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REVIEW OF DIRECT PAYMENTS POLICY

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Report OSB/19/04 to the Overview and Scrutiny Board  
and the Executive

December 2004



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## Foreword

The provision of Direct Payments to people who require Community Care was first introduced by Parliament through the 1996 Community Care Act. It has been extended in recent years to include carers and parents of children with disabilities.

Government legislation requires that Direct Payments be offered to all those who are entitled to community care and are "willing and able" to administer them. In so doing the recipients are able to purchase the care and support they identify personally fits their needs. Apart from this limited amount of guidance no criteria was set down on how to successfully administer Direct Payments. Each authority has had to create their own system of administration and develop their own 'best practice'. Through Best Value Performance Indicators the Government has also actively encouraged local authorities to identify more uptake of the Direct Payments system as opposed to providing services 'in house'.

The Social Services department within Torbay Council has been offering Direct Payments to some of its clients for some time and has followed Government guidelines when carrying out this process. The Executive Social Services Committee, ever mindful of providing a good quality service to its users and at the same time budgeting appropriately for their needs called upon the Social Services Overview and Scrutiny Lead and her Panel to scrutinise the present policy for administering Direct Payments and to make recommendations in developing a more robust policy that will give the recipients a 'value added' service.

The following report outlines the key objectives of the Review, the process undertaken and the people who contributed to its successful conclusion. It concludes with the recommendations placed before the Executive.

I believe that the recommendations we have made will further improve the service Torbay Council is already giving to Direct Payments recipients and should enable even more people to take ownership of their affairs through flexibility of service and with dignity so that they can regain their personal choice of lifestyle.

I would like to thank everyone who has contributed to the Panel's investigations, they have been named elsewhere in this report but especially Judith Grant, our Direct Payments Development Worker who has been very patient and supportive throughout the investigation. Also our support officer, Teresa Buckley, who has worked metacubusy and tirelessly through the life of the Review, her support has made the whole process flow smoothly and efficiently.

Councillor Cindy Stocks  
Chairman of the Direct Payments Review Panel

1. Executive Summary

1.1 The Review Panel undertook this review to satisfy itself that Torbay Council has in place appropriate arrangements to ensure that service users are able to receive Direct Payments in line with the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003.

1.2 It examined the processes that are in place in respect of the calculation of the rate for Direct Payments and the guidance issued to staff and service users.

1.3 The Panel met with a number of service users, Social Workers and a Care Manager to hear their views on the existing arrangements and their suggestions about what could be improved.

It is recommended to the Executive:

1.4 That the Direct Payments Development Worker be requested to establish a pool of service providers, who are employed using Direct Payments and wish to extend their client base, to give other Direct Payments recipients another source for obtaining employees.

1.5 That all service users be routinely offered Direct Payments at each annual review and the reasons given by the service users who do not wish to receive Direct Payments be recorded.

1.6 That the Direct Payments Policy and Guidance be amended to reflect the guidance from Blackburn with Darwen Borough Council which covers Adults Services and Children's Services.

1.7 That the Assistant Director (Children's Services) and the Assistant Director (Adults Services) be requested to prepare a report setting out options for a fixed hourly rate which reflects the average hourly rate for a Direct Payment, taking into account the current cost of local services, this rate to be reviewed on an annual basis to ensure that the level reflects local costs.

1.8 That the impact of an increase in the number of people receiving Direct Payments be considered as part of the budget setting process for 2005/2006 in respect of Adults Services and Children's Services.

1.9 That the Council's policy not to charge service users who are under the age of 18 years old be revisited.

1.10 That staff within Children's Services and Adults Services undertake mandatory training in respect of Direct Payments by June 2005 to enable them to give consistent advice to service users and that the training be updated on an annual basis.

1.11 That the Assistant Director (Children's Services) and the Assistant Director (Adults Services) be requested to prepare a report detailing the long-term options in respect of Direct Payments with associated cost and resource implications.

1.12 That the Assistant Director (Children's Services) and the Assistant Director (Adults Services) be requested to explore further the provision of equipment through Direct Payments.

It is recommended to the Overview and Scrutiny Board:

1.13 That the number of service users receiving Direct Payments be monitored by the appropriate Performance Board(s) on an annual basis together with a summary of the reasons for service users not wanting to receive Direct Payments.

## 2. Introduction

2.1 The Executive Social Services Committee was established on 8th June 2004 to exercise the Executive's powers in relation to all Social Services and Housing functions. The Committee's role includes consideration of all care packages where the final total value is likely to be in excess of £25,000 per year or where the weekly cost of the package is likely to exceed £1,000.

