

Report to: Lead Member for Adult Social Care and Health

Date of meeting: 6 March 2024

By: Director of Adult Social Care and Health

Title: Support with Confidence consultation findings and future offer

Purpose: To set out the key responses/themes from the Support with Confidence (“SWC”) consultation and proposals regarding how East Sussex County Council will support personal assistants, businesses and residents following the closure of SWC.

RECOMMENDATIONS: The Lead Member is recommended to:

- 1) Note the key responses/themes from the public consultation on the proposal to close the SWC scheme as listed at paragraph 2.5;**
 - 2) Note the key impacts and action plan in the equality impact assessment set out at Appendix 3;**
 - 3) Approve the proposals for supporting personal assistants, businesses and residents following the SWC scheme closure set out at Appendix 4; and**
 - 4) Delegate authority to the Director of Adult Social Care and Health to take any and all necessary actions to give effect to the implementation of the proposed new ways of working.**
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1. Background

1.1. The East Sussex County Council (“the Council’s”) SWC scheme was set up in 2010 and was run by Adult Social Care and Health in partnership with Trading Standards until 31 December 2023. In July 2023, there were 349 accredited members and 55 applications in progress. Self-employed personal assistants (PAs) made up 85% of the membership and most of the new applications were in this category. The remaining 15% of members offered business services.

1.2. In June 2023, the National Direct Payment Forum (NDPF) published a report about the employment status of PAs. This raised significant questions about the operation of SWC and other similar schemes and raised three main concerns/unintended consequences that SWC may be:

- **Seeming to promote self-employment status for PAs:** There could be self-employed PAs accredited by SWC who needed to be registered with the Employment Agency Standards Inspectorate (EAS) and/or Care Quality Commission (CQC) as they were mainly supporting one individual.
- **Operating as an introductory or matching agency:** Concerns about introductory care agencies providing and ‘matching’ PAs to individuals operating without CQC or EAS oversight where required. It was likely the SWC PA referral scheme and operational practice could be viewed as acting as an introductory or matching agency.
- **Informal partnerships:** these arrangements, such as PA WhatsApp groups to arrange cover as a means of contingency planning, could constitute operating as an unregulated care agency.

1.3. As a consequence of this, the SWC was paused to applications and membership renewals in July 2023 and a public consultation on the future of the scheme was launched on 27 September 2023. The consultation which ran until 5 December 2023 asked for views on the proposal to close the scheme and offer support in a different way. The full consultation document is contained in Appendix 1 and the questions covered:

- How much people agreed or disagreed with the proposal to stop offering the Support with Confidence scheme and offer support in a different way instead.
- How people rated their awareness of the scheme and what it offered.
- How helpful people found the scheme in finding support or building their business or service.
- How people would be affected if the Council stopped offering the scheme and offered support in a different way instead.
- What aspects of any new support would be most important to people.
- What the Council could do to help people manage the transition to a new way of working.

1.4. In October 2023, during the consultation period, Action for People, the SWC scheme brand licence holders, informed the Council that they would be withdrawing the SWC brand on 31 December 2023. Existing members and applicants were informed about this decision and as instructed by Action for People, the Council's scheme closed on that date. Although this effectively removed the option to continue running the scheme, the consultation continued to help inform the future approach.

1.5. 314 consultation surveys were completed during the consultation period and 26 responses were received through other methods (by email, letter or over the phone). Over 150 people joined the online and face to face consultation events and meetings that were arranged to talk about the consultation. Nearly 500 responses were received in total, although some people may have taken part through more than one method. A summary of the findings from the consultation is set out in section 2.5 and the full consultation results report is found at Appendix 2.

1.6. So far as the Council is aware, there has been no public comment on the NDPF report findings from the CQC or HM Revenue and Customs.

2. Supporting information

SWC schemes

2.1. SWC schemes provided directories of accredited providers offering care and support services in a local area. Businesses and PAs offering care and support services to adults in East Sussex could apply to become a SWC member. They paid an application fee and annual membership fee ranging from £50 for PAs to a maximum of £275 for businesses and not for profit organisations depending on their size and type. Members could use the SWC logo on their business paperwork and advertising, and marketing campaigns were run across East Sussex to promote the scheme and its members. They also had access to guidance, advice, training, newsletters, wellbeing support and help with complaints.

2.2. Residents of East Sussex could use the scheme to find help at home. This might be from a PA offering support with things like washing, dressing, cooking, medication assistance and taking part in hobbies and social activities, or it might be a business offering services like home maintenance, gardening, pet services or financial advice. Residents were aware that the services or PAs listed in the scheme directory would have an enhanced Disclosure and Barring Service (DBS) check in place, and receive an offer of ongoing training and support.

2.3. The scheme also provided a PA referral service that the Council's care managers could use to help people find the support they need, and support to PAs around contingency planning and finding substitutes, when regular PAs were on holiday or unwell.

2.4. The main way that residents found out about SWC services was by visiting the scheme's online directory. The directory was always well used, with nearly 11,500 page views in May 2023 alone. Residents who weren't online were able to contact the SWC team for help to access services. Between 1 March and 30 June 2023, the team dealt with 196 enquiries about services from residents and 373 PA referrals from adult social care staff.

