


<b>Individual Mayoral Decision</b>  [Insert Decision Date]	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Denise Radley, Corporate Director, Health and Adult Social Care and Deputy Chief Executive	<b>Classification:</b> [Unrestricted]
<b>Insourcing of direct payment support service</b>	

**Proposed Decision Path (indicate) – Delete Section Before Publication:**

	Step [Delete as applicable]	Date
DLT Level (Tier One)	DLT / CD	22 May 2023
CLT Level (Tier Two)	CLT / CE	15 August 2023
Discussion with Mayor (Tier Three)	MAY	12 September 2023
Discussion with Lead Member (Tier Three)	LM	19 June 2023
Member Level (Tier four)	121	
Decision (Tier five)	IMD	

**Proposed Decision Path (indicate) – Delete Section Before Publication:**

<b>Lead Member</b>	<b>Cllr Councillor Gulam Kibria Choudhury - Cabinet Member for Health, Wellbeing and Social Care</b>
<b>Originating Officer(s)</b>	Darren Ingram, Service Manager, Integrated Commissioning Paul Swindells, Service Manager, Adult Social Care
<b>Wards affected</b>	All
<b>Key Decision?</b>	No
<b>Reason for Key Decision</b>	This report has been reviewed as not meeting the Key Decision criteria.
<b>Forward Plan Notice Published</b>	26 June 2023
<b>Exempt information</b>	N/A
<b>Strategic Plan Priority / Outcome</b>	Investing in public services, <ul style="list-style-type: none"> <li>• Aim to bring outsourced public services back into public hands and introduce an ‘insourcing first’ policy</li> <li>• Provide high quality and financially sustainable services for adults receiving social care to achieve their goals, be connected to others and live as independently as possible</li> </ul> Deliver improvements in services for adults needing social care, children’s services, children with SEND and children in trouble with the law

### **Executive Summary**

The Council has a duty, under the Care Act 2014 to offer the choice of either a managed care package or a direct payment for service users (adults and children) with care and support needs, in doing so they have flexibility, choice and control on how to best meet their eligible needs. To support service users who take up a direct payment, a support service that offers specific direct payment information, advice and practical support is externally commissioned and this contract will come to an end on 31 March 2024.

The Council must decide now on whether to re-procure the direct payment support service or identify an alternative delivery model by insourcing the service into the Council and issue the current service provider the contractual six months’ notice. In line with the strategic plan priority of investing in public services, and the Adult Social Care vision to support residents to meet their goals, be connected and be as independent as possible, this report informs Cabinet of the review Adult Social Care and Integrated Commissioning has undertaken. The review considered the future delivery model, options between insourcing and re-procurement of the service and governance and management arrangements, and where there was a risk of compromising the service quality, the mitigating work to manage this.

**THIS SECTION TO BE DELETED BEFORE PUBLICATION**

**Decision Type**

Key Decision?	Urgent Decision?	Exempt from Call-In?	Restricted Report or Partially Restricted (e.g. appendix)?
No	Yes	No	No

\*If the answer is yes make sure the forthcoming decision on the website states this or else the decision cannot be taken.

**Guidance Documents**

Further details on the procedure for Urgent Decisions can be found in the [Intranet Library](#) and the Guide to Report Writing [guidance note](#).

**Specific Issues for Pre-Decision Meetings**

(Officers may use the following table to add points of note for internal meetings such as CLT, MAB or DMTs. Content can be deleted at any stage and, in any case, will be before publication for the decision making meeting.)

<b>Directorate Leadership Team</b>
<b>Corporate Leadership Team</b>
<b>Mayor/Lead Member</b>
<b>Communications</b>

## **THIS SECTION TO BE DELETED BEFORE PUBLICATION**

### **Recommendations:**

The [Mayor] is recommended to:

1. [Agree to the recommendation to insource the direct payment support service into the Council (Adult Social Care) from 01 April 2024 and the current contractor will formally be notified advising them of this outcome.]

## **1 REASONS FOR THE DECISIONS**

- 1.1 [The current direct payment support service contract ends on 31 March 2024. In keeping with the strategic priority of investing in public sources, Health and Adult Social Care has used this as an opportunity to review the commissioned service and its current arrangements and considers the direct payment support service can be insourced from 01 April 2024 and issue the current service provider People Plus, the required six months contractual notice on or before 29 September 2023.]

## **2 ALTERNATIVE OPTIONS**

- 2.1 [The alternative option of re-procuring a support service was appraised as part of the review. The review explored the cost between an internal and re-procured service, the benefits, and drawbacks of an internal and external service, managing potential/emerging risks of the council taking on the service provider role. A benchmarking exercise reviewing how other Councils in London delivered their direct payment support service was also undertaken. Both options for the service delivery are viable, but in line with the strategic plan, this is a timely opportunity to insource the service and it enables the council to take a lead and deliver the service for the end to end customer journey, and so taking a different approach would be reasonable. An internal direct payment service would also not be seen as an outlier, as several councils follow the same approach.]