2.2 Since its introduction the Executive Social Services Committee has considered four care packages for services provided by the Council and three requests for Direct Payments.

2.3 At its meeting held on 18th October 2004, the Executive Social Services Committee considered Report SS/35/04 in relation to the current Direct Payments Policy. The report explained how the policy had been developed and how the rate of a Direct Payment could be calculated. Following consideration of the report the Committee requested that a review of the policy should be undertaken and the Direct Payments Review Panel was established.

2.4 The scope of the review was:

- (i) To investigate other local authorities' policies on Direct Payments, particularly those identified as the Council's Family of Statistical Neighbours and to determine what constitutes "best practice".
- (ii) To consider the appropriate levels for obtaining quotes for services.
- (iii) To consider whether the current Direct Payments Policy needs to be amended in the light of the Panel's investigations.

2.5 The Project Plan which sets out the full details of the Review, including the methodology employed, is attached at Appendix 2.

2.6 The membership of the Panel comprised of Councillors Cope, Craig, Dunn, Hurst, Pentney and Stocks. Councillor Stocks chaired the meetings of the Review Panel.



### 3. Process

3.1 The Panel met formally on four occasions to consider evidence and work through its Project Plan.

3.2 Evidence for the Review Panel's work was collected from the following sources:

- Analysis of background papers, reports and briefing notes. A list of key documents is attached as Appendix 3.

- Presentations from , and discussions with ;

James Drummond, Joint Lead Officer (Careers)

Judy Grant, Direct Payments Development Worker

Jim Skilton, Children's Services Manager

Rachel Harris, Assistant Team Manager (Financial Assessment and Benefits)

Brian Perram, Contact and Assessment Manager

Barbara Mitchell, Solicitor

- Informal meetings with:

Direct Payments service users

The personal assistant to one of the service users

Sylvia Barnett, Children's Services Social Worker

Lowis Backford, Learning Disabilities Social Worker

Paul Felle, Adults Services Care Manager

## 4. Key Findings

### What is a Direct Payment?

- 4.1 Direct Payments are cash payments, made in lieu of social services provisions, to individuals who have been assessed as needing services. The money can only be paid to individuals if they are willing to receive a Direct Payment instead of, or as well as, having a service arranged for them by the Social Services Department (e.g. mixed packages of care) and if the Council considers they are able to manage the payments with or without assistance.
- 4.2 They can be made to anyone who has a physical disability, sensory impairment, learning disability, mental health problem or who needs help because of ill health or the effects of growing older. The person will have had an assessment by Social Services that shows that the person needs, and is eligible for, assistance to live independently.
- 4.3 The following groups of people who are eligible to receive community care or Children Act services are eligible to receive Direct Payments:-
- (i) adults of working age (18 and over) and people over 65;
  - (ii) people with parental responsibility for a disabled child;
  - (iii) young people aged 16 or 17 who have a disability; and
  - (iv) carers aged 16 and over in relation to carer's services under the Carers and Disabled Children Act 2000 (ie. to support carers in their caring role and to maintain their own health and wellbeing.)
- 4.4 Some people whose liberty to arrange their care is restricted by certain mental health and criminal justice legislation are excluded from receiving Direct Payments, these are as follows:-
- (i) patients detained under mental health legislation who are on leave of absence from hospital;
  - (ii) conditionally discharged detained patients subject to Home Office restrictions;
  - (iii) patients subject to guardianship under mental health legislation and those covered by the power of supervised discharge introduced by the Mental Health (Patients in the Community) Act 1995;
  - (iv) people who are receiving any form of aftercare or community care which constitutes part of a care programme initiated under a compulsory order;
  - (v) offenders serving a probation or combination orders subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency;

- (vi) offenders released on licence subject to an additional requirement to undergo treatment for a mental health condition or for drug or alcohol dependency; and
- (vii) people subject to equivalent Scottish mental health or criminal justice legislation.

4.5 The aim of a Direct Payment is to give more flexibility in how services are provided to many individuals who are assessed eligible for social services support. By giving individuals money in lieu of social care services people have greater choice and control over their lives and are able to make their own decisions about how their care is delivered. The money can be used to buy services from agencies or for the employment of personal assistants.

#### Community Care Act

4.6 The Community Care (Direct Payments) Act 1996 provided local authorities with the power to give discretionary payments to allow some disabled people to purchase their own care and support. This was extended in April 2001 to include carers and parents of children with disabilities through the Carers and Disabled Children's Act 2000. The Government issued the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003 (the "2003 Regulations") in April 2003, which explain the use of Direct Payments. These Regulations require all local authorities, which have a responsibility for social services, to provide Direct Payments to all individuals who are eligible, who want to receive them and are able to use them.

