

Health and Social Services Committee

HSS(2)-12-06(p.3, Annex 2)

Meeting date: Wednesday 5 July 2006

Venue: Siambr, Senedd, National Assembly for Wales

Title: Draft Regulatory Appraisal The Community Care, Services For Carers and Children's Services (Direct Payments) (Wales) Amendment Regulations 2006

1. Purpose and intended effect of the measure

1.1 Direct Payments offer individuals more flexibility in how to meet assessed care needs, by enabling local authorities to offer cash payments to service users to purchase their own care.

1.2 From 1 November 2004, local authorities have had a duty to offer Direct Payments to all people who are potentially eligible (under the 2004 Regulations and the Children Act 1989) to receive them. The eligible groups are:

Adult disabled persons receiving community care services (that is a person to whom section 29 of the National Assistance Act 1948 applies);

Persons receiving carers services under section 2(1) of the Carers and Disabled Children Act 2000.

The following persons receiving services under section 17 of the Children Act 1989:

- a person with parental responsibility for a disabled child;
- a disabled person with parental responsibility for a child;
- a disabled child aged 16 or 17.

1.3 From 1 March 2005, the duty to offer direct payments was extended to encompass all people aged 65 or over in receipt of community care services (i.e. the disability link was removed).

1.4 Not all community care services are eligible for a direct payment arrangement - the most important exclusion is residential care homes.

1.5 The proposed Regulations are made under the Health and Social Care Act 2001 and their intention is to extend the categories of people potentially eligible for Direct Payments to include all people aged 18 to 64 in receipt of community care services i.e. to remove the disability link.

Intended effect

1.6 The current Regulations that govern the scheme in Wales are the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004.

1.7 In exercise of the powers under sections 57(1), (3), (6) and (7) and Section 64(4) of the Health and Social Care Act 2004, the proposed Regulations, which are summarised in its covering Explanatory Note, will amend Regulations 3 and 5 of the 2004 Regulations to give effect to the change outlined in paragraph 1.4 above.

2. Risk Assessment

2.1 The purpose of the Direct Payments Scheme is to allow individuals to make day to day decisions on how best to meet their care needs to suit their individual circumstances. It provides flexibility and promotes innovation in the way that individuals meet their assessed care needs.

2.2 Presently only adults aged 18 to 64 with are disability who are in receipt of community care services are eligible for a Direct Payments arrangement. The intention of the proposed regulations is to remove the disability restriction and to extend the groups potentially eligible for Direct Payments to virtually all adults who have assessed community care needs. This will bring adults aged 18 to 64 into line with people aged 65 and over where the equivalent disability link was removed with effect from March 2005. Presently it is not possible to extend the eligible categories of children or parents with parental responsibility for a child due to the limitations of the Children Act 1989.

3. Options

3.1 The options are:

(i) Do nothing; or

(ii) Extend the groups of adults aged 18 to 64 who will be potentially eligible to receive direct payments to include all adults who have assessed community care needs.

4. Costs

Business sectors affected

4.1 Local authorities are the only sector that can operate a Direct Payments scheme

4.2 .Option (i) would have no additional impact on local authorities.

4.3 Option (ii) would have some impact dependent on the take up of direct payments within the extended potentially eligible group. There would be some small additional direct administrative costs for local authorities to deal with new direct payments applications. There would also be additional costs for local direct payments support schemes providers. In all 22 local authority areas these important local support schemes are provided under contract by voluntary sector organisations such as the Shaw Trust, the Rowan Organisation and the Cardiff and the Vale Coalition. Many of these local support schemes are working at or close to their existing capacity. A small increase in the number of individuals due to the change in eligibility may mean that some local support schemes will be unable to effectively provide the support that is required for direct payments recipients without increasing their capacity. The additional direct local authorities administrative and local support schemes costs have been estimated as £0.8 million and this sum is being made available to local authorities from 2006-07 through the Revenue Support Grant.

5. Benefits

5.1 Option (i) – there would be no benefits when compared to the existing situation

5.2 Option (ii) – would extend the direct payments potentially eligible groups of people to encompass virtually all adults aged 18 to 64 in receipt of a community care service. This would extend the empowerment of people to exercise more independence and choice on how their care services are provided in the best way to meet their circumstances.

6. Consultation

6.1 An 11 week public consultation exercise on the draft regulations commenced on 20 February 2006 involving local authorities and voluntary organisations.

7. Review

7.1 The Welsh Assembly Government will monitor the operation of the new arrangements following legislation and implementation.

8. Summary

8.1 Option (i) Taking no action would not bring any benefits.

8.2 Option (ii) would extend the direct payments scheme to virtually all adults age 18 to 64 in receipt of community care services thus extending independence and choice for more people.

9. Contact Point

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