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## Key Issues for Local Authority Implementation of Direct Payment: Frances Hasler, Gerry Zarb and Jane Campbell summary:

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### Introduction

Implementation of the Community Care (Direct Payments) Act creates new responsibilities for both local authorities (LAs) and people receiving direct payments. While both the Department of Health and CIPFA have issued general guidance on the Act, the intention is that many of the detailed aspects of managing direct payment schemes will be left to the discretion of individual LAs. Research and practice guides to date have focused on supporting disabled people in managing their own support arrangements, rather than the operational and management issues facing LAs. Consequently there is a great deal of demand for detailed practical information on how to implement and manage such schemes in ways which are both effective for LAs and enabling for users.

The current PSI project seeks to fill these gaps in knowledge and understanding about the management of direct payments by working with both LAs and user organisations to research what both parties consider to be good practice in the operation of payment schemes. The project has two principal aims:

- to investigate practical solutions for addressing some of the key concerns which LAs and disabled people have raised about the implementation of direct payments;
- to disseminate good practice on the management of payment schemes which will contribute to positive outcomes for both LAs and users.

The project is being developed in partnership with the National Centre for Independent Living and with the co-operation of the Department of Health, Association of Directors of Social Services, and the Local Government Association, all of whom are represented on the project advisory group.

The project is being carried out in three stages.

**Stage 1 - Survey of local authorities** : The first stage of the project, which was completed in autumn 1997, involved a national postal survey of all LAs in the UK to collect baseline information on where LAs are up to with implementation of the Act. A summary of results from this survey was published in October 1997 (see resource list).

**Stage 2 - Consultation with participating authorities and user groups** : The second stage involved detailed consultation with 10 selected LAs and user organisations who have been particularly active in the development of payment schemes. The aim of the consultation was to investigate authorities plans for implementation of the Act; to investigate their priorities for information and guidance; and to identify the elements of good practice which contribute to the satisfactory and appropriate management of payment schemes from a partnership perspective.

**Stage 3 - Production of a practice guide**: The final stage of the project involved the production of a practice guide based on the findings from the first two stages. This details current best practice and is designed to complement existing guidance from the Department of Health. The guide was published in February 1999, titled *Direct Routes to Independence*.

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This is an archive of the Policy Studies Institute website as it was on 31 March 2018, when PSI marked the end of its most recent chapter at the University of Westminster.

There will be a hiatus before plans for the next chapter of PSI can be confirmed. If you would like to hear about the team's activities, please sign up to our new mailing list [here](#).

If you wish to contact the team directly, please email: [m.hashemi-sadrai@westminster.ac.uk](mailto:m.hashemi-sadrai@westminster.ac.uk).

## About this report

This short paper is the second report produced from the project. It is designed to give brief answers to some of the most common queries from local authorities concerning direct payments. The report is based on implementation and practice issues identified from both our consultation with case study authorities and the main concerns highlighted in the national survey of UK local authorities (see above). It is designed to be read in conjunction with the Department of Health Policy and Practice Guidance on Direct Payments.

In addition to the good practice guide, during the final stage of the project we will be producing a project report, covering some of the policy issues raised during the project.

The central aim for this project is to provide practical information to assist local authorities in setting-up and managing direct payment schemes on a partnership basis. We would welcome any comments you might have, either about the suggestions outlined in this report, or on other issues you would like to see addressed in the final report. Please email comments to [g.zarb@psi.org.uk](mailto:g.zarb@psi.org.uk)

## Further information

The National Centre for Independent Living (NCIL) can supply further advice on specific aspects of direct payments. NCIL will also be able to supply contact details and other information about a range of local authority schemes discussed in this report. Contact: [ncil@ncil.demon.co.uk](mailto:ncil@ncil.demon.co.uk)

## Laying the foundations for a successful direct payments scheme

Implementing direct payments may be more straightforward than you think. The clear message from authorities with existing schemes is *'don't reinvent the wheel: use what other people have already developed'*. Other schemes urge: *'You must consult with organisations of disabled people'*. Direct payments is about increasing choice and autonomy for disabled people, so start by involving them in all the planning and development. This will include developing a support service (see *Setting-up support systems* below) which is a prerequisite of a successful payments scheme. Disabled people have developed successful models for support schemes, based on their own experience, which have been refined over the last fifteen years. Drawing on this knowledge should be part of the planning process.

