

Implementation of the Community Care (Direct Payments) Act

Implementation of the Community Care (Direct Payments) Act has created new responsibilities for both local authorities and people receiving direct payments. While Department of Health guidance is available, many of the detailed aspects of managing direct payment schemes will be left to the discretion of individual authorities. This project sought to fill gaps in knowledge and understanding about the management of direct payments by developing - in partnership with local authorities and user organisations - a practice guide highlighting the priorities. The project included a national survey of local authority practice and consultations with those using and running schemes. It found that:

f There is widespread support for direct payments among local authorities throughout the UK. If current implementation intentions are carried through, payments schemes will be available in at least 80 per cent of local authorities within the near future.

f Consultation with users, those running support schemes and those commissioning payments schemes found a clear consensus that every aspect of a direct payments scheme needs to be geared to enabling disabled people to achieve maximum choice and control in their everyday lives.

f Local authorities and organisations of disabled people with experience of schemes felt that:

- flexibility, responsiveness, honesty and openness are vital to making direct payments a success. This could mean fundamental changes in the way services are delivered and managed;
- support services are fundamental to a successful scheme, ensuring that adequate advice, information and support is available to disabled people so that they feel confident to undertake the complexities of using direct payments;
- assessment for direct payment requires a new relationship with users and a new approach to allocation of community care resources and should be truly needs based.

f While the project highlighted a considerable amount of good practice, a number of practice and development issues remain problematic. These include: interpretation of how the principle of equity applies to payments and services; allowances for employment-related costs; lack of awareness and understanding about direct payments among care managers; and tensions between community care policies and the principles of independent living.

Background

Implementation of the Community Care (Direct Payments) Act has created new responsibilities for both local authorities and people receiving direct payments. There is relatively little information on the operational and financial management of payments schemes. While the Department of Health has issued general guidance on the Act, the intention is that many of the detailed aspects of managing direct payment schemes will be left to the discretion of individual authorities.

This project seeks to fill these gaps in knowledge and understanding about the management of direct payments by developing - in partnership with local authorities and user organisations - a practice guide highlighting the key priorities for implementation and management of direct payments.

Implementation of direct payments: findings from the national survey

The first stage of the project involved a national survey providing baseline information on where local authorities are up to with implementation and identifying their main concerns about the management of direct payments.

At the time of the survey (July 1997), just under 50 per cent of all local authorities were currently operating some form of payments scheme - mostly indirect, third-party schemes. Among authorities already making payments, just under three-quarters were planning to alter or extend their existing schemes in line with the Act. Among those who did not currently offer any form of payments scheme, just under two-thirds were planning to introduce direct payments. The survey clearly indicates very widespread support for direct payments among local authorities. If current implementation intentions are carried through, payments schemes will be available in at least 80 per cent of local authorities within the near future.

The survey also highlights some quite marked regional variations in the provision of payments. Basically, provision is very low in the North of the UK (apart from Scotland) and in Wales and Northern Ireland. Less than 30 per cent of authorities in these regions were providing any form of scheme, compared with 70 per cent or more in London, the South West and Scotland.

The survey indicates that local authorities have four key concerns about direct payments: financial monitoring and review; quality control (i.e. ensuring that support purchased with direct payments is adequate to users' needs); assessing users' ability to

manage payments and/or support arrangements; and the provision of support and advice for users.

Implementation of direct payments: practice guidance

The main output from the project has been a guide to local authority implementation and management of direct payments which is intended to supplement and complement existing guidance produced by the Department of Health and by CIPFA. Key issues raised in the development of the guide are summarised below.

Thinking about direct payments

Consultation with disabled people using payment schemes, people who run support schemes for payments users and those who commission payments schemes highlights that: *"Direct payments are a means to an end. That end is independent living."* (John Evans, Chair, European Network on Independent Living). There is a clear consensus that every aspect of a direct payments scheme needs to be geared to enabling disabled people to achieve maximum choice and control in their everyday lives.

Some people will still want to use directly provided services - as long as they are of good quality. Direct payments may be a driving force behind raising the quality of community support across the board.

Planning for change and building partnerships

Independent living involves a fundamental change in the way services are assessed for and delivered. Local authorities and organisations of disabled people which have successfully worked on partnerships stress that:

- Flexibility, responsiveness, honesty and openness are vital to making direct payments a success.
- The uneven distribution of power (between local authorities and disabled people) needs to be acknowledged.
- Learning is a two-way process - each partner has things to teach the other.
- People from all sections of the community need to be fully involved in planning and implementation.

Setting up and funding support systems

Support services are perhaps the most fundamental part of a successful direct payment scheme. The purpose of a support service is to ensure that

adequate advice, information and support is available to disabled people so that they feel confident to undertake the complexities of using direct payments.

Equal opportunities

Direct payments have the potential to make a real difference in meeting the needs of marginalised groups, who have historically felt left out of current social service provision. However, the concept of independent living can be alien to many cultures and information about direct payments is not always disseminated in culturally appropriate ways. Much of the discussion about independent living has also taken place in an environment where heterosexuality or asexuality has been assumed. These assumptions have resulted in the absence of debate about the particular needs of disabled lesbians and gay men.

Interpreting 'willing and able'

A fundamental part of the assessment for eligibility for direct payments is deciding whether the person is both 'willing' to accept a payment instead of a service, and 'able' to manage the payment, alone or with assistance. The key message from the consultation carried out during the project is that being able to 'direct' is more important than being able to 'manage'.