#### Breakdown of users receiving Direct Payments

4.7 At the start of the Review there were 57 users receiving Direct Payments. These can be broken down into the following categories:-

- 15 people with parental responsibility for a disabled child
- 12 other people
- 26 people with physical disabilities
- 1 person with a sensory disability
- 1 carer
- 2 people with learning disabilities

4.8 There is a national performance indicator (C51) that relates to the number of adults and older people receiving Direct Payments. At the time of the Review the Council had ●● out of a possible ●●●● rating for its performance against indicator C51 for the 2004/2005 financial year. In order to increase the rating to ●●● it is anticipated that the number of people receiving Direct Payments will need to increase by ten by 31st March 2005. There is no national performance indicator in relation to the number of children receiving Direct Payments.

Direct Payments - Adults Services

- 4.9 The Council has developed its own guidance and practice in relation to Direct Payments. The guidance in relation to Adults Services was updated in August 2004 and addresses most of the issues contained within the 2003 Regulations. However, the policy does not make provision for the use of Direct Payments for the purchase of equipment or adaptations provided by the Social Services Department (this is currently under review).
- 4.10 The amount of a Direct Payment in respect of Adults Services is based on the average cost of three local independent providers who are able to meet the assessed needs and have been identified by the Care Manager. For example: £10.00 per hour + £12.50 per hour + £11.00 per hour = £33.50 divide by 3 = £11.17 per hour. This method is used to ensure that local rates in Torbay are taken into account.
- 4.11 Individuals who are 18 years of age or over and who choose to receive Direct Payments are required to make a financial contribution towards their care in the same way as if they were receiving conventional services.

Direct Payments - Children's Services

- 4.12 The Council has separate guidance notes in respect of Direct Payments for Children's Services. This document is in the process of being updated to reflect the requirements of the 2003 Regulations. The policy does not currently make provision for the use of Direct Payments for the purchase of equipment or adaptations provided by the Social Services Department. Equipment is currently provided through the Community Equipment Store. There are also other issues that need to be considered in connection with the responsibility of the Social Services Department and the Primary Care Trust in relation to the provision of equipment.
- 4.13 There is no agreed procedure for calculating the rate of a Direct Payment in respect of Children's Services. Due to the specific nature of the contracts for Children's Services it is not always possible to get more than one quote as there may only be one appropriate service provider and their quote is therefore used to form the rate of the Direct Payment.
- 4.14 The Council does not currently require contributions towards the cost of care for people under the age of 18 years old.  
Views of service users
- 4.15 The service users contacted agreed that receiving Direct Payments has had a positive impact on their lives. It has given them control over the

services they receive and the providers of those services. The services can also be arranged at times which are convenient for the service users. Although the amount of the Direct Payment is based on the user's agreed needs set out in their care plan the users can be more flexible with the type of services they purchase than if they had been receiving direct services through the Council.

- 4.16 One of the service users used to receive domiciliary care herself as a result of her own medical condition and caring for her two boys. Because of their condition the two boys would not allow anyone unfamiliar to come into their house and therefore could not receive direct services from the Council. She now employs four carers to help to care for her two children using Direct Payments and she has been able to dispense with her own domiciliary care.
- 4.17 The service users feel that people giving advice on Direct Payments should be given more training. They feel that the advice given could sometimes be conflicting and therefore confusing for the service users. There also could be more clarity given on what a Direct Payment can be used for.
- 4.18 None of the service users contacted used an advocate (someone who gives support and advice) although two of the users receive help with payroll services and all receive support from the Direct Payments Development Worker.

#### Views of Social Workers and Care Manager

- 4.19 The Social Workers and Care Manager that the Panel spoke to feel that the people who choose to receive Direct Payments do so because it gives them choice and flexibility over the services and service providers they use. It also gives them responsibility for their own care and finances and dignity as they can employ someone they are comfortable with to provide, in some cases, very personal services.
- 4.20 Some people do not want the responsibility of employing staff and the financial administration involved with receiving Direct Payments. They can feel safer with the structured care and environment which is provided through direct services. The officers feel that the information on Direct Payments can be misleading and can appear negative. Some of the users have problems getting a bank account especially if they have a history of debt. The banks are not always helpful in setting up new accounts for service users. There can also be difficulties employing reliable staff.
- 4.21 Staff receive general training on Direct Payments from the Direct Payments Development Worker, discussions with the finance team and the informal sharing of information between members of their team. It was suggested that more specialised training could be given in relation

to giving advice to different service users e.g. adults with learning difficulties, or oral, visual or physical disabilities.