The experience of local authorities with existing payments schemes highlights the importance of consultation with organisations 'of' disabled people (ie. organisations controlled by disabled people, not carers or supporters). This is not only consistent with the partnership principles which underpin best practice in community care but, even more importantly perhaps, it embodies the ethos of direct payments, which are intended to enable disabled people to take control of their lives. Direct payments involves a new relationship between both local authorities and users and between individual service users and providers. Working with disabled people's organisations helps to balance out the unequal relations of power which have existed in the past, thereby more effectively supporting users' role in the partnership.

Local authorities' ability to develop direct payments on a partnership basis will of course be greatly enhanced where there is already an active network of disabled people in their area. In some cases, this may mean a local authority will need to help facilitate the development of such a network. However, previous experience suggests this is likely to pay dividends in the long-run. Indeed as one successful scheme advises: *'Where no such organisation exists, don't move until you have one'*. This can take some time but should not detract from establishing a support system (see below). Work on helping to establish an organisation of disabled people can be carried out alongside the setting-up of a direct payments users' support group.

NCIL and BCODP's Group Development Project will be able to support the development of a new organisation if necessary. Your local Council for Voluntary Service may also be able to help.

## Setting-up support systems

All of the case study authorities with existing schemes stress the benefits of setting up a support scheme for Direct Payments users as this undoubtedly helps to produce better outcomes for both users and local authorities alike. Some say: *'this is the first thing to do: set up your support'*. The National Centre for Independent Living can advise on setting up a viable scheme.

The findings from the national survey indicate that some authorities are - not surprisingly - concerned about the cost of providing a support scheme. However, as one of the case study authorities with a well established scheme put it: *'you should look on it as an investment, not as a cost'*. The level of investment a support scheme needs will partly depend on the type of support provided. It also needs to be proportionate to the expected number of users.

Advice on best practice, from both authorities with existing schemes, and from NCIL, suggests that Centres for Independent Living and similar organisations run by disabled people offer the most appropriate expertise for running a support scheme. An ideal support scheme will offer information, advice, training and peer support as a minimum starting point. Some schemes also offer payroll services and a few are developing banks of emergency staff or other back up services. Apart from the wages and office costs for the support worker(s) you will need to allow for the costs required to enable users to participate in the running of the support scheme (eg. transport and facilitation for attending meetings, interpreting support, child care etc), and training for users.

How much your support scheme offers will depend on how well it is resourced and managed. Most existing schemes started with one development officer/advisor. It is difficult to be precise about the ratio of advisors to users, because there is a fair amount of variation in the way the job is organised from place to place. The best guide we can suggest is that a single worker can support thirty users: where numbers are higher than this, the depth, and to some extent the quality, of the support offered is less. It is important that the payments scheme develops at a pace that allows proper support to be offered to new users; this will depend on a number of factors including the characteristics of the user-group.

Schemes can usually be housed in an existing organisation, preferably one controlled by disabled people (see *Laying the foundations* above.) The cost of providing a support scheme in your local voluntary sector will of course depend on local conditions, but we suggest budgeting in tens of thousands of pounds, rather than the hundreds of thousands we have heard quoted from a few places.

### Eligibility criteria

Although you may want to put prospective payments users in touch with a support scheme before their community care assessment, it is important that the assessment for direct payments follows the assessment for eligibility for community care. Payments are an option within the framework of community care, and the process of assessment needs to reflect this. (See also *Turning a community care assessment into a direct payments package* below).

Most of the case study authorities we have consulted thought there was no convincing reason for restricting eligibility over and above what is already specified in the Direct Payments Act. Restrictions by impairment group are probably not lawful. Restrictions based on the number of hours needed and/or the total cost of a support package are planned by some authorities on a pilot basis, but we have not found any convincing arguments on the benefits of adopting such criteria.

### Interpreting 'willing and able'

This was one of the aspects of implementing direct payments which has caused the most concern among local authorities (including some of our case study authorities). Two groups of users are thought to be the most problematic: people who have cognitive/communication impairments, and people who live in a family setting where a family member appears to be making decisions on behalf of the user. The ideal solution proposed by some of the case study authorities is to find/provide an independent advocate. At a minimum, assessment of the user and their 'carer' should be carried out separately (which is generally considered to be good practice for community care assessment in any case). However, taking time to involve an independent advocate may be the only method of establishing genuine consent in some cases.

Users may need considerable help with managing either money or workers. Family members may be able to provide this help but it is essential to be sure that is what the user wants. Individual assessors will therefore need to make a judgement on the appropriateness of this kind of arrangement. Payments should be carefully monitored in the initial stages (for all users) and this will give an opportunity for care managers to check that the user is 'managing' in the sense of taking overall responsibility for the package. It is important to make sure that whatever help an individual has with managing their payments facilitates control, rather than reinforces dependency. Users also need to have a real choice: there has to be an alternative to

family help available.

