



Health & Social Care Scrutiny Sub-Committee

Review of Direct Payments in Southwark

September 2004 – March 2005

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Introduction to the review

***“Promoting Independence:** A central theme of modernisation is to promote the independence of adults with community care needs, and this is reflected in a number of client group policies and associated targets in this plan. Traditional services for people with care needs are now frequently seen as leading to institutionalisation, dependency and social exclusion rather than promoting independence, social integration and employment opportunities. For example, long stay hospitals and large scale residential homes for people with learning disabilities are now increasingly being replaced with supported living arrangements in which carers help people to live as independently as possible in their own homes. Assisting younger adults with physical disabilities to be economically active is a requirement of care planning for this client group. **Direct Payments** for people with care needs, to enable them to purchase support independently from the social care system is also key to this agenda”.*

[Southwark Social Services Business Plan 2004/05-2006/07]

1. This report of the Health & Social Care Scrutiny Sub-Committee sets out recommendations arising from the sub-committee’s brief review of Direct Payments in the borough.
2. The Health & Social Care Scrutiny Sub-Committee was constituted in May 2004 with broad terms of reference to inquire into matters impacting on the health of people living in the borough. The sub-committee decided to look at how Direct Payments [cash given to individuals to purchase their own care] were operating in the borough at the start of the scrutiny year. The decision responded to local and national need to raise Direct Payment take-up, and a wish to consider how things had changed in Southwark since they were extended to older disabled people in 2000.
3. The review was short and was primarily aimed at raising Member awareness of the scheme and seeing whether there were recommendations that might be made about ways in which the scheme might be developed further through the period of the contract.
4. Between the date of the first session on 29 September 2004 until the close of the review in March 2005, membership of the sub-committee was:

Councillor Mark Pursey (Chair)
Councillor Sarah Welfare (Vice-Chair)
Councillor Alun Hayes
Councillor Linda Manchester
Councillor Daniel McCarthy
Councillor Vicky Naish

Reserve Members were Councillor Jonathan Hunt, Veronica Ward and Dora Dixon-Fyle

5. At the time the review was started Choices Independent Living & Community Support Service [Choices ILS] held the contract for payroll support to Southwark clients, with advice and support provision being available from three separate organisations i.e. Southwark Disablement Association, Choice Support and Choices ILS. The contract for provision of all support to Direct Payment users in the borough was subsequently let to Choices ILS effective from 1 January 2005.
6. In light of the fact that the contract for Direct Payment support had just been let, and acknowledging also that the Direct Payment scheme itself had been in operation for a relatively short time within the borough, the sub-committee's interim observations about the scheme were passed for the attention of the new contractor Choices ILS. In addition, Members agreed to revisit the operation of the scheme once the contract had been in place for six months.
7. During the review, the sub-committee received evidence from:
 - Brenda Bond [Southwark Age Concern]
 - Richard Davy [Director, Choices ILS]
 - Councillor Denise Capstick [Executive Member for Health & Adult Care] was interviewed by the sub-committee on 15 December 2004 on issues including Direct Payments
 - Lynne Clayton [Southwark MIND]
 - Rod Craig [Joint Head of Services for Older People and People with Disabilities]
 - Tony Lynes [Southwark Pensioners Action Group]
 - Sarah Maguire [Director of Organisational Development, Choice Support]
 - Mary Marshall [Southwark Disablement Association]
 - Gaby Mitchell [accompanying members of Speak Up]
 - Catherine Searle [Direct Payment Project Manager, Southwark]
 - Margaret Shapland [Southwark MIND]
 - David Stock [Director, Southwark Disablement Association]
 - Yvonne Watkins [Southwark Community Care Forum]
 - Clare Rodgers [Co-Chair, Southwark Learning Disabilities Partnership Board & member of Speak Up group]
8. The sub-committee would like to thank representatives from statutory and voluntary sector organisations and all other individuals who gave their time to assist with the review by providing information, attending meetings and submitting comments.

The sub-committee's approach to review

9. The Health & Social Care Scrutiny Sub-Committee sought the views of a number of users and representatives including Social Services and external representatives from the authority's contracted provider of payroll services and other interested voluntary sector organisations.
10. A range of methods for gathering evidence and information were employed, including:
 - Desk research - members and officers gathered information on the national and local context;
 - Hearing from a range of 'witnesses' – voluntary and statutory sector professionals and service users;
11. At the conclusion of the formal review the sub-committee invited comments from interested organizations that had been involved in giving evidence.

12. Meetings of the review

29 September 2004 [meeting]

The Health & Social Care Scrutiny sub-committee heard from:

- Catherine Searle [Southwark's Direct Payment Project Manager];
- Sarah Maguire [Choice Support Director of Organisational Development & Choice Support's national lead on Direct Payments];
- David Stock and Mary Marshall [Southwark Disablement Association];
- Lynne Clayton and Margaret Shapland [Southwark MIND];
- Yvonne Watkins [Southwark Community Care Forum];
- Tony Lynes [Southwark Pensioners Action Group];
- Clare Rodgers [Co-Chair, Southwark Learning Disabilities Partnership Board and member of Speak Up group];

all of whom provided contextual information on current Direct Payment provision and issues for particular user groups and by so doing helped the sub-committee frame the scope of its inquiry.

