract value. This option therefore would present the financial risk of an unsuccessful tender process resulting in the need to increase the base funding of this contract as well as the delaying, or inability, to recoup monies above tolerance levels. Additionally, should there be no successful tender a provider would not be in place to ensure payment of invoices, collection of income etc, to ensure the eligible needs of individuals are met thus result in a failing of our statutory duties.

#### **3.2 Undertake Commissioning Exercise Enabling Providers to Competitively Price (recommended)**

This enables the market to set a sustainable price for the lifetime of the contract, though this is likely to cause an increase in the current budgeted amount of up to £120k per annum. Weighting the contract based on price to incentivise more competitive pricing model from potential providers that will mitigate this impact to some degree but still create a financial pressure for the service.

Any additional financial spend will be met by the Directorate's external purchasing budget (which may result in additional efficiencies) as well as the recovery of Direct Payment funds from managed and self-managed accounts that exceed eight weeks tolerance levels that this contract manages.

### **4. Reasons for Recommendation**

- 4.1 The recommended course of action would be the only reliable way of attracting competitive bids from the open market, thus ensuring that the Authority can fulfil its statutory requirements under the Care Act (2014).

### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 Engagement has taken place with direct payment users via the User Led Organisation as well as Thurrock's Direct Payment Officers and Care Practitioners who have reviewed the quality of the Service as well as fitness for purpose of the current service specification. It is felt the current quality of service is high, which is reflected in key performance indicators, and value for money.

5.2 This report was considered and its recommendations endorsed by Health and Wellbeing Overview and Scrutiny on 19<sup>th</sup> July 2023.

## **6. Impact on Corporate Policies, Priorities, Performance and Community Impact**

6.1 The contract to provide direct payment support services aligns with the aspirations of Better Care Together Thurrock: The Case for Further Change 2022-2026 and the Corporate Priority:

- *People – a borough where people of all ages are proud to work and play, live and stay.*

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Mike Jones**  
**Strategic Lead Finance Corporate Finance**

The current funding for the provision of this contract of £73,422 is contained within the Directorate's existing budget allocation. Any cost as a result of a procurement exercise would result in an additional financial risk to the Authority.

### **7.2 Legal**

Implications verified by: **Mark Bowen**  
**Interim Project Lead**

The recommendation if agreed is for a procurement process to support the delivery of a statutory duty and is legally sound.

### **7.3 Diversity and Equality**

Implications verified by: **Rebecca Lee**  
**Team Manager Community Development**

The provision of this contract will support the Council to uphold responsibilities set out in the Care Act (2014), the Children and Families Act (2014), Equality Act (2010) and Public Sector Equality Duty.

Social value has been considered as part of the commissioning process for this service and will be monitored as part of the standard contract review cycle with the agreed supplier.

7.4 **Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

N/A

9. **Appendices to the report**

N/A

**Report Author:**

Ian Kennard

Commissioning Manager

Adults, Health and Housing