- 4.22 Concern was raised in relation to the increase in the number of users receiving Direct Payments and the effect on the workload for Social Workers, Care Managers and the Direct Payments Development Worker. Staffing levels would need to be considered if there was to be an increase in the number of people using Direct Payments.

Comparison with other authorities' Direct Payments Policies

- 4.23 Several of the Council's statistical neighbours were contacted to examine their policies on Direct Payments to see what constituted "best practice". Less than 25% responded so the search was extended to include other authorities including Blackburn with Darwen Borough Council (an "excellent authority").
- 4.24 The Direct Payments Development Worker had contacted authorities across the country in relation to Direct Payments and shared her findings with the Panel.

Finance and resource issues

- 4.25 The Direct Payments budget for the 2004/2005 financial year is as follows:-

	Budget	Amount allocated Up to 11th December 2004
Adults Services	£259,800	£273,403
Children's Services	£4,300	£39,661

- 4.26 The amount of money spent on Direct Payments is partly offset by the savings in providing direct services through the Council.
- 4.27 The Council is expected to increase the number of people receiving Direct Payments (national performance indicator C51). However, there is a shortage of advocacy and support services available in Torbay. Where this can be found there is a cost of approximately £1,000 per annum for setting up and maintaining a Direct Payment account, including the payroll elements that are carried out by the Finance Section. In other local authorities where they have arrangements with a voluntary agency to provide all of these services there is a cost of approximately £2,000 per annum per person. These are administrative costs and are in addition to the cost of the Direct Payments.

- 4.28 The Council has one Direct Payments Development Worker who currently deals with 57 service users. Plymouth City Council has 25 service users and is advertising for a second Development Worker in order to increase the number of service users receiving Direct Payments. It has been suggested that the workload of a Development Worker should be between 35 to 50 service users.
- 4.29 Devon County Council is considering moving its Direct Payments Service to the voluntary sector using "Living Options Devon" (a Devon based voluntary sector organisation made up of people who have a disability). Living Options Devon is also interested in providing a similar service for Torbay Council. It is setting up a base in Totnes for its Outreach Officer. If the Council decided to pursue negotiations with Living Options Devon, service users could meet the Outreach Officer at the Connections Offices in Torquay, Paignton or Brixham so that they would not have to travel to Totnes.

#### Options for calculating the rate of a Direct Payment

- 4.30 When a client agrees that they wish to receive a Direct Payment the hours in their care plan are translated into money. In order to calculate the hourly rate Torbay Council takes the average of three quotes from local agencies that are able to meet the needs of the individual.
- 4.31 The Direct Payments Development Worker has contacted various councils across the county and has visited Portsmouth City Council, Plymouth City Council and Bath and North East Somerset Council to find out how their hourly rates are calculated and what those rates are. All of the Councils approached have an agreed set rate, and in some cases several different rates (e.g. standard needs rate, a high needs rate and an agency rate). However, using different rates could prove to be inflexible because if someone was set the standard rate (lowest rate) and their employee left or was off sick there would not be enough money in the account to cover contacting with an agency. Choice is also limited as some people employ a personal assistant and use an agency. The rates within Children's Services vary significantly and evidence suggests that the reason is a lack of services in general for children with disabilities.

4.32 The following points were taken into account by the authorities surveyed when setting their hourly rates:

- (i) the person must have enough money to be able to secure a service of a reasonable quality;
- (ii) needs can fluctuate;
- (iii) the current charges for home care services;
- (iv) a minimum wage must be given to prospective employees; and
- (v) discussion with their Contracts and Commissioning Team regarding block contracts already in place for non-residential care.

Service users' contributions

4.33 The Council's charging policy is the same for people receiving direct services and people receiving Direct Payments. The level of contribution for a person receiving Direct Payments is based on the amount of the Direct Payment (which is calculated using the average of three service provider quotes) and the person's assessed charge.

4.34 People who only receive basic Income Support or Pension Credit, without any disability related benefits (Attendance Allowance or Disability Living Allowance) are entitled to receive the services they need free of charge irrespective of the level of service in place.

4.35 The following finances are taken into account when deciding whether a client should contribute towards their care:-

- (i) savings between £12,250 and £20,000 and second property or other assets;
- (ii) any pensions;
- (iii) Incapacity Benefit, Severe Disablement Allowance, Income Support, Attendance Allowance/Disability Living Allowance (DLA) Care;
- (iv) basic expenses (including rent, Council Tax, insurance etc.); and
- (v) other disability related expenditure.