10 November 2004 [meeting]

The sub-committee received clarification from officers on points of information raised at the first meeting, and received details of ways in which projects elsewhere in the UK were addressing Direct Payments access and promotion issues, during a discussion at which David Stock [Southwark Disablement

Association] and Tony Lynes [Southwark Pensioners Action Group] were present.

15 December 2004 [meeting]

The sub-committee considered: the service specification for the post January 2005 support services contract; officer responses to information requests; the Council's factsheets about Direct Payments; a case study of a disabled child receiving Direct Payments; and information about Choices ILS; and the first draft officer report based on the evidence received to date.

25 January 2005 [meeting]

The sub-committee considered the draft officer report, discussed broad themes arising from the review and proposed draft recommendations.

4 April 2005 [meeting]

The sub-committee considered the final draft report and agreed recommendations for transmission to the Executive for action/response.

Themes from the review

13. The growth of the scheme – current and future capacity

14. Since Direct Payments were introduced in Southwark in 1996 the number of people using them has increased beyond initial estimates. The total number of people assessed for Direct Payments in December 2004 was over 160, as compared to 30 in 2003, with new referrals now being made every week. Since 2003, take-up of Direct Payments had been a performance indicator in Southwark's Comprehensive Performance Assessment [CPA] basket.
15. As inadequate support could easily undermine sustainability of the Direct Payment option, Social Services officers advised the sub-committee that the focus of departmental resources had been on establishment and management of Direct Payments rather than on development of publicity materials. Resource limitations in relation to publicity materials are discussed in greater depth in elsewhere in this report.
16. A review of the Direct Payments scheme had been undertaken in 2002 involving both service-users and carers. Following this review Southwark Disablement Association [SDA] was commissioned to provide a range of services to publicise, recruit and provide advocacy around Direct Payments. SDA raised concern that some individuals were still waiting for their Direct Payment packages to be processed, and emphasized the need for adequate resourcing to meet what he saw as the inevitable increase in take-up of Direct Payments. Members agreed it was vital that Social Services as a whole was sufficiently resourced to handle anticipated increase in Direct Payment use, and to monitor the scheme's operation down the line.
17. Whilst the sub-committee acknowledged that the current number of Direct Payment users was small relative to the numbers using other services and that the budget represented only 0.25% of Southwark's total for community care, it was concerned about the implications for provision were user numbers to exceed initial growth projections of 170 users, and those for the support infrastructure of swifter than anticipated growth in use of Direct Payments. Given there existed no mechanism to monitor growth trends longitudinally Members suggested that this be considered.

18. Current referral levels

19. Between July-December 2004 an average of seven referrals were made per week, with reportedly 85% of referrals resulting in individuals taking up Direct Payments. Referrals made between July-September of that period

- were reportedly mainly due to individuals transferring to Direct Payments from home care contracts.
20. Despite officer assurances that referrals from both the assessment and care management teams were increasing, organisations representing users of Direct Payments expressed concern that insufficient referrals were currently being made through the existing system by social work staff and other professionals who could reasonably be expected to offer Direct Payments as an option to potential users.
 21. Members also heard evidence that there had been no referrals for use of Direct Payments for day services [i.e. for their use to buy alternatives to Day Centre use], despite the social services modernisation agenda for day service provision. At least one organisation believed such use might potentially provide opportunity for cost-savings for the authority. Members acknowledged however that until day care services were fully externalised, social services could not offer Direct Payments for them.
 22. **The sub-committee recommends further work be undertaken to encourage those with a remit to offer Direct Payment as an option in care.**
 23. **Safeguarding – balancing the interests of clients, carers and care-workers**
 24. Throughout the review threads of discussion took place around safeguarding of clients, their carers and care-workers. In the main, discussion took place in the context of how the best interests of all parties involved in providing care through Direct Payments might be balanced, and also extended to potential clients at the point at which Direct Payment was a choice in care.
 25. Perception of coercion
 26. A number of groups expressed fears that individuals might be coerced into moving onto Direct Payments when they were not a suitable option for them, and whilst concerns about possible overselling of Direct Payments had existed, the sub-committee did not hear any concrete examples of this from any source. Officers emphasized that even if an individual was offered Direct Payments despite them being inappropriate for their situation, there was a strong likelihood that the individual would either choose not to take them up or would cease to use them shortly after doing so.
 27. In order to mitigate against this, Members recommended that the council's own publicity/information materials should include a clear statement