## **3 DETAILS OF THE REPORT**

### **3.1 Background**

- 3.1.1 A direct payment enables a service user to be in control and feel empowered to meet their own care and support needs and aspirations through choice and flexibility. It is a duty for the council to provide information, advice and support to service users who opt to take up a direct payment.
- 3.2.1 A direct payment is a sum of money that is calculated by a service user's personal budget and is paid directly to the service user so they can arrange their care. It is most often used either to directly employ care workers/ personal assistants or purchase services directly from a care agency. Direct payments can be used for most adult social care support services except to fund permanent residential or nursing care.
- 3.3.1 The direct payment can only be used by a service user to pay for the care and support detailed in their support plan. While there is flexibility for the service user to decide how those needs will be met, the money cannot be used for anything not related to meeting their assessed Care Act 2014 eligible needs.
- 3.4.1 The council's priority is to increase the number of service users taking on a direct payment, in lieu of a default approach in offering a direct payment first. It is a service users' choice to decide between a direct payment or a managed care package, it cannot be forced upon them, and they can change their mind and move between the two at any time if they wish.
- 3.5.1 Historically the direct payment support service has always been an externally commissioned service, contracted to either a Voluntary Community Sector organisation or a private organisation. The current contract was commissioned to People Plus in 2019 on a 2+1+1+1 years and is generally performing well given it is a demand based service and relies entirely on referrals from children's or adult social care.

### 3.2 **Direct payment support service vision and outcomes**

- 3.1.2 The vision for the service is to design and implement a delivery model where service users have a positive experience of direct payments (DP) and recognise the benefits of it. That there is a proactive offer of a DP with timely and appropriate information, advice and practical support that happens earlier on in the ASC customer journey. In doing so, this should reduce the reliance on commissioned homecare services being the main offer for service users with long term care and support needs. The support service should be better integrated within ASC teams and have direct links with Childrens Social Care (CSC) to support the practitioners as they navigate conversations during the assessment and care planning process with service users.
- 3.2.2 The number of ASC service users on a direct payment fluctuated between 593-609 from August 2022 to March 2023, and at the end of March there were 606 service users on a direct payment. Work is already underway to increase the number of direct payments to a target of 650 by March 2024 and thereafter plan a reasonable year on year increase.

3.3.2 Unrelated to whether the future direct payment support service will be internal or external, the future service will reflect the following principles: (not an exhaustive list)

- have a physical presence in the borough
- be a proactive response which will increase the number of service users on a direct payment
- have significant experience and expert knowledge that enables the delivery of high quality information, advice, and practical support
- deliver sustainable growth of customer experience and satisfaction that reviews pathways/customer journey to simplify and reduce bureaucracy, and shorten the delivery time
- proactive in building and maintaining the PA register and growing the local PA market including identifying and strengthening the PA workforce in Tower Hamlets
- provide an equality of access and provision to meet the diverse needs of residents

3.4.2 Through engaging with various stakeholders including direct payment service users, the current contractor and adult social care practitioners, the priorities, and linked outcomes for the future service, irrespective of whether it is internal or external included: (not an exhaustive list)

- those service users interested in taking up a direct payment and self-funders, should receive comprehensive information, advice, and practical support (including technology enabled care) around all aspects of direct payments including money management options, recruitment a personal assistant, managing employer and legal responsibilities and monitoring
- to support social care practitioners as they navigate conversations during the assessment and care planning process with service users
- contact service users via home visits and/or community settings and undertake a 6 week check in review with the DP user to ensure the setup is complete, that the Direct Payment has progressed as anticipated, and respond to any immediate issues that have arisen
- provision of ongoing casework support for residents with a DP, including financial and DP usage monitoring and administering any clawbacks of funds that are not spent
- manage and maintain the PA register on the Tower Hamlets Connect website which will include the recruitment of PAs, completing initial recruitment checks, and update information about direct payments on the TH website.
- embed a quality assurance process that identifies control and measures in place to ensure a highly satisfactory service is being delivered, incorporating service user feedback
- promotional and pro-active activities to raise awareness and uptake of DPs especially across under-represented equality strands via drop in sessions, events, roadshows etc.