4.36 The following finances are not included when deciding whether a client should contribute towards their care:-

- (i) Mobility Allowance/DLA Mobility Element (the Council will look at whether some of this allowance should be used towards any mobility elements of the care package);
- (ii) high rate of Attendance Allowance or the high rate of the Care component of Disability Living Allowance (unless the individual needs services at night);
- (iii) Enhanced Disability Premium and Carers Premium (if paid to the client);
- (iv) client's earnings; and



(v) capital below £12,250 is disregarded.

4.37 The amount of contribution required is as follows:-

Domestic Care and Day Care

Less than £20,000 capital	£9 per hour up to the maximum weekly assessed charge plus £3 per day for day care
More than £20,000 capital	£9 per hour to a maximum of £260 per week plus £12 per day for day care

The current maximum charge is £260 per week. Clients who are assessed as being required to pay towards their care will have a personal maximum contribution based on their capital and income.

Respite Care

Should an individual have a period of respite care included in their care package this is charged in accordance with the Department of Health "Charging for Residential Care Guide" and the amount of the charge would be deducted from the Direct Payment.

4.38 The Finance Assessment and Benefits Team assists clients to obtain all of the benefits they are entitled to. They also give advice and contact information in relation to other ways in which the client can save money (e.g. South West Water to install a water meter instead of paying water rates). A representative from the Team carries out an annual financial assessment to ensure that clients receive the appropriate amount of Direct Payments and make the relevant contributions.

Advocacy and support services

4.39 The Direct Payments Development Worker contacted various councils across the country and visited Portsmouth City Council, Plymouth City Council and Bath and North East Somerset Council to gain information and advice on their advocacy and support services.

4.40 If a person chooses to receive a Direct Payment they should be offered support to manage the Direct Payment. The Department of Health has produced a document "Direct Choices" which suggests that it is good practice for councils to invest in advocacy and support services for Direct Payment recipients.

4.41 The Department of Health (DOH) had money available to encourage advocacy and support services being provided in partnership with councils and the voluntary sector. This funding was known as a "DOH

Section 64 Bid" and only the voluntary sector could apply. Living Options Devon in partnership with Torbay Social Services applied for this funding but was unsuccessful. The feedback from the Department of Health was that the bid was good and well thought out but the Council needed to raise its expectations in terms of how many people would receive Direct Payments. Living Options Devon is still interested in providing a general advocacy and support service in partnership with Torbay Social Services.

4.42 The Panel considered the following three options for providing advocacy and support services:-

Option 1

To approach local advocacy providers; Age Concern for older people, MIND for people with mental ill health, Children's Society for children and Vocal for people with learning and communication difficulties. Other people approached to provide these services were the Coalition of Disabled People in South Devon and the Citizens Advice Bureau.

Option 2

To employ a team who are contacted by Torbay Social Services directly. They would be based within the local community and viewed as being a team strength from the Council.

Option 3

To contact out and fund an advocacy and support service in partnership with the voluntary sector.

4.43 An advocacy and support service would usually be expected to:-

- (i) give assistance to draw up advertisements for jobs;
- (ii) give advice on where to advertise;
- (iii) provide application forms if required;
- (iv) participate in interviews if required;
- (v) assist with references and Criminal Records Bureau checks (CRB checks);
- (vi) mediate;
- (vii) raise awareness about employment law / employers responsibilities;
- (viii) liaise with Social Services and the Primary Care Trust if appropriate or when required;
- (ix) provide a payroll service;
- (x) assist with budgets;
- (xi) assist to implement Care Plans;
- (xii) provide advocacy;
- (xiii) facilitate user participation in service provision;

- (xiv) provide information/new letters;
- (xv) promote and raise awareness of Direct Payments; and
- (xvi) provide home visits/group work.

4.44 The structure of an advocacy and support service is usually:

- (i) Direct Payment Advisor/Independent Living Advisor;
- (ii) Advocacy and Support Workers;
- (iii) Payroll Officer; and
- (iv) Administration Officer.

5. Conclusions

- 5.1 Service users receiving Direct Payments often have difficulty employing reliable staff. The Panel believes that this will be alleviated through the introduction of a pool of service providers who are employed using Direct Payments and who want to extend their client base.
- 5.2 The Panel identified a need to closely monitor the amount of service users receiving Direct Payments to ensure that the budget and resources meet the needs of the service users. In the light of the overspend in the budget for Direct Payments for the 2004/2005 financial year the Panel considered that the future increase in the number of people receiving Direct Payments should be considered as part of the budget setting process for the next financial year. It also feels that the Council's charging policy needed revisiting to consider the implications of service users under the age of 18 years old.
- 5.3 The Panel believes that there should be one policy for Direct Payments which covers Adults Services and Children's Services, as when a child reaches 18 years of age they fall within the responsibility of Adults Services. It identified the policy from Blackburn with Darwen Borough Council as an example of good practice and suggested that the Council's policy be amended to reflect this policy. However it recognised the need for further work to be done in respect of the provision of equipment through Direct Payments.
- 5.4 The Panel identified the need for regular training of staff in respect of Direct Payments to enable them to give consistent advice to all service users.
- 5.5 The Panel feel that the calculation rate for a Direct Payment is unfair and inconsistent as in some cases there may only be one service provider. It concluded that a fixed rate should be set to reflect the costs of local service providers.