Consultation findings

2.5. What was learned from the consultation:

- The majority of people across all groups disagree with the proposal and some specifically said the scheme should be kept and not altered.
- Members of the scheme feel let down by the proposal and that the effort they have invested in joining the scheme has been wasted.
- Although the scheme pause has not affected all scheme members and applicants, it has led to less work for a greater number of them. The pause has also had an impact on those who use the directory to find support.
- People are most concerned about the impact on those who need social care support if the proposal goes ahead, with many saying clients will be worse off as a result and need support.
- There are good levels of awareness and people are concerned about losing a valuable resource, while the lack of clarity on what might replace it has created uncertainty.
- Being able to find PAs, offer accreditation of services and have people find out about their service or business are the most important things that people want from any future offer.
- Members of the scheme value the scheme's sense of community, which prevents them feeling isolated and reassures them that support is available.
- Scheme users are really happy with the care they have now and are worried any changes could lead to them losing their PA.
- Members of the scheme are concerned too that the changes could lead to PAs leaving the sector, affecting people's ability to find the care they need.
- Scheme users are concerned about other local people's ability to find trusted and competent support if the proposal goes ahead.
- Members of the scheme are concerned that they will get less or no work from adult social care if the proposal goes ahead and their ability to make a living will be compromised.
- Members of the scheme want more clarity on their employment status and whether they should be making changes to how they work with their clients.
- People want to be kept informed and for ESCC to provide clear information and support to help them transition to any new offer.

2.6. An Equality Impact Assessment (EqIA) has been undertaken to ensure that mitigations are in place for any potential impacts on protected groups. The EqIA findings and action plan can be seen at Appendix 3.

Response to the consultation feedback

2.7. **Commitment:** The Council remains committed to improving the wellbeing of the local community by promoting independence and supporting people to live in their own homes for as long as possible. Adult social care legislation fully supports the use of direct payments to enable adults with eligible care and support needs and carers to exercise choice and control over the care and support that they need.

2.8. The closure of the SWC scheme does not mean that people can no longer work as, or use, PAs in East Sussex. There have been, and continue to be, many arrangements operating outside the scheme. As with residential and nursing care, and other support in the community such as home care, many residents have PAs and/or access support from businesses without any involvement from Adult Social Care and Health. The Council's priority is to make sure that individuals arranging their own care and support have the information they need to make informed decisions about their care and support arrangements.

2.9. **Accreditation:** It is not possible to continue running the SWC scheme as the licence holders have withdrawn the brand. The information relating to employment status and registration (see 1.2), and the compliance risks associated with this, mean that the Council does not propose to develop a replacement accreditation scheme. An alternative local authority-run accreditation scheme would not be able to ensure the correct employment and registration status for every arrangement, many of which happen without any involvement from the Council. There are however many other (free and paid for) independent schemes and platforms PAs and businesses can register with, including the East Sussex Buy with Confidence scheme for businesses.

2.10. **Assurance:** The Council is not able to check every arrangement between individuals and the people supporting them but will make sure the right information and guidance is available to make informed choices. If agreed, the Council will co-design this information and guidance in partnership with PAs, businesses and adults with care and support needs. Online information will be developed for people wanting to use a PA or business and will create a 'checklist' to help individuals and their families and carers know what they should be looking for. It will be available by June 2024 in different formats and will include suggested questions to ask such as whether someone has the correct insurance and core training. This will help people who need care and support to consider the quality of the support they are getting and find trusted and competent workers.

2.11. **Finding personal assistants and support from local businesses:**

- The online [East Sussex 1Space](#) directory (provided and managed by ESCC Adult Social Care) will be the single place to look for care, support and wellbeing services. PAs and businesses will be able to advertise their services free of charge on East Sussex 1Space and indicate whether they are signed up to any external schemes.
- The [East Sussex Care Services Directory | Care Choices](#) is a comprehensive guide to care, featuring detailed listings of all registered care providers available online and can be posted to people who don't have access to the internet.
- [East Sussex Community Information Service](#) (ESCIS) is a database of community information and events developed and managed by the ESCC Library and Information Service, in association with Brighton and Hove Library Service.
- The Council commissions Direct Payment Support Services (DPSS) from Independent Lives and PeoplePlus. From April 2024, following a procurement exercise, [Independent Lives](#) will be the Council's strategic partner continuing to offer this service which includes a recruitment and training platform, called [PA Pages](#). PAs can advertise their availability for work and individuals wanting to employ a PA can advertise their jobs. They have experience writing job adverts, job descriptions and personal specifications for successful recruitment in urban and rural areas. They also work with several external recruitment platforms including Gumtree.

2.12. **Training:**

- Adult Social Care and Health will continue to offer a comprehensive, free training programme to PAs and others working with adults who need care and support. This covers courses such as moving and handling, safeguarding and first aid and there are opportunities to develop specialisms in areas such as mental health, dementia, autism and self-neglect. In addition to the general training programme for care and support workers, the Council will develop an 'introduction to care' programme for people new to care who are unable to get this training from an employer. This will cover specific elements such as professional boundaries and lone working, both areas that PAs have fed back that they have found helpful.