3.5.2 To support service users with a direct payment to meet their care and support needs at home, it has become increasingly difficult to employ Personal

Assistants (PAs), this has been exacerbated by Brexit and the Pandemic, and competition from other industries paying similar or better salaries. The future service must lead on actively managing the PA market and support a thriving and suitable PA market through the provision of a sustained PA register that can make finding a PA or employer easier and more flexible and reduces the time and costs involved. In having a coordinated approach through a PA register, opportunities are:

- strengthening the training offer and upskilling opportunities for PAs
- facilitates stronger communication with PAs which was an issue during the pandemic
- a workforce of PAs that reflect the community and local needs
- PAs can find the right levels of work eg. across more than one person with a DP
- PAs are supported around issues such as wellbeing and safeguarding

### **3.3 Benchmarking**

3.1.3 A benchmarking exercise was undertaken in February 2023 where all councils in London were contacted via London ADASS to describe the setup of their direct payment support service. Eleven councils responded to the request, six councils have an internal service, three have an external service and two have a blended model, a mix of internal and external service.

### **3.4 Internal direct payment support service delivery model**

3.1.4 It is proposed the internal service will sit within the Brokerage Service in Adult Social Care. During the exit management process, Adult Social Care will concurrently have a mobilisation plan that includes the refresh of the direct payment policy, communicate the services changes to ASC teams, changes to other policies and procedures, and develop a training offer for PAs and TUPE'd staff.

3.2.4 Likely services outcomes for the service will include:

- 90% of users contacted within 5 working days following a referral
- Support users with the recruitment of a PA
- Establish a DP champion staff group (staff in ASC)
- Promote PA jobs with VSC groups and Job Centre
- Organise events and roadshows in the community that promote the take up of DPs
- 100% of service users to receive a welcome pack that includes their care and support plan, recruitment information, advice, and practical support, monitoring requirements and process, contact details of service etc.
- 100% of service users to have at minimum one face to face review per year
- An annual service user newsletter with input from the service user support group
- 100% of registered PAs to receive an introduction pack with key information about the support available, what is expected of an

individual employer and personal assistant and terms and conditions for being on the register

- Upkeep information and advice related to direct payments and related subjects on the tower hamlets connect website

### 3.5 Service budget

3.1.5 The annual direct payment support service budget is £493k made up of £170k budget for 3 officers in the Brokerage Team and £322k for the commissioned service. There may be in year savings for the first year and up until the point of any restructure/ harmonisation. The budget includes operational costs and will also fund; hosting of the PA register on the Tower Hamlets Connect website, staff travel, IT, training, printing and events costs.

3.2.5 With the expectation an internal service will be involved at an earlier stage in the customers journey of taking up a direct payment, the necessary capacity has been built into the service. It would be considered premature to look at reducing operating costs including staffing numbers at this stage in anticipation of any changes in the delivery model.

3.3.5 There will be a MTFs savings attached to the ambition of increasing the number of service users on direct payments.

### 3.6 Exit management process with contractor

3.1.6 If the insourcing the service is agreed, then as part of the contract exit management process, Integrated Commissioning will lead and coordinate this with the contractor, People Plus. This will include managing the communication plan, information and data record transfer, data protection and data retention compliance, local agreement on changes to service during the outgoing contract period, TUPE due diligence, transfer of HR records, and any other legacy issues that may arise and need to be managed.

3.2.6 Indicative timeframe for insourcing the service is as below:

Serve end of contract notice to People	29 September 2023
Appoint project team to include IC, ASC, HR, Information Governance, Communications	October 2023
Agree delivery model and staff structure and roles	October – November 2023
Request due diligence information from People Plus	October 2023
Draft and/or update all DP operational policies and procedures	November – March 2024
Create/amend any workflows on Mosaic	December - March 2024
Agree key performance targets between ASC and IC	January – March 2024
TUPE consultation period led by People Plus	January 2024
Develop a training offer for TUPE staff and PAs for the first six months	February – March 2024
Communicate and promote changes to ASC and service users and update the Tower Hamlets Connect website	February – March 2024



### 3.7 TUPE

- 3.1.7 The contractor employs five staff, and it is likely all staff will have TUPE rights. The staff costs used to forecast the service budget from April 2024 is unknown as the contractor is not obliged to provide the number of staff that will TUPE or their costs at this time.
- 3.2.7 During the TUPE consultation process the council can offer the staff the option to harmonise on to the Councils terms and conditions, a process which will run concurrently with the TUPE consultation process, and if the staff agree the staff will work to a revised role, they will harmonise at the point of the transfer. If some or none of the staff agree to harmonise, HR and payroll will process their TUPE as per the usual process.
- 3.3.7 We will take the opportunity to review the service once it is clear how many staff TUPE across.
- 3.4.7 At this stage several high level risks have been identified for Cabinet to note that could occur during the transfer period, and the mitigation actions required to manage the balance of either the risk materialising or to reduce/prevent it.