- emphasizing that Direct Payment use was a matter of choice and not compulsory.
28. Southwark MIND emphasized the fears of mental health service users about the risk of coercion in relation to both potential and actual Direct Payment clients.
 29. The sub-committee acknowledged the importance of adequate training of support workers on Direct Payment and Protection of Vulnerable Adults [POVA] checks on the backgrounds of those providing care in reducing the possibility of coercion.
 30. **The sub-committee believes it is of primary importance for the council to do everything within its power to counteract both the perception and possibility of coercion in relation to Direct Payment use.**
 31. **The sub-committee recommends that the importance of countering perception and suspected practice of coercion should be emphasized in publicity and information materials, during training, and in presentations to community groups.**
 32. **Individuals and community groups are urged to notify the sub-committee of any further concerns in this area before the implementation of the Direct Payment contract is revisited in 6 months time.**
 33. Safeguarding of employed relatives
 34. The potential that Direct Payment use has to change existing relationships between clients and carers who are friends or family of clients was discussed in relation to the need for safeguarding measures for the individual providing care. The number of people employed through Direct Payments who are related to their clients is relatively small compared to the significant proportion buying their care through agencies or engaging staff directly, however.
 35. Employment of friends and/or relatives under Direct Payment requires an employment contract between parties, and consequently changes any existing relationship between client and former carer, in recognition of which central government had issued guidelines, and support in this transition was available from support service providers. In the light of this, Direct Payment support workers had been trained to pick up instances in which physical, financial or emotional abuse of relatives was taking place or likely to occur, and in addition had legal powers to address this in certain circumstances.

36. Management of situations in which the client/care worker relationship breaks down irretrievably remain the responsibility of the client, ultimately. The Co-Chair of the Learning Disabilities Partnership Board acknowledged that being an employer under Direct Payments was hard work, and suggested therefore that increased numbers of support workers were needed.
37. Issues for care-workers
38. Age Concern invited Members to consider situations in which care-workers, the majority of whom provide a range of care to their clients and are in general very committed to the care role, might put themselves at risk through over commitment. Members specifically acknowledged such individual's potential isolation in respect of access to employment advice and support in their role.
39. **The sub-committee will revisit concerns raised during the review in respect of the position of care-workers employed through the Direct Payment scheme, in six months time.**
40. **Staff training on Direct Payments**
41. The Direct Payment Project Manager provided information about the comprehensive and compulsory staff training programme on Direct Payments provided between March-October 2004 to the approximately 100 practitioners involved in care assessment. Training had involved an overview of the legal and policy context, targets and performance assessment, familiarization with operational policy and procedures and the assessment process, support worker and user input, and action planning for proactive promotion of Direct Payments to existing clients and incorporation of Direct Payments assessment into care assessments and reviews. The impact of training on staff would be evaluated in six months time against the Action Plans devised during training.
42. However, despite this, Southwark Disablement Association reported that some social work staff had seemingly not been clear about the details of Direct Payments.
43. The new Direct Payments support services contract stipulates that support workers must be appropriately trained and experienced in supporting clients with a range of care needs and must be aware of the risks and benefits of clients managing their care independently of Council.
44. Members were concerned to ensure that guidance issued to social workers, support workers and others involved in the administration of Direct Payments presented an unbiased view of the advantages and

disadvantages of Direct Payments and that the implications were fully discussed with potential service users before they gave their consent.

45. The ability for users to start and discontinue Direct Payment use was seen as important in supporting user choice and independence. Members were keen for specific assurance that the process of use and discontinuance was not only possible, but not unduly inconveniencing to clients. Officers explained that clients were able to choose to take up or withdraw from Direct Payments at any time. Clients were not obliged to make a decision on Direct Payments at the time of assessment, in addition that clients could also have a mixed package of Direct Payments for some services and council services for others.

46. Monitoring the impact of Direct Payments on council services and commissioning patterns

47. The sub-committee acknowledged that the introduction and development of the Direct Payment option – enabling increasing numbers of people to select and manage their own care and purchase services privately – had already had an impact on services provided in a number of respects.
48. Firstly, if most council clients ultimately purchased their own care the number and size of council contracts with care providers would necessarily reduce, and the focus of remaining council contracts would increasingly be on clients with high care needs. This would impact on both Southwark’s own care economy and on the nature of council service delivery and commissioning patterns.
49. Officers stated that both contracted and non-contracted home care service providers had been briefed on the implications of Direct Payments, and how they might most effectively market their services to private clients in the light of increased competition for individual clients. Members did express some concern that pressure might be brought to bear on individual clients as a result, but other than a few instances that had occurred on the introduction of Direct Payments officers reported there was little evidence that this was an ongoing issue.
50. The review included consideration of the service specification for the Direct Payments support services contract effective from 1 January 2005, including details of the agreed outputs with respect to contracted service and activity. This specification made reference to mechanisms for monitoring the contract including: quarterly and annual monitoring reports; user satisfaction surveys; annual inspection of promotional material; and the completion/monitoring of an unmet needs log.

