

By: Bill Anderson - Director, Children's Social Services.

To: Sarah Hohler, Cabinet Member Children, Families and Education

Subject: **PROPOSED CHANGES TO THE DIRECT PAYMENT POLICY AND PROCEDURES IN RELATION TO THE EXPANDED USE OF DIRECT PAYMENTS TO FUND OVERNIGHT SHORT BREAKS**

Summary: This report outlines amendments to Kent County Council Policy and Procedures in relation to the expanded use of direct payments to fund overnight short breaks for disabled children.

Classification: Unrestricted

Introduction

1. (1) Aiming High for Disabled Children Better Support for Families is the governments three-year (2008-2011) transformation programme. Its aims for all families with disabled children to have the support they need to live ordinary family lives through improving: -

- Access and empowerment
- Responsive services and timely support
- Quality and capacity of services.

(2) In 2008, under the Aiming High for Disabled Children transformation programme, the Department for Children, Schools and Families (DCSF) awarded Kent pathfinder status. This resulted in additional funds being made available to increase the numbers and range of short break services available to disabled children and their families across Kent. It enabled the Council to undertake a review of the current policies and procedures in relation to the expanded use of direct payments, and fund the transition from direct service provision to direct payments. In particular those services currently being provided by the councils own residential short break units and fostering services.

(3) Short breaks form part of a continuum of services, which support disabled children and their families. Short breaks can include daytime, evening, or overnight activities, and can take place in the child's own home, a family based setting, or a residential, educational or community setting. They are specialist additional services to support disabled children and their families, over and above the universal services expected and available to all families. They can include services arranged and purchased by families themselves, funded by a direct payment from KCC's Disabled Children Services.

Background

2. Since 2004 throughout Kent, Residential Short Break Units and specialist foster carers have provided overnight short breaks provision to disabled children. These services have been provided in the context of the Direct Payment Policy, which states that

a direct payment may not be provided where a child or young person is assessed as needing a short break in residential or fostering services as these are currently provided by Kent Children Social Services.

Legal Implications

3. (1) The Community Care Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003, imposes a duty on local authorities to make direct payments for amongst other things, a service which they may provide under Section 17 of the Children Act 1989. It states that a direct payment is a payment made by the Council to someone eligible for social care, which enables that person to buy care from another body.

(2) In September 2003 the Department of Health issued Direct Payment Guidance which provided the following definition of direct payments:

“Direct payments are monetary payments by local councils direct to individuals who have been assessed as needing certain services, including those that find themselves caring for others. Direct payments help people who want to manage their own support to improve their quality of life. They promote independence, choice and inclusion by enabling people to purchase their assistance or services that the council would otherwise provide in order to live in their own homes, be fully involved in family and community life, and to engage in work, education and leisure”.

(3) The guidance confirmed that:

“Direct payments must be made to all individuals who are eligible to receive them and want them”.

(4) A recent finding of maladministration by the Ombudsman found that Kent County Council had failed in its statutory duty to make direct payments available for overnight short breaks to the parents of a disabled child. The ombudsman concluded that the Councils policy on direct payments reflected a failure to comply with its statutory duties to make such a payment available for services provided under Section 17 of the Children Act 1989.

Proposal

4. Significant consultation work has been underway in Kent since 2008, in order to enable changes to be made to the current Direct Payments Policy to support the use of direct payments to purchase overnight short breaks by providers other than the local authority. The changes in policy are outlined in appendices 1 and 2. The change in Policy will have implications in terms of the cost to the local authority, which is outlined in more detail under the next section of this report.

Financial Implication

5 (1) A survey of parents/carers already receiving a direct payment and others waiting to receive services from our short break units or fostering services, identified that approximately 121 families across the county would consider using a direct payment for an overnight short break in 2009/10. It is important to point out that the costs for overnight

care packages cannot be greater than our own services which is currently £317.70 per night. The average package is 24 nights. However there will be families whose packages, costs are considerably less than this. Therefore, the estimated maximum cost to Children Social Services for overnight breaks met through a direct payment in 2009/10 is £917,000.

(2) The cost of supporting this change in policy during 2008-11 will be met from the Aiming High for Disabled Children Programme Short Break funding (2008-11). However, the longer term implications of funding this arrangement is less clear as the Aiming High funding does not extend beyond 2011.

Conclusion

6 (1) The recent maladministration findings against Kent County Council makes it clear that it is no longer tenable for the Council to maintain its current position of not supporting direct payments for overnight short breaks by providers external to the local authority. On this basis, it is recommended that the Direct Payments Policy is changed to support the use of direct payments to purchase overnight short breaks by providers other than the local authority.

(2) This change in policy may possibly affect Kent's own in house service Resource Centres who currently provide this service and has financial implications for the local authority, which are estimated above. It is not possible to be exact about the financial implications, or the potential impact on KCC's in house provision.

(3) In addition, there is no clarity about whether the Aiming High funding will be available in the longer term and therefore consideration would need to be given to the longer-term financial implications of this change in policy. The estimated financial implications would need to be factored into the medium term plan.

Recommendation

7 The Cabinet Member is requested TO AGREE:

- (a) The proposed changes to the Direct Payment Policy and Procedures in relation to the expanded use of direct payments to fund overnight short breaks.

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Background Documents

Disabled Children Policy, procedures and practice Guidance
Disabled Children Direct Payment Procedures