

Direct Payments Scrutiny Panel Report



Committee: **Adult Services Scrutiny
Committee**

Date: **4th July, 2006**

Report of: **Director of Legal and
Democratic Services**



Contact Officer: **Ivan West**

TITLE OF THE REPORT

Direct Payments Scrutiny Panel Report

NON-CONFIDENTIAL

This report does not contain information which warrants its consideration in the absence of the Press or Members of the public.

PURPOSE OF THE REPORT

To advise and seek the approval of the members of the Scrutiny Committee for the investigations of, and recommendations made, by the Direct Payments Scrutiny Panel.

RECOMMENDATIONS

Members are asked to approve:

- (i) the recommendations made to the Executive Member for Adult Services as laid out in the report; and
- (ii) that the Executive Member for Adult Services be asked to prepare a report, setting out their response to the recommendations contained in this report. That these responses be presented back to the Adult Services Scrutiny Committee.

1.0 Introduction

1.1 Background

During the course of its work programme in the municipal year 2004/2005 the Adult Services Scrutiny Committee decided to establish a Scrutiny Panel to investigate the issues surrounding Direct Payments.

The Panel was subsequently appointed, being politically balanced and comprised:

1. Councillor Ball
2. Councillor J. Byrne
3. Councillor Clare
4. Councillor Cronnolley
5. Councillor Shaw
6. Councillor Woodward

The Panel, in accordance with precedent, also invited the Executive Member for Adult Services to attend its meetings.

The Panel was supported through its investigations by the following officers:

Andrew Kilpatrick – Assistant Director (Adults Services)
Isabel Southern – Head of Learning Disabilities
Anne Webster – Direct Payments Worker
Ivan West – Senior Democratic Services Officer

1.2 Reasons for Review

In order to accurately explain the reasons for the review it is first necessary to explain some of the background to Direct Payments. Below is a brief description of Direct Payments taken from a promotional leaflet produced by Bolton Council.

“A Direct Payment is a cash payment made to you so you can arrange to pay for your own support, rather than receive services from Adult Services. You can use the money to meet your personal and domestic care needs. You can use the money to employ staff or pay an agency to provide the support you need. With a Direct Payment you are in control and you decide who supports you, how they do it, and when.”

Direct Payments in their current form are the result of two pieces of legislation, the Community Care Direct Payment Act (1996) and The Health and Social Care Act 2001. These acts together meant that, from 8 April 2003, local authorities had a duty to offer a Direct Payment to anyone who was eligible to receive social care. Furthermore, from April 2004 it was made mandatory that the offer of Direct Payments be made to anyone who was eligible. As a result of these pieces of legislation there are now very limited circumstances when a Direct Payment cannot be used.

This legislation coupled with national government's subsequent drive to increase the numbers of Direct Payment's recipients meant that it was felt that it was an apt time to examine how Bolton was responding to the unique challenges presented by Direct Payments.

1.3 Process and Evidence

The Panel met on four occasions to consider relevant presentations and oral evidence from officers. In addition the Panel undertook on-site consultation with the following:

Direct Payments User Group

A group made up of local Direct Payments users. They meet every two months as a support group in order to discuss how the system is working and if there are any areas which they feel need attention.

Local Implementation Group

The Local Implementation Group is comprised of representatives from the user group, local voluntary groups (Age concern, Carers Support, Bolton Independent Living Federation, Asian Carers Group, Boltonwise and CVS) and staff from the Direct Payments team. The group acts as a forum which seeks to bring together all key stakeholders in Direct Payments.

Manchester Direct Payments Team

The Manchester Direct Payments team structure their Direct Payments system in a slightly different way to Bolton. This coupled with the fact that they deal with large numbers of Direct Payments recipients meant that they were a suitable authority with which to try and benchmark.

2.0 The Current Situation

2.1 Eligibility

Direct Payments are received instead of care services being provided by Adult Services. In order to receive Direct Payments a person must have been assessed by Adult Services as having either a critical, substantial or moderate need for care services. Once they have been assessed as having a care need they must fall into one of the following categories:

- they must be aged over 16; and
- be able to manage the Direct Payments process either alone or with assistance.