51. **Whilst the sub-committee acknowledges that during the period of the review a new contract for provision of Direct Payment support services came into force on 1 January 2005, it nonetheless recommends that the ongoing impact of increasing Direct Payment uptake on patterns of delivery and commissioning should be properly monitored over time.**
52. **In addition, the sub-committee recommends monitoring of the impact of Direct Payments on provision of day services over time.**
53. **Publicity material**
54. In receiving evidence about the ways in which Direct Payments were promoted within the borough, and examples of innovative promotional practices employed by other authorities and support organizations, Social Services officers clearly stated that the most significant constraint on the development of publicity material was limited funding. For example, plans to produce a series of themed information Direct Payments brochures in response to requests from social workers and clients cannot be taken forward as no funding is available from the department's communications budget or the Direct Payments administration budget. At the time of the review Southwark's Direct Payments factsheets could be printed off as required by social workers.
55. Southwark officers did consider producing a promotional video featuring current Direct Payments users but the cost of doing so were prohibitive at approximately £5,000.
56. A printed guide to Direct Payments in plain English and in various accessible formats including foreign languages and cassette were also planned, but this initiative has been postponed due to budgetary constraints. Whilst translation of contracts into other community languages other than English is offered to clients who do not have a third party able or willing to translate for them, the cost of translation per contract is £500 and the request must be shown to be a priority.
57. **The sub-committee believes that there is a need for better material explaining the advantages and disadvantages of moving to direct payment use for potential users of the scheme.**
58. Despite the fact that officers have now written to all people who are eligible for Direct Payments, and the funding constraints were noted by Members, there still appeared to be a gap in terms of communications and a lack of clear, user-friendly guidance both for social workers/care assessors and potential clients. A number of witnesses to the review (e.g. MIND) made reference to this and said that they would appreciate more

user-friendly materials. Southwark Disablement Association referred to examples of guides from the Department of Health - available in CD-Rom and audio format - and from the National Centre for Independent Living [NICE], both of which might be used with Southwark's potential or existing Direct Payments clients. This existing material appeared clear, is available in large print and other formats and incorporated case study examples of Direct Payments users.

59. The sub-committee recommends that Southwark's own Direct Payments guidance materials make increased use of case study information.

60. The sub-committee recommends that if the council for whatever reason cannot produce its own Direct Payments guidance that meets the needs of users, consideration be given to using existing material on Direct Payments produced by other local and national organisations, or to working in partnership with another organization to produce new material.

61. Monitoring support services

62. The specification for the post January 2005 support services contract includes detailed provision for ongoing monitoring of the contract, however, Members were concerned about how short-term handover to the new contract would be managed. Longer term issues included how support services contract would be monitored and what user involvement mechanisms would be in place to inform this process.

63. The sub-committee recommends that the operation of the Direct Payments scheme be revisited in six month's time, in particular the adequacy of support services to clients.

64. Paragraphs 98-107 reflects evidence received and discussion arising in respect of user involvement and peer support.

65. Meeting the needs of different client groups

66. Although the number of people receiving Direct Payments is relatively small, numbers are no indication of the importance of this arrangement in promoting independent living for those people using them and on the individual's wider support networks.

67. At March 2005¹, the breakdown of the 99 Direct Payment users in Southwark by category was:

Category	Users [March 2005]
Children	9
People with Learning Disabilities	9
Mental Health	4
Older People	22
Adults with Physical, Sensory & Neurological Disabilities	55
Total	99

68. Southwark Community Care Forum's submission² was alone in making reference to feedback from blind Direct Payments users, which reportedly was that the cost of buying agency services seemed high for the service offered [£8-9 per hour for general cleaning was quoted].

69. Meeting the needs of people with learning difficulties

70. The Co-Chair of the Learning Disabilities Partnership Board, herself a Direct Payments user and member of Speak Up user group spoke to Members early in the review. Whilst in favour of the Direct Payments tenets of independence, choice and control, she was concerned that many people with learning disabilities were not even aware that Direct Payments were an option for them. She suggested that more information on Direct Payments should be made available to people with learning disabilities, and that greater attention to use of accessible, plain language and simple symbols on posters and leaflets about Direct Payments would increase their accessibility to those with learning disabilities. She herself had learned of Direct Payments through one of the officer visits to a learning disability user group, and asked that these be continued as a means of marketing Direct Payments.
71. Choices representative reminded Members that traditionally people with learning difficulties had little control over services and as a consequence now were very keen to take up Direct Payments where they could. Members acknowledged common perceptions about those with learning disabilities, and discussed how these might perpetuate barriers to Direct Payments access by these individuals. Voluntary organizations who gave evidence suggested that offering Direct Payments to people with learning difficulties often involved a degree of organizational and professional willingness to act

¹ Direct Payment Project Manager 30 March 2005 – *email correspondence*

² Stanworth A 24 September 2004 *Southwark Community Care Forum submission to the Health & Social Care Scrutiny Sub-committee*

against common perceptions and operate in different ways and a necessary willingness to engage positively with the accompanying increase in actual and perceived risk involved, whilst maintaining existing safeguards was required.

