

Ref PHD 044/07

Subject:	Direct Payments – Change to rates-structure and up-lift of payment rates
Responsible Officer:	Paul Najsarek, Corporate Director - Adults and Housing
Portfolio Holder:	CLr Chris Mote, Leader and Portfolio Holder for Strategic Overview, HSP, External Affairs and Property
Key Decision:	Yes
Urgent/Non Urgent:	Yes
Power to be exercised:	Portfolio Holder Responsibilities (Allocation of Responsibilities) – Paragraphs 2(i) - Matters the subject of an agreed framework set by the Executive and 3 - Urgent Matters where the Portfolio Holder is not empowered to act of Delegated Powers of Portfolio Holders, Appendix to the Executive Procedure Rules, Part 4D of the Constitution
Exempt:	No
Enclosures:	None

Section 1 – Summary and Recommendations

This report sets out the current position with regard to the payment rates applied to those people with eligible social care needs who receive a direct payment as an alternative to Council-provided or commissioned services. It proposes a change to the way in which these rates are structured, and an up-lift of the hourly rate paid.

Recommendations:

The Portfolio Holder is recommended to:

1. Approve the proposed revised rate-structure for direct payments, as detailed in the body of the report;
2. Approve the proposed change to the hourly rate for direct payments, as detailed in the body of the report.

Reason: (For recommendation)

To support the Council's programme of service modernisation for social care; to encourage greater take-up of the direct payment option by users of social care services; and to support delivery of one of the Council's key flagship actions (5.1).

Section 2 – Report

2.1 Introductory paragraph

The recommendations made in this report support the Council's programme of service modernisation for social care; to encourage greater take-up of the direct payment option by users of social care services; and supports the delivery of one of the Council's key flagship actions - to improve care for adults and children who most need our help.

2.2 Options considered

2.2.1 Issues to be determined

There are two inter-related issues, which require consideration:

1. The rate structure to be applied into the future; and
2. The hourly rate which service users should now receive.

Currently, direct payments are calculated according to an hourly rate that varies according to when the care is required. Rates are currently £8.89 per hour (weekday hours) and £11.84 per hour (weekend rate). There is currently no rate set for periods of less than one hour – this can lead to rounding-up the time period to be paid for, which is not cost-effective. Many local authorities are now moving to a single rate which is applied whatever time of day or day of the week the care is required – which makes for a scheme that is easier for people to understand and simpler (and probably marginally cheaper) for the Council to administer. To achieve this, the hourly rate needs to be set at a level that takes account of the increased costs faced by users who require care outside of standard working hours.

For those who directly employ their own personal care assistant(s) (where they must also meet formal obligations as an employer), the hourly rate now offered often allows users only to pay barely above the statutory minimum wage to potential care assistants.

Of the 19 other London authorities from whom information was available, only 2 offered a basic hourly rate below the Harrow rate – the average hourly rate for standard weekday hours was £10.45 (range £8.21 to £12.50). For the Council's 6 nearest neighbour authorities, the equivalent figures are: average £11.15; and range £10.01 to £11.80.

2.2.2 Options considered

In relation to the first issue, the review team considered three main options:

- to leave the existing rate structure unchanged;
- to move to a standard hourly rate for all times / days of the week;
- to introduce differential rates for those purchasing care via an agency, as compared to those who directly employ their own personal care assistants (who typically require more in the way of start-up and maintenance costs – to pay for advertising, holiday pay, required insurance, payroll support, etc.).

Following discussion within the Direct Payments Reference Group, it was concluded that the latter option was not practicably workable (some users employ a mix of these approaches).

The view is that a single rate is most in line with the aim of simplifying the operation of the scheme; and that there was otherwise sufficient flexibility within the scheme to deal with the range of individual situations which might arise. Of the other 19 London authorities approached, 15 have now moved to a single flat-rate payment structure.