However, people can still receive a Direct Payment if they have not been assessed as having a care need if they fall into one of the following categories:

- be someone with parental responsibility for a disabled child; or
- be a carer aged 16 and over who provides care for an adult who is eligible to receive care services. The carer receive Direct Payments for their needs as carers.

People can use Direct Payments from the point where they are assessed as having a need or they can be an existing user of traditional Adult Services care who decides to switch to Direct Payments.

2.2 Logistics and Process

Once a person is assessed as having a care need an assessment care plan is drawn up. This plan sets out in detail the amount and type of care required by that individual. This care plan can be met either by using Direct Payments or traditional care services.

Direct Payments cannot be used to purchase services from the Local Authority but can be used in a mix and match way. That is to say, part of the care plan can be met through traditional care services with the remainder being met through Direct Payments.

Direct Payments are usually used to purchase care either from an agency or from an independently hired and retained individual, known as a Personal Assistant (PA). However, the money can also be used by carers of adults with care needs provided it is used to buy services to meet their needs as a carer and not used to buy personal care for the person they care for.

The Direct Payments recipient must open a separate bank account and is responsible for the movement of money through that account and all associated tax and national insurance considerations. Help managing this process is available from the Direct Payments team and from a payroll service which is contracted to the Adult Services Department.

2.3 Personal Assistants, Agencies and Rates of Pay

A Direct Payments recipient has the choice whether to employ a Personal Assistant (PA) or agency to deliver their care needs.

A Personal Assistant (PA) is a person who is hired and employed directly by the Direct Payments recipient. The person can be found via a number of different routes e.g. recruitment advert, word of mouth or prior association. The person does not have to have a Criminal Records Bureau (CRB) check unless requested by the Direct Payments recipient (recipients are strongly advised by the Direct Payments team to undertake CRB checks on all of the people that they employ).

In Bolton, Personal Assistants (PA) are paid a standard rate of £5.66 per hour. No provision is made for pension or training for Personal Assistants. However, if training is required for the PA to successfully undertake their duties then the Council can provide some training on Council run courses. This £5.66 is a standard rate which does not vary if unsocial hours are required to be worked but does increase to £6.69 per hour on Saturdays and £8.21 per hour on Sundays. National insurance and other statutory employer's contributions are paid by the Council via the Direct Payments recipient's bank account.

Direct Payment users instead of using Personal Assistants can opt to use agencies for the provision of their care. Under this arrangement a user enters into an arrangement with an agency to provide their care. The agency then use the staff at their disposal to meet the person's care needs. The agency are responsible for vetting the suitability of the staff which work for them.

Agency fees can, and do, vary but are somewhere in the range of £8 to £14 per hour. The agency then pay their staff an agreed hourly rate. The Council does not have any control over how much the agency pay their staff. There is no way of accurately ascertaining what hourly rates carers are receiving from agencies as each carer enters into an individual contract with the agency or agencies for whom they work. That being said, there is reasonably strong anecdotal evidence to suggest that agency staff are paid in excess of £5.66 per hour.

In order to put the matter of Bolton's payments in to some sort of context the Panel also considered the example provided of the way that Manchester structure their Direct Payments.

Manchester's pay structure is more complex than Bolton's and, consequently in the interests of brevity what is given below is only an overview.

<u>Time of Care</u>	<u>Rate of Pay</u>
Basic week day	£7.36 per hour*
Evening during the week/ daytime during the weekend	£9.84 per hour*
Weekend evening	£14.63 per hour*
Sleepover	£28.92 – additional one off payment on top of hourly rate *

* It is important to note that these figures are the flat rates paid to the Direct Payments recipients. As the employer, the Direct Payments recipient has to pay employee's National Insurance (NI) and so on out of these rates. This accounts for roughly 10% of the rate, so for example, the basic rate of £7.36 works out as an hourly rate of £6.44 for the carer once NI and associated statutory costs have been deducted.

In addition to hourly rates, Manchester also pays costs towards cover for sickness absence, holiday cover, contingency cover and costs towards initial recruitment.

Manchester does not pay different rates for agency care. If Direct Payments recipients choose to use an agency then it is up to them to negotiate an hourly rate with the agency. If that rate is over the £7.36 per hour then it would reduce the number of hours of care which that person could receive.