72. Choice Support recently launched the Unlocking Potential project in the borough, funded by a Department of Health Section 64 grant and run in partnership with Southwark Council and Paradigm³. The project aims to increase access to Direct Payments for people with learning disabilities and raise awareness amongst this group of their right to Direct Payments, by supporting individuals in their responsibilities as employers. The project had already been asked to develop the borough's Direct Payments support plan model, and its first annual review touched on remaining issues for resolution including the local legal interpretation of "capacity to consent" and delays to services to BME groups due to lack of timely translation services.
73. Meeting the needs of users of mental health services
74. Representatives from Southwark MIND, a user-led organization, spoke with Members early in the review. MIND's submission further opened up the debate about eligibility for Direct Payments, the ways in which Direct Payments might be applied to meet individual needs, and accessibility.
75. In general, Direct Payments support and advice seemed geared towards those with physical or sensory disabilities, and apart from some regional variations, there were relatively low numbers of mental health service users using Direct Payments nationally. Figures for Direct Payments users with both physical disabilities and who were users of mental health services were not available locally, however.
76. Members heard that very often the nature and variety of problems experienced by Mental Health service users prevented them from being employers for the purposes of Direct Payments. It was for this reason that users advocated for robust, flexible and reliable support services, with comprehensive staff training in mental health issues.
77. It was often in a crisis situation that mental health service users were in the greatest need of the support that Direct Payments might enable, but were at their least capable of engaging with Direct Payments operation. Southwark MIND urged Members to consider exploring advance directives as an option to facilitate Direct Payments use for users of mental health services.
78. Where individuals – many of whom were users of mental health services - had a low number of care hours in their care package they could still benefit

³ Maguire, S April 2004 *Unlocking Potential: reflections on our first year Choice Support*

- from Direct Payments use and were entitled to expect choice and control as did other users. The support service contractor was able to manage the process of Direct Payments administration for these clients to ensure that equal access to the scheme was supported, although mental health service users expressed concern about their actual and perceived vulnerability and about the potential risk of coercion into using Direct Payments.
79. MIND asked Members to consider the wider question of whether assessment of eligibility for community care should be used as the basis for access to Direct Payments, given that not all users of mental health services were formally assessed in this way, for example those who visited drop-in centres on a casual basis. Whilst not revisiting the discussion around the merits of single assessment for community care needs, the issue did encourage the sub-committee to consider that there existed a wide range of individuals potentially wishing to access Direct Payments, and that the notion of there existing “typical” clients was incorrect.
 80. MIND advocated exploration of how the needs of mental health service users might more appropriately be met, and access to Direct Payments to this group increased, by the imaginative application of Direct Payments in this and other ways that were now emerging across the country.
 81. Reportedly, a pilot Direct Payments scheme had been operated by mental health service users in the north of England, which involved pooling of Direct Payments to pay for an art tutor. In addition, the sub-committee received case study information about a group of men with mental health needs, who attend the Castle Day Centre, and regularly go out together for a coffee morning instead of using the centre. This was an example of how Direct Payments might be used to promote independence and peer support away from specifically located centres, as alternatives to council-funded day care.
 82. **The sub-committee would like to see the council explore more fully the potential of imaginative ways of enabling the full range of clients make use of Direct Payments in ways that reflect their personal needs, in particular the needs of Mental Health Service users.**
 83. Meeting the needs of carers

84. For the purposes of the review and the report the term “carer” has been used to refer to any person providing regular, ongoing support to an individual entitled to Community Care, in an unfunded and unpaid capacity. “Care-worker” refers to any individual paid either by the council or employed by individuals to provide personal care. Issues around voluntary workers providing support as agents of funded organisations were not discussed during the review.
85. Throughout the review the sub-committee received little specific evidence focused solely on the needs of carers, most of the evidence being in relation to other issues such as safeguarding, or employment of relatives through Direct Payments.
86. Early in the review, officers advised that data held on Direct Payments clients was broken down by the team responsible for each client, and that readily available data on user groups including carers, children in transition and those with sensory impairment was not therefore available.
87. During the review Members raised the question of whether there existed mechanisms by which the needs of carers could be assessed, about the level of knowledge of assistance available to carers through Direct Payments amongst professionals, and how the reported general lack of awareness of carers about their rights to access Direct Payments might be addressed.
88. **The sub-committee requests a report on how the needs of carers are being met through Direct Payments, in six months time.**
89. Meeting the needs of people with jointly-funded packages
90. In respect of whether Direct Payments might be used for direct care provision, this was an issue when joint funded packages were offered, for clients such as children with disabilities or those who needed to employ carers with nursing skills. This was because in order to use Direct Payments the jointly-funded packages must be divided into the nursing and homecare elements. The NHS and Direct Payments legislation does not allow payments to be made to service users for health services. Health services are available free at point of delivery and application of Direct Payments to such situations might be perceived as removing an individual’s right to receive free, NHS funded healthcare.
91. Clients such as children with profound disabilities often experience problems using Direct Payments easily as they need to employ qualified nurses for their basic home care because the total care required includes nursing. This often results in individuals either having to “split” their packages into the health care and the social care elements and employ

separate staff for each element, or not being able to use Direct Payments at all.

92. In addition, the integration of Southwark social services and Southwark Primary Care Trust and the resulting pooled budgeting arrangements had brought local problems not anticipated by the legislation. The Commission for Social Care Inspection's recent report "Direct Payments: what are the barriers?"⁴ identified jointly funded care packages as a barrier to effective implementation of Direct Payments, but to date no further solutions have been found or put forward by the Department of Health.