6. Recommendations

It is recommended to the Executive:

- 6.1 That the Direct Payments Development Worker be requested to establish a pool of service providers, who are employed using Direct Payments and wish to extend their client base, to give other Direct Payments recipients another source for obtaining employees.
- 6.2 That all service users be routinely offered Direct Payments at each annual review and the reasons given by the service users who do not wish to receive Direct Payments be recorded.
- 6.3 That the Direct Payments Policy and Guidance be amended to reflect the guidance from Blackburn with Darwen Borough Council which covers Adults Services and Children's Services.
- 6.4 That the Assistant Director (Children's Services) and the Assistant Director (Adults Services) be requested to prepare a report setting out options for a fixed hourly rate which reflects the average hourly rate for a Direct Payment, taking into account the current cost of local services, this rate to be reviewed on an annual basis to ensure that the level reflects local costs.
- 6.5 That the impact of an increase in the number of people receiving Direct Payments be considered as part of the budget setting process for 2005/2006 in respect of Adults Services and Children's Services.
- 6.6 That the Council's policy not to charge service users who are under the age of 18 years old be revisited.
- 6.7 That staff within Children's Services and Adults Services undertake mandatory training in respect of Direct Payments by June 2005 to enable them to give consistent advice to service users and that the training be updated on an annual basis.
- 6.8 That the Assistant Director (Children's Services) and the Assistant Director (Adults Services) be requested to prepare a report detailing the long-term options in respect of Direct Payments with associated cost and resource implications.
- 6.9 That the Assistant Director (Children's Services) and the Assistant Director (Adults Services) be requested to explore further the provision of equipment through Direct Payments.

It is recommended to the Overview and Scrutiny Board:

- 6.10 That the number of service users receiving Direct Payments be monitored by the appropriate Performance Board(s) on an annual

basis together with a summary of the reasons for service users not wanting to receive Direct Payments.

7. Monitoring Arrangements

- 7.1 The Panel would wish for an action plan to be prepared setting out the decisions made by the Executive in relation to Direct Payments. The Panel will meet in June 2005 to review the progress which has been made against the action plan.

## Acknowledgements

The Review Panel wishes to thank the following people for their contribution to the work of the Review :

James Drummond, Joint Lead Officer (Carers)  
Judy Grant, Direct Payments Development Worker  
Jim Skilton, Children's Services Manager  
Direct Payments service users  
The personal assistant to one of the service users  
Sylvia Barnett, Children's Services Social Worker  
Loris Blackford, Learning Disabilities Social Worker  
Paul Felle, Adults Services Care Manager  
Rachel Harris, Assistant Team Manager (Financial Assessment and Benefits)  
Brian Perram, Contact and Assessment Manager  
Barbara Michels, Solicitor



## Appendix 1

### Implications of the Recommendations

Legal	The Council has a legal duty to provide Direct Payments to all people who are eligible to receive them, want to receive them and are able to use them.
Financial	The funding of Direct Payments needs to be considered as part of the budget setting process for the 2005/2006 financial year and future years to ensure that there is sufficient budget to meet the demands of the service.
Human Resources	Mandatory training needs to be given to Social Services staff in relation to Direct Payments.
Property	None

The recommendations contained within this Report are in accordance with the Council's Budget and Policy Framework.

The recommendations contained within this Report would not be a Key Decision

## Appendix 2

### Review of Direct Payments Policy

#### Project Plan

##### Objective of the Review

To review the current Direct Payments Policy:

- (a) to ensure that it reflects best practice of other local authorities;
- (b) to ensure that clients maintain choice over the providers of the services and the associated risks are identified for each option; and
- (c) to consider the introduction of a threshold in respect of the number of quotes to be obtained dependent on the cost of the Direct Payment.

##### Introduction

At a meeting held on 18th October 2004, the Executive Social Services Committee considered Report SS/35/04 in relation to the current Direct Payments Policy. The Committee requested that a review of the policy for Direct Payments should be undertaken.

##### Scope of the Review

1. To investigate other local authorities' policies on Direct Payments, particularly those identified as Tothay Council's Family of Statistical Neighbours and to determine what constitutes "best practice".
2. To consider the appropriate levels for obtaining quotes for services.
3. To consider whether the current Direct Payments Policy needs to be amended in the light of the Panel's investigations.