Many - but by no means all - of the users where 'ability to manage' has been an issue are people with learning difficulties. Although there has been some research by Values Into Action (see resource list) there is very little good practice to draw on in this area, and it may be that well monitored pilot projects could add to our knowledge of how direct payments will work best with this group of users. As the scheme manager in one of the case study authorities says: *'people with impaired cognitive abilities, or people with self-harming or challenging behaviour have as much right to independent living as other disabled people but more work needs to be done on making this a reality'*. Some of the other authorities we consulted also expressed the need for caution: *'Don't lose other options such as supported living; direct payments are not for everybody'*.

Authorities should also ensure that their own procedures do not impair the user's ability to manage. Keeping record-keeping simple - with requested information being no more than the minimum necessary to ensure accountability - is one way to do this. Our planned practice guide will have more information on this topic, drawn from the experience of users in the case study authorities and from existing pilot schemes.

### **Turning a community care assessment into a direct payments package**

Effective and appropriate assessment practice is an essential component of any successful direct payments scheme. Best practice distilled from the experience of existing schemes indicates that the key to effective assessment is being able to translate a community care assessment into a direct payments package without diminishing the flexibility which allows users to control their own support arrangements. As stated in the Policy Guidance from the Department of Health, it is up to individual local authorities to decide how much flexibility to allow. However the Guidance also reminds authorities that, in considering how to use this discretion, they should keep in mind the overall aim of the policy - which is to give people more choice and control over the services they are assessed as needing.

This clearly implies a high degree of flexibility in the way in which individual support packages are put together and this was certainly emphasised by the case study authorities we consulted: *'You need a flexible translation of service to payment; it will not always be personal assistance time, for example it could include adult education or equipment'*.

The overall community care plan, describing an individual's aims and needs, can be used as an initial template. The daily/weekly routine (often called a care plan, but is not the same thing) will give an indication of needs and can be used to determine how much community care 'service' each individual is eligible for, according to your own local criteria. This can be expressed as a number of hours per week.

How the individual decides to use those hours is where the flexibility starts. As long as the 'service' purchased by the user enables them to meet the aims and needs identified in the initial assessment it does not matter whether this precisely 'matches' the routine described in their care plan. You cannot time to the minute every activity - some people may take two hours to prepare for the day one week, and three hours the next. An overall week should be estimated and then it must be left to the disabled person to work within that margin. No one can calculate exactly how long they may need to spend in the bathroom or how long it may take to collect the children from school; routines will vary if someone is ill, or during school holidays. People make day by day, week by week adjustments as necessary.

Attempting to pin people down to reflecting a 'standard' community care assessment exactly in their direct payments package would not only be an inefficient way of meeting their needs but also misses the point of direct payments.

Also, it is worth bearing in mind that the issue of enhanced flexibility is linked to cost-effectiveness (see *Value for money* below). This is because the enhanced flexibility provided by direct payments (together with the extra degree of choice and control this offers) represents 'added value' which users get in their package as a result of taking the extra responsibility of managing their own support arrangements.

### **Equal opportunities issues**

Direct payments have the potential to make a real difference in meeting the needs of marginalised groups, who have historically felt left out of current social service provision. For

example, the experience of some of the case study authorities shows that direct payments can be an excellent way of meeting hitherto unmet needs in minority ethnic populations, because it allows for precise matching of user and worker. The authorities we have consulted stress that early planning on direct payments must include minority ethnic groups, even if such groups currently make limited use of existing services. Discussion of the meaning of independent living within different cultural contexts will also be needed if schemes are to adequately reflect the needs of minority populations.

There may also be a greater demand for employing relatives as support workers among minority ethnic groups. Local authorities may of course agree to this at their discretion (except for relatives resident in the same household) if such an arrangement is seen as the best way of meeting an individual need. It is important to remember however that individual preferences vary and assistance from relatives should not be assumed to be the cultural norm.

At the time of writing, older people (ie. all aged over 65) are not eligible to begin to receive direct payments, although this will change during 1999. Some local authorities have found it possible to use existing 'third party' schemes to offer indirect payments to older people. So this is one option which can be considered within the current legal framework.

Only one local authority in our national survey specifically mentioned equal opportunities issues in the context of their main concerns about direct payments. However NCIL report that, in their experience, this is often an important issue for users themselves. For example, direct payments are seen as particularly helpful in terms of enabling appropriate support arrangements for gay and lesbian disabled people. This group stress that, by providing choice and control over who assists them, the direct payments option results in greater safety and sensitivity to lifestyle. Disabled parents also benefit greatly from having a more flexible and broader range of assistance to draw on as a result of being able to purchase their own support directly.

