

# Report



meeting ADULT SOCIAL CARE AND HEALTH  
DEPARTMENTAL BRIEFING

date

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**7.**

## **REPORT OF THE STRATEGIC DIRECTOR FOR ADULT SOCIAL CARE AND HEALTH**

### **DIRECT PAYMENTS**

#### **1. Purpose of the Report**

1.1 The purpose of this report is to:

- (a) outline the assessment process and how direct payments are provided
- (b) update on the progress in increasing the number of people who are receiving a direct payment
- (c) identify any issues which may impact on performance
- (d) identify future areas to increase direct payments.

#### **2. Context**

- 2.1 Increasing the uptake in direct payments is an important part of the new direction of community services as set out in the White Paper, 'Our health, our care, our say'. In launching the White Paper, the Secretary of State outlined his expectation that "We expect to see the take-up of direct payments grow much further and faster as the number of people who currently benefit is only a fraction of the number who could."
- 2.2 As part of this agenda, the department is committed to increasing the numbers of services users receiving a direct payment and recognises that direct payments enable people to have more choice and control on how their needs are met.
- 2.3 In order to increase the uptake of direct payments, the department will be working with Care Services Improvement Partnership social care leads to develop our action plan.

### **3. Background**

#### **3.1 Assessment Process**

- 3.1.1 Under the NHS and Community Care Act 1990 the Local Authority has a duty to assess needs where it appears “that any person for whom they may provide or arrange for the provision of community care services may be in need of any such services”.
- 3.1.2 In undertaking this duty, assessment staff within the Adult Social Care and Health Department (ASCH) will complete a Community Care Assessment process. The purpose of assessment is to identify what a person needs, risks to their independence if those needs are not met and to be determine whether or not they are eligible for services.
- 3.1.3 As part of the assessment process carers views are taken into consideration and carers are offered their own assessment.

#### **3.2 Eligibility for Services**

- 3.2.1 Having assessed the needs, the duty under the NHS and Community Care Act is to decide whether the needs call for the provision of any services.
- 3.2.2 Eligibility for adult social care services is decided using guidance from the Government called Fair Access to Care Services (FACS). Under FACS there are four levels of eligibility: critical, substantial, moderate and low. Local Authorities are allowed to set a threshold for eligibility that takes account of their resources and the decision to raise or lower the threshold is taken by the Council. Once the threshold has been set the Local Authority has a duty to make arrangements to meet the needs that fall above the threshold.
- 3.2.3 The current threshold in Nottinghamshire is set at “substantial”. This means that needs that pose a “critical” or “substantial” risk to a person’s independence are eligible for a service response.
- 3.2.4 When deciding on someone’s eligibility staff are expected to make a professional judgement about the risks that a person’s needs might pose to their independence. This judgement takes into account the strengths and abilities of the person concerned and of the risks faced by people close to them, including anyone caring for them.
- 3.2.5 Assessments also take into account the risk to a person’s independence if social care services are not provided.
- 3.2.6 For example, if a person is progressively losing their sight they may need intervention at an early stage to provide them with the skills and confidence they need to cope as their sight deteriorates.

3.2.7 If people have needs that are not eligible for social care services they are given advice and information about other sources of support where this is available.

### 3.3 Prevention

3.3.1 As part of the prevention agenda, the Adult Social Care and Health Department, in partnership with other Departments of the County Council and other agencies, commission and provide services which people can use, irrespective of the FACS eligibility threshold. Examples of these services include:

- Home Improvement Agencies (HIA)
- Befriending schemes
- Luncheon clubs
- “Handyperson” and other practical schemes
- Prevention Adaptation Schemes
- Peer Mentoring
- First Contact (checklist for benefits, smoke detectors etc)
- Assistive technology (e.g. falls, fire and carbon monoxide detectors)
- The Meals At Home Service
- Independent advocacy.

### 3.4 Meeting Community Care Needs

3.4.1 When someone is assessed as being eligible to receive support staff must arrange for these needs to be met in the most appropriate and cost effective way. Needs can be met in a variety of ways including providing services that are run directly by the County Council such as the hot meal service, making arrangements for family, carers, friends or for the voluntary or independent sector services to provide support. For example, a person's independence may be put at risk because they lack company during the day. This need might be effectively met by attending a voluntary sector luncheon club or by attending a day centre organised by the County Council.

3.4.2 Another way of meeting needs can be by providing someone with a direct payment.

### 3.5 Direct Payments

3.5.1 Direct payments are financial payments for people who have been assessed as needing assistance to meet their social care needs and who would like to arrange and pay for their own care and support services instead of receiving them from either a service run by the County Council or an independent provider.

3.5.2 The Direct Payments Guidance 2003 states that ‘local councils now have not just a power, but a duty to make direct payments in certain circumstances’.

3.5.3 Carers can receive a direct payment to meet their own needs but not for services for the person they care for.

3.5.4 Direct payments can also be used to purchase equipment and minor adaptations.

3.5.5 Direct payments cannot be used:

- (a) to pay for a service provided from a spouse or civil partner, close relatives or anyone who lives in the same household, unless that person is someone who has been specifically recruited to be a live-in employee
- (b) to purchase long-term residential care
- (c) to purchase services provided directly by the County Council
- (c) as an alternative to a community care assessment
- (d) to meet health care needs except where a the person receives a payment from a Health Authority towards meeting the social care needs of people resettled from long-stay hospitals.