Risk	Mitigation Action
Staff refuse to TUPE to the council, and there are 5 vacant posts on Monday 01 April 2024	Provide assurance to the staff during the consultation process Recruit agency staff via Matrix Redeploy 2 staff from ASC to provide office level cover in the interim
Service users may fall through the gaps during the transfer period	Brokerage to contact all service users in advance of April 2024 communicating changes and introducing key contact information Communicate service changes across ASC Agree transitional arrangement during the exit management/ mobilisation period
Knowledge of the existing staff is lost from the service if they refuse to TUPE	Management to ensure adequate processes and policies are in place with appropriate training identified to upskill redeployed/newly appointed staff Scope/agree the transitional service offer to service users during the recruitment period
There's no improvement to the customer journey	Ensure adequate operational policies and procedures are in place before the service transfers Engage with ASC staff to notify them of the changes
Decision to insource may be challenged by the VCS sector and have a knock on impact on the start of the service	Mayor to approve the transfer of the service so any challenges can be managed in September, so notice can be served to People Plus

### 3.8 Governance and contract management of internal service

- 3.1.8 It is proposed the relationship between Integrated Commissioning and Adult Social Care will be formalised via a Service Level Agreement and the

management and monitoring of the service will adhere to the contract management process in the same manner external services report to Integrated Commissioning.

- 3.2.8 A formal relationship between the two divisions enables the council to mitigate any future challenges/scrutiny it could receive with an inhouse service, more so if there are concerns with the performance and/or quality then it is being managed in the same way as if it was an external service and in a transparent way.
- 3.3.8 Check points of how successful the insourcing is, will be monitored through biannual monitoring returns. There will be an annual contract monitoring meeting between both divisions with an annual service report from Adult Social Care that will focus on how the service is delivering including feedback from an annual service user survey, what has worked and hasn't worked as well, and any changes made that demonstrates the service is still fit for purpose.
- 3.4.8 An operational review will take place after three years (2027) reporting to the Health and Adult Social Care Corporate Director or equivalent, on how successful an insourced service has been, lessons learnt, operating structure, service changes made and fundamentally, the review will re-evaluate the option to continue as an inhouse or outsourced service.

#### **4 EQUALITIES IMPLICATIONS**

- 4.1 To note the Equalities Impact Analysis Screening Tool (Appendix 1) and it has been assessed that insourcing the service will have no adverse impact on any of the protected characteristics.
- 4.2 The service will ensure that it meets the Equality Act duty by doing all that it can to eliminate discrimination, advance equality of opportunity and address inequality.
- 4.3 The service will provide equality of access and provision to meet the diverse needs of residents in the borough

#### **5 OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,
  - Environmental (including air quality),
  - Risk Management,
  - Crime Reduction,
  - Safeguarding.
  - Data Protection / Privacy Impact Assessment.

- 5.2 The service anticipates a higher take up of direct payments which will have a positive impact on the quality, flexibility, choice, and control in a service users life.
- 5.3 Many of the services users accessing the direct payment support service will have a protected characteristic for the purposes of the Equality Act.
- 5.4 As part of the decommissioning process, relevant and appropriate personal data processed and stored by the contractor will be transferred to the council in compliance with the General Data Protection Regulations (GDPR) and privacy notices will be updated following the transfer of service.

## **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report recommends insourcing of the Direct Payment service for service users (Adults & Children) with care and support needs. This service provides specialist support to individuals who choose to take their Personal Budget as a Direct Payment and to manage their own care arrangements. The service is currently provided by an external provider and is due to expire on 31<sup>st</sup> March 2024.
- 6.2 The service currently costs £493k made up of £170k budget for 3 officers in the Brokerage Team of the Council and £323k for the commissioned service with People Plus.
- 6.3 The staff within the People Plus service will be subject to TUPE to the in-house Direct Payment Service. Until the outcome of the TUPE consultation is known, exact costs of transfer are currently not known. At this stage, the proposed insourcing is expected to remain within the current total budget allocation of £493k. If costs are higher than the total available budget, these will need to be met with existing resources in Adult Social Care.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 The Council has the legal duty to ensure that it obtains Best Value in terms of economy efficiency and effectiveness when considering how to deliver one of its functions. The report provides evidence upon which a reasonable authority might consider is reasonable to in-source this part of the legal social care function.
- 7.2 This service is only one small part of a wider legal function. The change (from out-sourced to in-sourced) to the delivery model is not sufficiently substantial to require formal consultation to comply with S.3 of the Local Government Act 1999.
- 7.3 It is likely that the current contract employs people who are substantially engaged in their employment with the contractor on this service. Therefore, it is likely that a move to an insource model will cause those employees to gain

rights to transfer to the Council employment. The Council will comply with the regulations in all respects and in particular (but not exclusively) ensure that the appropriate consultations are carried out.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- NONE.

### **Appendices**

- Appendix 1 – Equality Impact Analysis screening tool

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- NONE

### **Officer contact details for documents:**

N/A