93. Older People

94. A previous scrutiny of Southwark's home care services⁵ had recommended that social services provide a clear statement on issues surrounding direct payment provisions for older people with a view to the future promotion of these provisions.

95. Meeting the needs of disabled children

96. Officers confirmed that the council employs both a Children's Rights worker and an Advocacy Worker with responsibility for disabled children, from whom specific Direct Payments-related work may be commissioned as and when required. Members later suggested that a discrete children's advocacy service for Direct Payments users might be established, and acknowledged the need to avoid potential conflict of interest in respect of who might offer such advocacy service.

97. The sub-committee recommends that Choices ILS inform the development of a discrete children's advocacy service specifically for users of Direct Payments at the planning stage.

98. User involvement and peer support

99. During the review the sub-committee heard about various arrangements in place to support Direct Payments users nationally and locally, and provide them with an avenue into wider policy development of Direct Payments.

100. Prior to January 2005, at the start of the review, the support services contract specified that annual reviews and user satisfaction surveys be

⁴ CSCI 2004

⁵ Southwark scrutiny report July 2001 *Promoting Independence: report of homecare services provided to older people and people with disabilities*

undertaken, the results fed back to social services department, and that participation in user consultation with social services was required.

101. Southwark Disablement Association held a monthly user group providing a forum for problem sharing, solution finding and information exchange, and feeding into the Physical Disabilities Partnership Board via the Direct Payments Topic Group⁶.
102. At the time of the review there existed no user group for older people, however. Following discussion at the scrutiny meeting on 29 September 2004, Southwark Pensioners Action Group [SPAG] were put in touch with Choices as a way of taking forward the possibility of hosting a Direct Payments User Support Group for Older People. Choices contract gives them responsibility for setting up peer support groups, and the organization is keen to work with local voluntary organisations to achieve this.
103. Although social services Departmental Business Plan 2004/05-2005/06 had referenced the user satisfaction survey questions on Direct Payments, these surveyed only adults with physical disabilities. Whilst the survey results appeared highly favourable, there was a question over the polling methods and whether the results were representative.
104. Members considered examples of schemes elsewhere in the UK which received funding through the Department of Health's [DoH] Direct Payments Development Fund and were considered good practice examples⁷. These commonly featured a variety of peer support mechanisms including: a peer buddy system; telephone-based peer support; and peer "champions" for Direct Payments.
105. The Director of Choices Independent Living & Community Support Services [Choices ILS] advised that there were currently no plans to sub-contract the peer support function, but that it was intended to develop additional groups in association with users and prospective users to widen involvement in peer support⁸. A local implementation group involving users, local authority officers and local voluntary sector organizations would be established to develop the Direct Payments option in Southwark, from January 2005. The peer support function would be widened through maintaining the existing Peer Support Group whilst looking to develop additional groups in association with prospective and existing users.

⁶ Southwark Disablement Association 2004 *Direct Payments issues paper*

⁷ Health & Social Care Scrutiny Sub-Committee Agenda 10 November 2004 *Tabulated details of selected national DP Development Funded projects addressing DP promotion and access issues*

⁸ Davy R 13 December 2004 *email correspondence*

106. **The sub-committee would welcome the development of a user group for older clients, and asks the council to support development in partnership with Southwark Pensioners Action Group [SPAG] or another relevant community group.**
107. **The sub-committee would welcome an update on progress towards development of a user group for older Direct Payments clients, in six month's time.**
108. **Employment of relatives and family members**
109. The issue of whether individuals might use Direct Payments to employ close relatives and family members was the subject of much discussion, particularly in respect of the clarity of written guidance produced by the council on the matter, as compared to guidelines from national organizations. Southwark Pensioners Action Group raised particular questions about the accuracy of written literature on this point⁹, complaining that Southwark's literature was at worst contradictory and at best was too vague to be of proper assistance to those considering whether to employ a family member and needing clear advice.
110. Direct Payments legislation prohibits the use of Direct Payments to employ "close relatives living in the same household" unless there are exceptional circumstances demonstrated. The legal definition of a "close relative" is not included in Southwark's own fact sheets. Officers explained that decisions on who is employed to provide home care should ideally be objective, informed decisions focused on finding the best possible solution to the client's care needs, rather than being motivated by a wish to pay a family member. Officers stated that in practice there were few cases where an employment contract with a family member to provide care services was the best solution to the client's (and carer's) care needs. Direct Payments regulations currently do not permit employment of a spouse.
111. The council does not usually provide care services (and therefore Direct Payments) where care needs are being met by a relative, unless they are unable or unwilling to continue care. Southwark Pensioners Action Group put the case that there was no reason why Direct Payments should not be used to support care provided by a relative, if that is what was desired by the client.
112. It was emphasized during discussion with organizations experienced in care that employment of close relatives under Direct Payments set up

⁹ Southwark Pensioners Action Group 12 September 2004 & 10 November 2004 *submissions to Health & Social Care Scrutiny Sub-Committee*