##### Service Background

Direct Payments are cash payments made in lieu of social services provisions, to individuals who have been assessed as needing services.

They can be made to anyone who has a physical disability, sensory impairment, learning disability, mental health problem or needs help because of ill health or the effects of growing older and who is over 16 and has had an assessment by Social Services that shows that the person needs and is likely for assistance to live independently.

The aim of a direct payment is to give more flexibility in how services are provided to many individuals who are assessed eligible for social services support. By giving individuals money in lieu of social care services people have greater choice and control over their lives, and are able to make their own decisions about how their care is delivered.

One of the Council's objectives within "Transforming Tothay" is to integrate community health and social services to improve the quality of support people receive in their home. A

key activity within this objective is to increase the number of people using Direct Payments to manage their care packages.

Both the Adults Services and Children's Services divisions of the Council have developed local guidance in relation to Direct Payments.

### Legislative and National Background

Community Care (Direct Payments) Act 1996

Health and Social Care Act 2001

Care and Disabled Children Act 2000

Children Act 1989

Community Care, Services for Care and Children's Services (Direct Payments) (England)

Regulations 2003

Department of Health - Direct Payments Guidance: Community Care, Services for Care and Children's Services (Direct Payments) Guidance England 2003

### Initial Supporting Documentation

Report SS/70/00 - Learning Disability Day Care Tender

Report SS/57/01 - Direct Payments

Report SS/35/04 - Direct Payments Policy

Torbay Council Direct Payments Leaflet

Adult Services - Direct Payments Guidance and Procedures 2004

Children's Services - Guidance Notes for Staff and Recipients 2001

Department of Health - An easy guide to Direct Payments

### Review Panel

Councillor Stocks (Scrutiny Lead Member for Social Services and Inclusion)

Councillor Cope

Councillor Craig

Councillor Dunn

Councillor Hurst

Councillor Pentney

Direct Payments Policy

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Timetable for Review and Methodology

Date	Time	Venue	Council/Stakeholder/Community Representatives	Key Tasks and Questions
Monday, 1st November 2004	9.00 a.m.	Town Hall Torquay	Joint Lead Officer (Care) - James Drummond Direct Payments Development Worker - Judy Grant	<ol style="list-style-type: none"> <li>1. To receive a presentation on Direct Payments.</li> <li>2. To discuss the project plan for the review.</li> </ol>
Monday, 8th November 2004	2.00 p.m.	Town Hall Torquay	Children's Services Manager - Jim Skilton	<ol style="list-style-type: none"> <li>3. To explain to the panel: <ul style="list-style-type: none"> <li>• how the charges are calculated in relation to Direct Payments for children's services;</li> <li>• how the Council currently deals with requests for equipment for children's services;</li> <li>• any other issues the fee is relevant to the review.</li> </ul> </li> <li>4. To discuss the questions the Panel would like to ask the service users, care managers, Financial Assessment and Benefits Team and Social Services Finance Officer.</li> </ol>

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Date	Time	Venue	Council/Stakeholder/Community Representatives	Key Tasks and Questions	
Friday, 12th November 2004	3.30 p.m.	Town Hall Torquay	Direct Payments services users and a personal assistant to one of the service users	5. Councilors to meet with three service users and a personal assistant to discuss Direct Payments. The following issues were discussed:- <ul style="list-style-type: none"> <li>• What services do you use Direct Payments for?</li> <li>• Do you also receive services from the Council? If so what services do you receive?</li> <li>• How long have you been receiving Direct Payments?</li> <li>• How many service providers do you use?</li> <li>• Have you ever had any need to change your service providers? If so what happened?</li> <li>• How did you find out about Direct Payments?</li> <li>• What made you decide to receive Direct Payments rather than direct services?</li> <li>• Are you satisfied with the information and training provided to enable you to receive Direct Payments? If not what other training or support would you like to receive?</li> <li>• Do you receive help administering your Direct Payments (an advocate)? If so who provides that service?</li> <li>• What do you feel are the benefits of receiving Direct Payments rather than direct services? Are there any disadvantages?</li> <li>• Do you feel that you had adequate control over who provided your services? If not what restrictions were imposed?</li> <li>• Are there any other issues you wish to raise in relation to Direct Payments?</li> </ul>	
Thursday, 18th November 2004	10.30 a.m.	User's home			
Friday, 19th November 2004	2.30 p.m.	Coalition of Disabled People South Devon Office, Lymington Road			