Another critical issue is the role of support for the user. Being 'willing' or 'able' are not fixed states, they are determined by the amount of support (information, assistance etc) available to the individual.

Assessment

Assessment for direct payment requires a new relationship with users and a new approach to allocation of community care resources. A direct payments assessment must be truly needs-based. This does not mean that everything the user wants can be provided for. Nevertheless, the key to effective assessment is being able to translate a community care assessment into a direct payments package that is both sufficiently flexible and which allows users to control their own support arrangements.

Charging

Charging is considered to be particularly problematic for people who want to take up or remain in paid employment as this often effectively forces them to work for a net gain no bigger than income support.

The question of charging is also related to the issue of value for money. Some local authorities take the view that the enhanced flexibility, choice and control associated with people managing their own

support arrangements represents 'added value' which may justify lower charges.

Making and monitoring payments

There was a clear consensus among both local authorities and disabled people participating in the project that financial monitoring should be proportionate to the minimum requirements to protect both parties' liabilities and should not overburden the user with paperwork. Quality monitoring should be user-led, with effectiveness in meeting users' individual objectives for independent living and degree of choice and flexibility being the key criteria.

Direct payments and older people

While all of the principles of best practice apply to older people as much as any other group there are also some particular issues which may need to be taken into account.

First, assessment reviews for people who reach the age of 65 while in receipt of direct payments are potentially problematic if not handled sensitively. In particular, it should not be assumed that age alone will make any difference to whether or not an individual either wants, or is able to, carry on managing his or her own support.

Second, a significant proportion of older people may, initially at least, be unsure about the suitability of the direct payments option. Some may also prefer a slightly more structured arrangement than the archetypal 'hire and fire' model of direct payments. This has important implications for both assessment and support systems, including the possibility of providing advocacy where this would enable older people to manage their support arrangements effectively.

Unresolved issues

The project has also highlighted a number of practice and development issues which remain problematic for local authorities and/or direct payments users.

Equity

The Department of Health guidance on the Act states that authorities should not treat people receiving direct payments more or less favourably than people using services. Some care managers take the view that, because direct payments offer greater flexibility, people who receive them are getting favourable treatment. As a result, some schemes place quite strict restrictions on how people can use the payments, thereby curtailing the essential flexibility

which they are meant to offer. (The guidance referred to is the first edition issued in 1997. The Department of Health will be issuing revised guidance in 2000.)

Costs

Some local authorities are very reluctant to include sufficient allowance for the cost of items such as holiday pay and insurance when making direct payments. Although the guidance is clear that payment levels should be sufficient to enable people to meet their legal obligations as employers, it also states that authorities are not obliged to fund the user's preferred method of securing a service. This ambiguity in the guidance is sometimes used to justify the exclusion of employment-related costs.

Training and development

In many authorities there is a lack of understanding of the purpose and operation of direct payments among front-line staff - primarily care managers. This can have a particularly negative impact on particular groups of disabled people (eg. people with learning difficulties) who are less likely to be offered the direct payments option as a result.

Community care and independent living

The project has highlighted that the lack of fit between community care policies and the principles of independent living can sometimes have a negative impact on the quality of direct payments schemes. This is manifested, for example, in tensions between rationing resources and encouraging users to define their own needs, and the difficulties which some authorities have in balancing the need for accountability and monitoring with the aim of promoting flexibility and choice.

About the study

The project was carried out jointly by the Policy Studies Institute and National Centre for Independent Living. The national survey of local authorities was carried out during June and July 1997. Completed questionnaires were received from 185 out of 189 UK authorities (a response rate of 98 per cent). The practice guide was developed through a process of detailed consultation with 10 selected local authorities and user organisations which have been particularly active in the development of payment schemes. This part of the project was carried out during 1997 and 1998.

How to get further information

Further information about the project can be obtained from Gerry Zarb, Policy Studies Institute, 100 Park Village East, London NW1 3SR, Tel: 0171 468 2227, Fax: 0171 388 0914, E-mail: g.zarb@psi.org.uk or from Frances Hasler or Jane Campbell, National Centre for Independent Living (NCIL), 250 Kennington Lane, London SE11 5RD, Tel: 0171 587 1663, Fax: 0171 582 2469, Text: 0171 587 1177, E-mail: ncil@ncil.demon.co.uk

The project has produced a practice guide on the operation of direct payments schemes, **Direct routes to independence: A guide to local authority implementation of direct payments** by Frances Hasler, Jane Campbell and Gerry Zarb, published in 1999 by PSI/NCIL. The guide can be purchased from: Grantham Book Services (Tel: 01476 541080/Fax: 01476 541061, price £10 plus £2.50 post & packing).

There are three supplementary reports from the project, all of which can be obtained from PSI (see above) and will shortly be available from their website (<http://www.psi.org.uk>):

Local authority implementation of the Community Care (Direct Payments) Act: First findings by Gerry Zarb, Frances Hasler, Jane Campbell and Sue Arthur, PSI, October 1997.

Key issues for local authority implementation of direct payments by Frances Hasler, Gerry Zarb and Jane Campbell, PSI, March 1998.

Implementing direct payments: Findings and policy issues by Frances Hasler, Gerry Zarb and Jane Campbell (due for publication by PSI, Spring 2000).