- different relationships between users and service providers, or at the least changed the nature of existing relationships for better or worse.
113. Officers stated that where individuals were considering employing a family member the implications of doing so were fully discussed with both the client and family member before any commitment to paid employment of the family member was made.
 114. Age Concern spoke of care situations that might develop in which paid carers, the majority of whom were providing a wide range of care from day to day, and who were very committed to the care role, might put themselves at risk through over commitment. This was felt to be more of a risk when the individual in question was related to the person receiving care.
 115. The sub-committee was keen that safeguards for employed relatives, to ensure a balance between an individual's best interests and those of the relative in the context of provision of appropriate care, were in place and effectively monitored.
 116. Neither definition of a "close relative" or of "exceptional circumstances" had been included in the council's literature mainly due to space constraints. The Director of Services to Older People and People with Disabilities acknowledged that the council's current Direct Payments factsheets could be clearer in providing information about employment of family members and agreed to revisit the authority's written information on Direct Payments.
 117. Members were advised that support services would help individuals eligible for care to make a claim for exceptional circumstances.
 118. Another issue raised during the review but not explored in depth was that individuals currently receiving care from relatives might not be aware that Direct Payments might be available to them as a care option, although discussion around disseminating Direct Payments information included consideration of staff training issues and the effectiveness of promotional literature on Direct Payments.
 119. **The sub-committee recommends that the council's current written information on Direct Payments be revisited to ensure clarity in respect of explaining circumstances in which close family members may be employed under the Southwark scheme.**
 120. **Impact of Direct Payments on Disability Living Allowance**

121. Disability Living Allowance [DLA] is a social security benefit that may be claimed by adults under 65 and children who have a long term mental or physical illness or disability, care or mobility needs, or who are terminally ill. DLA is to assist with the additional costs arising from such disability and illness. The rates at which it is paid are dependent on how an individual is affected by their disability or illness.
122. DLA is normally paid to disabled people themselves, but in the case of adults who cannot manage their own affairs, and for all children under 16, DLA payments are made to another person appointed to act on their behalf, who may then be eligible for Carer's Allowance.
123. Members of the sub-committee raised concerns that receipt of Direct Payments would be taken into account in assessing eligibility for DLA receipt, thus reducing a client's overall income.
124. The Department of Work and Pensions [DWP] subsequently confirmed that receipt of Direct Payments should not affect a client's entitlement to Disability Living Allowance. Direct Payments are not income and should not be considered as such for calculation of DLA. In addition, the DLA application form currently does not ask for information about receipt of either council services or Direct Payments, and therefore they cannot be taken into account in assessing eligibility for DLA.
125. **The requirement for an additional bank account for Direct Payments payments**
126. Members heard concerns from users, reflected by the Executive Member for Health & Adult Care, in relation to the council's requirement for Direct Payments clients to open an additional bank account to receive these payments. The apparently straightforward requirement was often reportedly difficult to achieve for those who were housebound, had language difficulties or no credit history. In addition users had reported some banks being un-cooperative.
127. Members learned that a list of banks offering accounts to those without a credit history was available from the department, and details of those whose paperwork at the point of opening an account was not overly complicated was shared with support services organizations.
128. Although the sub-committee acknowledged that holding separate accounts for Direct Payments and personal finances facilitated tracking of Direct Payments and avoided the need for an individual to share details of their non-Direct Payments financial transactions with the council, at least one voluntary organization representative user felt that the difficulties outweighed any benefits.

129. Where clients have the ability to give consent to but not to manage Direct Payments, it is possible for a third party to open an account on their behalf, and the sub-committee received case study evidence of such a situation in respect of a young person under 18 years of age receiving Direct Payments. Support organizations reported acting in this capacity in some cases, holding funds in a designated client account over which clients retained financial control.
130. It is uncommon for the council to act as third party, and the authority is moving away from acting as an "appointee" for the handling of clients' personal finances, it being preferable to involve the client's family or existing support networks where appointeeship is appropriate and necessary. The council has limited resources and systems for effective appointeeship, is moving away from direct service provision to a more strategic role, and social care is moving towards increased client independence from government.
131. The council has discretion to waive the need for a separate bank account on a temporary basis, where for example a client is newly discharged from hospital and cannot reasonably open a new account, or may waive the need on a permanent basis where a client has a very small care package or for one-off payments.
- 132. Reasons for no longer wishing to use Direct Payments**
133. Some organizations providing support to clients under the pre January 2005 contract reported that clients had difficulty in recruiting personal assistants of the type they needed/wanted as a factor contributing to them leaving the scheme. Clients with only a few care hours in a care package also experienced difficulties as did some of those with particularly severe needs.
134. The process of moving between Direct Payments and council services was in itself not considered particularly problematic, involving mainly notifying social services of the intention to do so.
135. No specific exit information was received or canvassed by the sub-committee.

Summary of recommendations

Referrals:

1. The sub-committee recommends further work be undertaken to encourage those with a remit to offer Direct Payments as an option in care.