- The Independent Lives PA Pages include access to training and an information hub for PAs and small businesses. Independent Lives support educational attainment for PAs by working with Skills for Care and local colleges to identify career and educational pathways which are reviewed annually.
- Skills for Care offer support and online [resources](#) that explain more about the PA role for those interested in working as a PA, and for those already working in the role.

2.13. Impact on individual arrangements: Adult Social Care clients and PAs have been advised to continue with their current arrangements. Existing PA employment arrangements are not routinely reviewed during reviews of care and support needs. If, as part of a regular review, an individual asks for a review of their PA employment arrangement and/or raises any concerns or questions about their PA employment arrangement, they will be supported to access appropriate advice.

2.14. Employment status: The correct employment status should always be determined by the nature of each working arrangement between the personal assistant and the individual receiving their care and support. The Council's specialist Direct Payment Support Services ensure the correct information, advice and guidance is given to individuals when considering employing or engaging a PA. This includes supporting the individual and the PA to determine the correct employment status and whether the work should be done on an employed or self-employed basis. For example, individuals can also use the Government's [Check Employment Status for Tax \(CEST\)](#) tool and there is useful guidance from the [Low Incomes Tax Reform Group](#).

2.15. Ongoing support for personal assistants (PAs) and businesses:

- The East Sussex provider bulletin is a weekly email newsletter covering a range of topics affecting PAs and other health and care providers. All PAs are encouraged to [subscribe to the mailing list](#).
- The Adult Social Care and Health training department will work with PAs to explore whether it would be helpful to offer bespoke sessions on areas such as vicarious trauma, compassion fatigue, organised reflective practice and peer support.
- ESCC [Trading Standards](#) offer basic advice to East Sussex businesses and signposting to useful resources such as [Business Companion](#) which has information for businesses and individuals that need to know about trading standards and consumer protection legislation.
- The [East Sussex Personal Assistants Network \(ESPAN\)](#) provides a mutually supportive environment and friendly and informal meetings, led by PAs in their local communities. The meetings are open to all PAs, any potential PAs, users of PA services and any care and support service operating within East Sussex.
- Skills for Care's [dedicated pages](#) for individual employers, PAs and supporting organisations bring together a range of resources and useful information for people employing their own care and support. It also has information about the PA role and resources to support organisations that work with individual employers and PAs.

2.16. Safeguarding adults: Concerns that someone is being abused, neglected or exploited by a PA or business should be reported to the Adult Social Care and Health [contact centre](#) in the same way as other safeguarding concerns.

2.17. DBS checks: There are different options for PAs and businesses depending on employment status:

- Businesses will be able to access enhanced DBS checks through the [ESCC Umbrella Service](#).
- The DPSS can support adult social care clients who want to employ a PA, or use a self-employed PA, to apply for an enhanced DBS check. People who are paying for their own care can also use this service however charges will apply.

- Other options that may be available to self-employed PAs include:
 - [Applying for a basic DBS check](#) to get a copy of their criminal record. This is called 'basic disclosure' and costs £18.
 - Registering with an employment agency that can apply for an enhanced check to assess suitability to work for them.
 - Accessing enhanced DBS checks through external organisations offering this service (this may be subject to a fee and becoming a member of that organisation).

2.18. A summary of the proposed future approach following the SWC consultation can be found at Appendix 4. A table showing the proposed future approach alongside the previous Support with Confidence scheme offer and the consultation findings is found at Appendix 5.

Transition

2.19. Subject to the agreement of the Lead Member for Adult Social Care and Health on 6 March 2024, the Council will communicate the future offer to all previous SWC members by email. A final frequently asked questions (FAQ) document will be shared through publication on the consultation page. The FAQ document will include responses to the queries received during the consultation period and since the scheme was paused.

2.20. The Council will work with people who need care and support, PAs and businesses to codesign aspects of the future offer such as the checklist and training programme for people new to care work. This ongoing engagement will include the East Sussex PA Network and Adult Social Care Citizens' Panel.

2.21. In Spring 2024 an in-person event will be held to give PAs and businesses an opportunity to learn more about the offer and the support available. This event will be codesigned with PAs and businesses to best meet the range of needs. This event and other mechanisms will be used to gather feedback on the new ways of working and any suggestions for improvement.

3. Conclusion and reasons for recommendations

3.1. The East Sussex SWC scheme was much valued by PAs, businesses, staff, residents and communities. It helped PAs and businesses promote their services and gave adults who need care and support, and their families and carers, assurance and confidence when choosing services.

3.2. The option to continue running the SWC scheme is no longer available as the brand has been withdrawn. The current information relating to employment status and registration, and the legal risks associated with this, means that the Council will not be developing a replacement accreditation scheme. The Council will however continue to support residents to make informed choices about their care and support arrangements and to support PAs and businesses to develop their skills and promote their services in a different way.

3.3. Adult Social Care and Health will work with PAs, businesses and adults with care and support needs to develop information and guidance to support a new way of working and will continue to communicate with those affected by the change during the transition and beyond.

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Local Members

All Members

Background Documents

None