2.4 Numbers of Direct Payments Recipients and Team Structure

Below is a breakdown of people who use Direct Payments in Bolton and Manchester. Manchester is given as a comparator as it is widely seen to be performing well with regard to Direct Payments. However, it should be noted that Manchester's population is considerably larger than Bolton's and therefore these figures should not be taken as a direct comparison of like for like. The numbers are broken down amongst the care groups as follows:

	Bolton	Manchester
Physical disability	102	144
Mental Health	6	14
Older People	44	72
Learning Disability	46	36
HIV/Aids	0	21
Parents of Disabled Children	34	4
Carers	2	0
Total	234	297

Of these, in Bolton 61% of users use Personal Assistants and 31% use agencies. In Manchester 90% use personal assistants and 10% use agencies.

At Bolton there are currently six dedicated members of staff to administer Direct Payments as follows:

- 1 Manager
- 3 Direct Payments Workers
- 1 finance worker
- 1 administrative support

Manchester, in addition to their own Direct Payments recipients also currently administer contracts for Bury, Rochdale and Calderdale and therefore have a total of 500 recipients. In order to administer this they employ the following staff:

- 1 Manager
- 1 Senior direct payment worker
- 8 direct payment workers
- 2 finance workers
- 2 payroll workers*
- 2 administrative support

*Bolton do not provide a direct payroll service but instead contract it out to an outside provider.

3.0 Investigations and Recommendations

The Panel met on four separate occasions to receive the background and learn about the statutory elements surrounding Direct Payments. However, the main thrust of the Panel's investigations came with the consultation that was undertaken with the Direct Payments User Group, the Local Implementation Group and the Manchester Direct Payments team. Following this consultation the Panel focussed their thinking on two key areas:

- Rates of Pay and Working Conditions; and
- Take-up of Direct Payments.

Each of these is considered in turn.

3.1 Rates of Pay and Working Conditions

The Panel spent a large amount of its time discussing and analysing the levels of payments available to carers. Discussions centred around the rates of pay available to agency staff and for Personal Assistants who worked for both Bolton and Manchester.

The Panel are cognisant that the decision to become a carer is not influenced by money alone but do believe that if a person is to make a career as a carer then it must be one which is financially viable. Through the consultation undertaken with Direct Payments recipients it became apparent that they felt that the current remuneration and benefits package for Personal Assistants working in Bolton was insufficient.

It became apparent to the Panel that the rate of pay for Bolton's personal assistants was significantly below that of Manchester's. In addition, Manchester also offered other financial benefits which Bolton does not, for example increased pay during unsocial hours.

In addition to the issues surrounding the level of payments, both Personal Assistants and Direct Payments recipients were very keen to draw attention to the fact that PA's do not have an allocated training budget and do not receive a pension.

The Panel felt that this situation could persuade PA's or potential PA's into working for agencies where pay could be better. This would have a knock-on effect in that a dearth of Personal Assistants would drive more Direct Payments recipients into using agencies to provide their care. Agency care is considerably more expensive for the Council than PA's.

Indeed, the Panel felt that the current use of agencies was already too high. Attention was drawn to the fact that whilst Manchester's use of agencies amounted to only 10% of total provision, here at Bolton it is 31%. If the use of agencies could be significantly reduced then this could fund increased pay for PA's and over the longer term might even reduce costs for

the service as a whole. The Panel therefore felt that service should actively be seeking to reduce the number of agencies used and thought that increased pay for PA's would be instrumental in achieving this.

3.2 Recommendations – Rates of Pay and Working Conditions

After detailed consideration the Panel recommends that the Executive Member for Adult Services:

- 1. Urgently reviews the rates of pay currently being given to Personal Assistants. This review is to consider:**
 - **raising rates of pay for Personal Assistants;**
 - **whether training, contingency and unsocial hours payments should be introduced.**
- 2. Seeks to reduce reliance on agencies as quickly as is practicable; areas which could help to achieve this are:**
 - **cap all agency payments at a certain level e.g. £12 per hour;**
 - **provide more help in recruiting Personal Assistants for Direct Payments recipients; and**
 - **pay the same fixed rate to Direct Payments recipients and let them decide whether to purchase care from a Personal Assistant or an agency out of that fixed sum.**

3.3 Take-up of Direct Payments

The Panel understands that national government is very keen to increase the number of Direct Payment recipients. Consequently, there is a performance indicator for Councils which relates to the number of people they have who use direct payments. Bolton, is currently in the “acceptable” banding for 2004/2005 and is on target to move up to “good” in 2005/2006.