### **Costing a direct payments package**

Another issue which we know many local authorities have been seeking further information on is how to cost a direct payments package. Some of the information outlined below is based on what we know about arrangements on existing schemes; some is based on previous research on direct payments (eg. Zarb and Nadash, 1994); and some has been provided by the National Centre for Independent Living.

The following is based on the assumption that payments will be used primarily to purchase personal assistance, with the user taking responsibility for employing their own workers directly. Other types of packages (eg. those based on purchasing support from an independent sector care agency) will have slightly different cost elements, although these will of course tend to be more familiar to local authorities in any case. *Direct Routes to Independence* includes further examples of the various types of costs involved, including the overheads associated with financial administration of direct payments schemes.

### **Basic wages**

- the wages element of a direct payments package should be based on local labour market rates for work of comparable responsibility and skill levels;
- basic daytime rates vary widely round the country, from a starting point of just over £4 per hour up to about £7 per hour in some places in London;
- specialist skills (eg. guide/communicator for a deaf/blind person) will attract higher rates of nearer to £8 to £10 per hour; the relative scarcity of such skills means that these rates are less sensitive to variations in local labour market conditions.

### **Payments for unsocial hours and overtime**

- some schemes calculate a basic amount for wages and leave users to set their own variations; others calculate two (or, very occasionally, three) separate rates for different categories of unsocial hours;
- your calculation of the basic hourly rate also needs to recognise that

people expect higher rates for working on public holidays;

- current rates for sleep overs (where applicable) range from £25 per night to £35 per night; rates for waking night shifts will often be slightly higher.

Schemes will not be directly affected by the introduction of a minimum wage, as almost all are paying above the proposed rate. It should be noted that users in areas where the wage element is low often report difficulty in recruiting and/or retaining workers of a suitable calibre. Although direct payments may be associated with savings when compared to the unit costs for equivalent services, looking for savings on personal assistants' wages may be a false economy (see also section on *Value for money* below).

### Essential on-costs

The following are mandatory/essential employment costs which need to be added to basic hourly rates:

- Employer's National Insurance contributions - 3.6% to 10.2% depending on average wages and hours (in practice most personal assistant's earnings put them in the 5% -7% range for NI, but you need to be prepared to allow for higher rates in some packages).
- Employer's liability insurance - this is available for around £45 per annum, or can be arranged on a group basis through your local support scheme.
- Holiday pay (currently three weeks per year, increasing to four weeks' per year from November 1999);
- Sick pay (usually based on 3 weeks' pay); statutory sick pay is not always sufficient to replace wages, schemes need to ensure that employers can retain staff by offering proper sick pay.

### Recommended on-costs

The following, although they are not mandatory, are nevertheless basic requirements to enable users to be good employers.

- training time (minimum of two days per worker per year) ;
- emergency cover (allowing for purchase of agency cover if needed);
- enhanced pay for Bank Holiday work (some schemes also offer enhancements for weekend work)
- travel costs (this cost is typically borne by employees but some authorities in rural areas do include a specific allowance in view of the higher than average expense involved).
- administration - advertising, recruitment expenses (eg. travel expenses for prospective employees), book-keeping and payroll administration, public liability insurance, formal appraisal of employees (around 2% to 5% of the total basic payment should be allowed for this item)

In addition, there needs to be some contingency money, to cover items such as maternity pay. Because not all users will need it, some schemes keep the contingency element in a 'pooled' fund, which users can draw on as needed; if this approach is adopted it is vital that an accounting mechanism exists to let users know how much they have in the 'pool'.

### Total on-costs

If all of the essential and recommended on-costs were included, this would add a total of between 30% and 40% to the basic wages payment as summarised below:

Essential on-costs 16 - 20%

Training and contingency payments 12 -17%  
Administration costs 2 - 5%  
Total 30 - 42%

### Monitoring for quality

Monitoring the direct payments user after they are up and running with their scheme should be as least intrusive as possible, while ensuring that the local authority is not relinquishing its core responsibilities. Most users (and scheme administrators) suggest a check to see how they are getting on at about 6 - 8 weeks after commencing payments, followed by a review at 6 months. Opinion is divided as to whether further reviews should be six monthly or annually - this will to an extent depend on your normal community care practice. The extent and frequency of routine monitoring should be the same for every community care user, whether they have payments, services, or a combination of both.