### 3.6 Eligibility for direct payments

3.6.1 To be eligible people must meet all the following criteria. They must be:

- eligible for community care services
- able to indicate preferences and make choices
- capable of managing the direct payment, with assistance if required.

### 3.7 People not eligible to receive a direct payment

3.7.1 There are some people to whom the duty to offer direct payments does not apply. These are people whose liberty to arrange their care is restricted by:

- mental health legislation
- criminal justice legislation.

### 3.8 Mixed packages of support

3.8.1 It is possible to have a combination of a direct payment and a service managed by the department. For many people, a combined package provides them with security and flexibility and allows them to build confidence. At a later stage they may wish to transfer more of their care package to a direct payment.

### 3.9 Direct Payment Rates

3.9.1 The standard direct payment rates are as follows:

### Day Time Rates

Mon-Sat

Sunday

### Night Time Rates

Mon-Sat

Sunday

Current Direct Payment Rates	
	£8.10
	£12.15
	£41.15
	£51.40

3.9.2 The rate set for a direct payment must be sufficient to enable the service user to lawfully obtain a service of a standard that the Department considers to be reasonable and it should allow for any associated costs.

3.9.3 In exceptional circumstances, payments can be authorised at a higher rate in the following circumstances:

- to respond to a change in the person's needs which are expected to be short-term, but which threaten the long-term viability of the package
- where difficulties in sustaining the package mean that other forms of income would be jeopardised, such as funding from the Independent Living Fund.
- where this is the only way of meeting assessed need. This may apply where rates can be paid to meet special needs, for example, a guide communicator for a person with a dual sensory impairment. It may also apply if it is impossible for the person to make arrangements for an appropriate service locally at the standard rate.

3.9.4 Payments can also be made for exceptional or one-off costs, such as recruitment, CRB checks etc. at the discretion of the authorising manager.

### 3.10 Direct Payment Expenditure

3.10.1 Currently the total budget for direct payments is £6.1m. The average direct payment is £228 per week ranging from £65 for adults with dual sensory loss to £296 per week for adults with learning disabilities.

### 3.11 Support for people who wish to receive a direct payment

3.11.1 The department has contracted jointly with the Direct Payments Support Service (DPSS) to provide practical support, advice and information for people who are managing their own care.

3.11.2 DPSS work in partnership with Age Concern, who provide the support service for people aged 65 and over.

3.11.3 The Support Services offer the following assistance:

- information about direct payments
- training for service users
- advice and support in recruiting personal assistants (including advertising, producing job descriptions, interviewing , setting up a contract of employment and CRB checks)
- advice and support on how to manage personal assistants (including training, performance management, disciplinary and grievance procedures)
- advice about Employers and Public Liability Insurance, VAT & tax, health & safety, employment law (for example, equal opportunities, working time directive)
- advice about financial management (including assistance with opening bank accounts and completing financial monitoring forms)
- arranging peer support for service users
- ongoing support

The cost of the contract with DPSS and Age Concern is ££221k.

### 3.12 Using a direct payment to purchase support from a care agency services

3.12.1 Some people choose to purchase their care package from care agencies instead of employing their own personal assistants.

### 3.13 Insurance and training

3.13.1 So that the service user can comply with the legal requirements of becoming an employer, the department will fund the:

- full cost of Employers Liability Insurance
- cost of necessary and appropriate training for their employees
- cost of Third Party Insurance where care/support takes place outside the home.

### 3.14 Financial monitoring

3.14.1 The financial monitoring of direct payments is undertaken through the departments' Adult Care Financial Services.

3.14.2 If the department is not satisfied that the direct payment has been used for its intended purpose or if the conditions imposed have not been met, all or part of the money can be recovered.

### 3.15 Protection of vulnerable adults

3.15.1 Currently there is no requirement to carry out Criminal Record Bureau (CRB) checks for people who are employed by service users using direct payments and who are working with adults. The Protection of Vulnerable Adults (POVA) list is only available in respect of services registered with the Commission for Social Care Inspection (CSCI) and it is not available to people arranging services with direct payments. Legislation to change this position is currently going through Parliament and should come into force at the end of 2008.

3.15.2 The County Council's policy is that we 'strongly recommend' that a person should undertake a CRB check on any staff they intend to employ. Checks can be organised by the Direct Payment Support Services (DPSS), and the Adult Social Care and Health Department will cover the cost if they are not covered within the direct payment rate.

3.15.3 A request for a direct payment can be refused if CRB checks are not carried out and the department has good reason to believe that a potential employee is unsuitable.

## 4. Performance

### Progress against the Strategic Plan targets for direct payments

4.1 The target for April 2006-07 was to increase the number of people receiving a direct payment by from 406 to 419 and to 478 by 2008/9. The department has already achieved the strategic plan 2008/09 target of increasing by the number of people receiving a direct payment to 515 by November 2006. This represents an increase of 27%.

4.2 This compares to 4,300 people who currently receive a home care service either directly provided by the department or from an independent sector provider.

4.3 In respect of specific service user groups, the department has exceeded the 2008/09 targets for older people and for people with a physical disability and have achieved the targets for people with mental ill health, people with a learning disability and people with a physical disability.

4.4 Benchmarking against other Local Authorities our level of performance is above the average, see **Appendix A**. The continued uptake of direct payments will enable the department to achieve the next level of improvement as measured through the Performance Assessment Framework.

4.5 In order to meet the demand for direct payments and their associated support costs, the Council increased the budget in 2006/07 by £1m from savings generated from the reconfiguration of the home care service. The council is currently consulting on increasing the budget in 2007/08 by a further £730,000.

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