Aside from Direct Payments performance indicators and national government's push to improve the take-up of Direct Payments the Panel came to believe during the course of its investigations in the benefits of Direct Payments. The evidence that the Panel heard from Direct Payments recipients was all very positive. Recipients were keen to express the flexibility the scheme gave them and the sense of empowerment that came with being directly in charge of their own care.

The Panel felt that whilst Bolton was performing well with regard to take-up of direct payments the level of take-up could be improved upon. They felt that one area which could possibly be improved in this regard lay with the social workers who either assessed or currently dealt with those who had care needs. As the social worker was, in essence, the first point of contact for that person then if social workers could be presented with more complete information which clearly sets out the benefits of direct payments then they in turn could better advise their clients about Direct Payments.

Direct Payments recipients that the Council consulted were also keen to stress that they, in the main, were unaware of the Direct Payments scheme before it was suggested to them by staff from the Adult Services department. Consequently, some recipients felt quite trepidatious before switching to the scheme. The Panel felt that if general awareness of the scheme could be raised then not only would it aid take-up of the scheme but it would also help to alleviate the fears of those who chose to use Direct Payments.

3.4 Recommendations – Take-up of Direct Payments

After detailed consideration the Panel recommends that the Executive Member for Adult Services:

- 1. Reviews the arrangements that are currently in place for informing Social Workers about Direct Payments;**
- 2. Investigates what arrangements could be put in place in order to make Direct Payments a more attractive proposition for Social Workers to suggest to their clients; and**
- 3. Looks into the possibility of improving Direct Payments promotional material and improving its circulation amongst key groups.**

4.0 Conclusion

The Panel were much heartened by their investigations into how Direct Payments are operating in Bolton. They were struck by the testimony of Direct Payments recipients as to how the system suited them far better than the more traditional forms of care. They were very keen to stress the sense of control, flexibility and empowerment that the Direct Payments system gave them.

In addition to the generally positive view of the system the consultees were also fulsome in their praise for the staff of the Direct Payments team. The Panel were keen that attention be drawn to the fact that the team were handling a large number of Direct payments recipients with a relatively small number of staff and yet were obviously still managing high levels of customer satisfaction. Accordingly, the Panel extends their praise and thanks to the Direct Payments team.

More generally, the Panel discussed what a concerted push for more people to use Direct Payments would mean for the Adult Services care budget as whole. If more money was needed to pay for increased numbers of Direct Payments recipients then this would obviously need to be found from elsewhere within the social care budget. However, the Council still has a duty to offer the more traditional forms of care as well as Direct Payments and consequently needs to maintain the staff and the facilities to do this. The Panel believe that at some point in the future these conflicting demands will reach a point whereby long-term policy decisions will need to be made as to how to fund and manage the two separate care arms. The Panel did not come to a detailed view as to how this should be done but do strongly feel that Members should be involved in that process, when the time comes, through the relevant Policy Development Groups.

In addition to the future debate to be had on affordability outlined above, the Panel also noted the imminent launch of the Individual Budgets pilot in Manchester and a number of other authorities around the country. Individual Budgets build on Direct Payments and bring together a number of income streams in order to give the individual a more joined-up package of support. The stated aim of Individual Budgets is for people to be at the centre of the planning process as it relates to their care needs. The Panel feel that the success of this scheme should be monitored closely in Manchester and, once it had had time to bed in, feel that it would be appropriate if a report on Individual Budgets were to be brought before the relevant Policy Development Group.

The Panel are aware that several of the recommendations carry significant budgetary implications. However, it is not for the Panel to accurately cost and assess their

recommendations. It is anticipated that this costing will be contained in the Executive Member for Adult Service's response to their recommendations. With that being said, the Panel believe that a significant reduction in the use of agencies will fund their other recommendations and will hopefully lead to an overall reduction in costs.

The Panel request that the Executive Member for Adult Services produces a formal report setting out their response to the recommendations contained within this report.

Finally, the Panel would like to thank everybody who was involved with or gave evidence to this Scrutiny Panel review. It was only due to the constructive and honest opinions that were shared by and with the Panel that they feel they were able to constructively comment on Direct Payments in Bolton.