Users generally want as little social services intervention as possible - with the important proviso that there is someone they can contact if things go wrong. In several authorities the detailed monitoring is devolved to the support scheme: the co-ordinator or advisor from the support scheme will be familiar with the particulars of each individual's package and will also be well placed to offer informed advice on employment matters, as well as informal mediation if there are employer/employee tensions. Too much monitoring can easily feel like 'supervision' or 'policing' of people's arrangements.

Many care managers have expressed anxiety that users can employ 'unvetted' people. Part of the role of the support scheme is to advise users on how to recruit safely and effectively so, although personal assistants will not have been through a social services vetting process, they will have been carefully assessed by the user. There are detailed guides for prospective users (see resource list) and most schemes will provide one to one support for new users during the recruitment and staff induction process.

Some users will choose to get all or some of their assistance from an agency. They are under no obligation to use agencies approved by social services. They should have access to the same range of support and advice in choosing and supervising agency staff as users who directly employ their own personal assistants. One very fast method of quality control is for users who are dissatisfied to take their business elsewhere. Users who meet for peer support will also be able to exchange information about reliable, responsive agencies. Facilitating such peer support can therefore be one of the other functions which a support scheme can usefully perform.

### Monitoring spending

The findings from the national survey indicates that financial monitoring is one of the issues causing most concern among authorities who are considering setting-up a direct payments scheme. Best practice in the case study authorities suggests that the essential elements are a two way agreement between user and authority (setting out **both** sides' expectations and responsibilities) and a clear understanding by the user that this money is only to be spent on meeting their community care needs. So, if the payments is made on the expectation that the user will employ staff, you need to know that money has been spent on wages, national insurance etc., and that the overall amounts fit within agreed limits. Collecting detailed information on payments made to each individual employee is not considered essential and, in practice, simply creates extra work for the local authority and users alike.

Monitoring should be proportionate to the minimum requirements to protect both parties' liabilities and should not overburden the user with paperwork. To avoid money being misspent and to aid simple clarity it is important to insist on a separate bank account into which the direct payment should be paid. Time sheets or monthly returns that reconcile cheques paid out should accompany bank statements. Anything more than this might be considered over bureaucratic. We can find no reason why you need to know details of actual employees, or how long they spend on particular tasks, for audit purposes. (Inland revenue records will contain names of workers; users have to keep these records by law, and most schemes specify that they should be available for inspection in the event that misuse of funds is suspected.)

The majority of schemes established to date follow the simple process outlined above. Our forthcoming practice guide will include some more detailed examples of the monitoring systems used in particular schemes. The CIPFA guidance gives full details of the internal systems which local authorities should set up. Advice from the case study authorities is that a 'dedicated' worker in the finance department will greatly aid the administration of a payments scheme.

## Liability

The case study authorities we have consulted do not generally find liability to be an issue. The user is the employer and thus has the employer's responsibilities and liabilities. (This is why you must include employer's liability insurance in the cost of the package). If you have assessed the user correctly as being 'able to manage' payments and if you have provided (through the support scheme) adequate information and training, your liability for any mishaps should not arise. Mishaps can occur (which is why we suggest including public liability insurance in the package cost) but good assessment and proper support should minimise these.

Proper support will include information on health and safety, including advice on safe lifting if it is needed. It is not possible to design a risk free system. Things occasionally go wrong in directly provided services and in contracted out services: the same is true for direct payments.

Authorities do nevertheless retain a responsibility to ensure that users' community care needs are being met. So, if things have gone wrong, the authority may need to provide a service on an interim or emergency basis until the situation resolves itself. Users generally expect to be able to call on social services if they have a major crisis in their support arrangements and the provision of direct payments does not fundamentally alter this aspect of their relationship with the authority.

## Value for money

The Department of Health Policy Guidance stresses that payments packages must be cost-effective. It is clear from the national survey that some authorities have difficulty in applying this principle in practice. However, advice from the case study authorities we consulted is that existing community care practice gives scope for discretion in individual cases.

It is not appropriate to do a simple cost comparison with existing services when assessing equivalent cost effectiveness. The Department of Health state that you need to assess both cost and effectiveness. Thus, for example, it is not usually appropriate to make a direct cost comparison between residential care and a 24 hour independent living package as they are not equivalent in terms of effectiveness.

In addition, the amount a user contributes to the overall package, in 'free' administration - recruitment, training and supervision of workers and so on - should be taken into account when assessing value for money. (One authority has, for example, decided that payments users should not be subject to the same charges as service users, in recognition of this hidden but real contribution). The enhanced flexibility, choice and control provided by direct payments represents 'added value' which users get in their package as a result of taking the extra responsibility of managing their own support arrangements.

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