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Date	Time	Venue	Council/Stakeholder/Community Representatives	Key Tasks and Questions
Thursday, 18th November 2004	2.00 p.m.	Town Hall Torquay	Children's Services Social Worker - Sylvia Barnett	6. Councilors to meet with Social Workers/Care Manager to discuss Direct Payments. The following issues were discussed:- <ul style="list-style-type: none"> <li>• Why do you feel the people who move to Direct Payments do so?</li> <li>• What do you feel are the reasons why people do not want to move to Direct Payments?</li> <li>• What training have you received on giving advice to people in respect of Direct Payments?</li> <li>• Do you feel that the people who use Direct Payments fully understand the process they have to go through?</li> <li>• Are you aware of any problems your clients have had using Direct Payments? If so what were the problems?</li> <li>• Have any of your clients stopped receiving Direct Payments? If so why?</li> <li>• Are there any other issues you wish to raise in relation to Direct Payments?</li> <li>• How many of your clients who receive Direct Payments use an advocate?</li> </ul>
Thursday, 18th November 2004	3.00 p.m.	Town Hall Torquay	Learning Disabilities Social Worker - Lois Blackford	
Friday, 19th November 2004	10.00 a.m.	Town Hall Torquay	Adult's Services Care Manager - Paul Felle	

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Date	Time	Venue	Council/Stakeholder/Community Representatives	Key Tasks and Questions
Tuesday, 23rd November 2004	10.00 a.m.	Town Hall Torquay	<p>Direct Payments Development Worker - Judy Grant</p> <p>Financial Assessment and Benefits Assistant Team Manager - Rachel Harris</p> <p>Contact and Assessment Manager - Brian Periam</p>	<p>7. To hear views on the existing arrangements and any suggested changes following the meetings with service users, personal assistant and Social Workers/Care Manager.</p> <p>8. To explain to the Panel:-</p> <ul style="list-style-type: none"> <li>• which of the client's finances are taken into account when calculating the amount they may be required to contribute to their care package?</li> <li>• what advice is given to ensure that other benefits and grants are obtained?</li> </ul> <p>9. To explain to the Panel the resource implications in respect of increasing the take up of Direct Payments in line with Performance Indicator C51.</p> <p>10. To receive information in relation to advocacy and support services.</p>
Thursday, 25th November 2004	9.30 a.m.	Town Hall Torquay	<p>Direct Payments Development Worker - Judy Grant</p> <p>Solicitor - Barbara Mitchell</p>	<p>11. To receive information in relation to the calculation of an hourly rate.</p> <p>12. To consider the conclusions and recommendations in relation to the review of the Direct Payments Policy.</p> <p>13. To finalise the report of the Direct Payments Review Panel.</p>

The final report of the Review Panel will be presented to the Overview and Scrutiny Board at a meeting to be held on 6th December 2004.

## Appendix 3

### List of Key Documents

- Community Care (Direct Payments) Act 1996
  - Health and Social Care Act 2001
  - Care and Disabled Children Act 2000
  - Children Act 1989
  - The Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003
  - Department of Health - Direct Payments Guidance: Community Care, Services for Carers and Children's Services (Direct Payments) Guidance England 2003
  - The Council for Disabled Children's booklet "Direct Experience - a guide to Council's on the implementation of Direct Payments in children's services."
  - Reports SS/70/00, SS/57/01 and SS/35/04 in relation to the Direct Payments Policy
  - Torbay Council Direct Payments Leaflet
  - Adult Services - Direct Payments Guidance and Procedures 2004
  - Children's Services - Guidance Notes for Staff and Recipients 2001
  - Department of Health - An easy guide to Direct Payments
  - Direct Payments - Presentation Slides
  - Report of the Direct Payments Steering Group - May 2004
  - Breakdown of Direct Payments for Children's Services
  - Breakdown of Direct Payments for Adults and Learning Disability Services
  - \*Exempt Reports SS/17/04, SS/18/04, 03/07/04, SS/23/04, SS/24/04, SS/25/04 and SS/34/04 in relation to various care packages valued in excess of £25,000
  - Minutes of the meetings of the Direct Payments Steering Group held on 27th November 2003, 8th January 2004, 5th March 2004, 24th April 2004, 3rd June 2004, 15th July 2004, 30th September 2004 and 4th November 2004
  - Draft Torbay Council Direct Payments Agreement
  - Backburn with Darwin Direct Payments Scheme Operational Policies and Procedures
  - Domiciliary Care and Residential Care Home Fee Structures for 2004
  - Operational Charging Policy Guidance for Non-residential Services - April 2004
- \* These reports contain exempt information as defined in paragraphs 3 and 4 of Part 1 of Schedule 12A of the Local Government Act 1972 and are not available to the press and public.