Safeguarding:

2. The sub-committee believes it is of primary importance for the council to do everything within its power to counteract both the perception and possibility of coercion in relation to Direct Payment use.
3. The sub-committee recommends that the importance of countering perception and suspected practice of coercion should be emphasized in publicity and information materials, during training, and in presentations to community groups.
4. Individuals and community groups are urged to notify the sub-committee of any further concerns in this area before the implementation of the Direct Payment contract is revisited in six months time.
5. The sub-committee will revisit concerns raised during the review about the position of care workers employed through the Direct Payment scheme, in six months time.

Monitoring Direct Payment impact on commissioning and other services:

6. Whilst the sub-committee acknowledges that during the period of the review a new contract for provision of Direct Payment support services came into force on 1 January 2005, it nonetheless recommends that the ongoing impact of increasing Direct Payments uptake on patterns of delivery and commissioning should be properly monitored over time.
7. In addition, the sub-committee recommends monitoring of the impact of Direct Payment on provision of day services over time.

Publicity materials:

8. The sub-committee believes that there is a need for better material explaining the advantages and disadvantages of moving to Direct Payment use for potential users of the scheme.
9. The sub-committee recommends that Southwark's own Direct Payment guidance materials make increased use of case study information.

10. The sub-committee recommends that if the council for whatever reason cannot produce its own Direct Payment guidance that meets the needs of users, consideration be given to using existing material on Direct Payments produced by other local and national organisations, or to working in partnership with another organization to produce new material.

[17. The sub-committee recommends that the council's current written information on Direct Payments be revisited to ensure clarity in respect of explaining the circumstances in which close family members may be employed under the Southwark scheme.]

Monitoring support services:

11. That the sub-committee revisits the operation of the Direct Payment scheme in six month's time, in particular the adequacy of support services to clients.

Meeting the needs of different client groups:

12. The sub-committee would like to see the council explore more fully the potential of imaginative ways of enabling the full range of clients make use of Direct Payments in ways that reflect their personal needs, in particular the needs of Mental Health Service users.

13. The sub-committee requests a report on how the needs of carers are being met through, in six month's time.

14. The sub-committee recommends that Choices Independent Living and Community Support Services inform development of a children's advocacy service specifically for users of Direct Payments, at the planning stage.

15. The sub-committee would welcome the development of a user group for older clients, and asks the council to support development in partnership with Southwark Pensioners Action Group [SPAG] or another relevant community group.

16. The sub-committee would welcome an update on progress towards the development of a user group for older clients in six months time.

17. The sub-committee recommends that the council's current written information on Direct Payments be revisited to ensure clarity in respect of explaining the circumstances in which close family members may be employed under the Southwark scheme.

APPENDIX A

Southwark social services publications

Business Plan 2004/05 – 2006/07

Direct Payments: A short guide to Direct Payments for carers and people with learning disabilities living in Southwark, Southwark Social Services

Direct Payments Factsheets:

- Buying your own care with Direct Payments
- Using Direct Payments to buy Home Care
- Direct Payments record keeping and monitoring
- Direct Payments for carers
- Using Direct Payments to buy occupational therapy equipment
- Using Direct Payments to buy Day Care

Direct Payments Reference Manual [June 2004]

Direct Payments Support Services – Contract Specification

Direct Payments: the Southwark model – strategic planning for sustainable independence

References

Commission for Social Care Inspection, press release 013b/04 *Direct Payments* [20 August 2004] www.csci.gsi.gov.uk

Commission for Social Care Inspection *Protection of Vulnerable Adults*
http://www.csci.org.uk/information_for_service_providers/pova/default.htm

Department of Health *Community Care (Direct Payments) Act 1996*
www.doh.gov.uk/pub/docs/doh/ccdp.pdf

Radar *The Seven Year Itch: what next in the campaign for full civil rights for disabled people ?* [2003]
<http://www.radar.org.uk/RANE/Documents/Seven%20Year%20Itch3.pdf>

Spandler, H and Vick, N [2003] *Direct Payments, independent living and mental health* Health & Social Care Advisory Service: London

Tobin, R and Vick, N [March 2004] *A content analysis of direct payment policies within England* Health & Social Care Advisory Service: London

Meeting agendas, reports and minutes

The Agendas, reports and minutes of all meetings of the sub-committee are available from the Scrutiny Project Manager, Scrutiny Team, Town Hall, Peckham Road, London SE5 8UB [Telephone 0207 525 7224].

Links

Age Concern Southwark www.ageconcern.org.uk

British Institute of Learning Difficulties www.bild.org.uk

Choices Independent Living and Community Support Services
<http://www.choices-ils.org.uk/>

Choice Support www.ChoiceSupport.org.uk

National Centre for Independent Living www.ncil.org.uk

Southwark Community Care Forum info@sccforum.org
<http://www.southwarkalliance.org.uk/involving/voluntaryorgs.htm>

Southwark Disablement Association <http://www.sda.dircon.co.uk/>

Southwark MIND www.southwarkmind.org.uk/

Southwark Pensioners Action Group
<http://www.southwark.tv/spag/spaghome.asp>