The Review Team was mindful of the provision within the local Harrow scheme which allows the Council to recover any monies which might accumulate unused and unaccounted-for in users' bank accounts beyond the equivalent of 3 months worth of payments. The Review Team felt that this provision will deal with any individual situation where the rate paid proves to be more than is actually required in order to purchase the care agreed.

The Review Team also took the view that the amount allowed for the one-off payments for start-up and maintenance costs should remain fixed at (up to) a maximum of £410 per year, a figure which is relatively generous compared with most other London authorities.

2.3 Background

Direct Payments are a comparatively recent form of social care provision, which enable the service user to exercise greater choice and control over the way in which their eligible social care needs are met, and where the response to those needs is funded by the Council. Instead of receiving services which are directly provided or commissioned by the Council, the service user receives a sum of money in lieu; which they are then able to use to purchase the care they require from a provider of their own choice, and under

arrangements which they themselves control - as best suits their own circumstances, needs and preferences.

Direct Payments are available to users of almost all adult social care services, to disabled young people, to those caring for children with disabilities, and (under Carer's Grant arrangements) for other informal family carers. The Harrow scheme is delivered in accordance with the provisions of the Community Care (Direct Payments) Act 1996, and associated regulations. The local scheme is operated in conjunction with the Harrow Association of Disabled people (HAD) who provide an advice, support and training service to those considering / using this option.

The Council's original Direct Payment scheme was first approved by the then Social Services Committee in the mid-1990s; and has run virtually unchanged since then, although payment rates were regularly adjusted for inflation as part of the Cabinet Budget-setting process up until 2004/05.

It is a core part of both current Central Government and local policy to promote greater uptake of this option by service users, in line with the recent White Paper; *'Our health, our care, our say'* (Department of Health, 2006). The Council's performance in encouraging and supporting this increase in uptake is measured by a specific performance indicator, which contributes to the Council's overall performance rating.

In Harrow, there are currently some 140 people using this option, of who 26 are supported by Children's Services. In relation to Adult Services clients, direct payments are used by just under 5% of all current adult service users. This figure has grown slowly but steadily over recent years, but growth has slowed again recently. This is in part attributable to Harrow's current payment rates that have now fallen behind the cost of securing adequate services under local market conditions. The rates have not been increased (even for inflation) since early 2004/05.

An officer review of the direct payments scheme has recently been conducted, with a view to re-launching this scheme in a way that will provide much greater encouragement and incentive for service users to chose this option. The intention is to simplify and streamline the scheme - to make it simpler and more understandable by service users and carers, and easier to implement for front-line staff. As part of this review there has been informal consultation with members of the Direct Payments Reference Group, which includes representatives of local direct payment users and of the Council's voluntary sector partners. A bench-marking exercise was conducted which compared the Harrow rates with those applied by other Outer London authorities. This has confirmed that Harrow's hourly payment rate is now well below that paid by most other London authorities. Under the relevant regulations, the Council is obliged to provide direct payments at a rate which is adequate to purchase the service(s) required.

Some users of the direct payment option directly employ their own personal care assistants (making them responsible for meeting the usual expenses which fall to any small employer). Others seek their care services via a local care agency - who are then responsible for those matters - but who charge a higher hourly rate for the actual care provided.

As part of the recent review, checks have been made with a number of local care agencies as to the hourly rate they would apply to people purchasing their own care arrangements using a direct payment. Whilst these rates do vary quite widely (between £10.00 and £13.40 per hour for standard weekday care); it is clear that none are now willing to provide care for the current direct payment rate offered by the Council. This represents a substantial disincentive to wider take-up.

2.4 Recommendations

The Portfolio Holders are therefore recommended to:

1. Approve amendment of the rates-structure for direct payments to provide for a single flat-rate hourly payment for all service users.
2. Approve an increase of the payment rate for direct payments to £11.85 per hour.
3. Introduce a rate of £6.00 for half-hour time periods.
4. Retain the existing rates for one-off start-up and annual maintenance costs (up to £410 maximum) for service users who directly employ their own care staff.
5. To apply these changes with effect from 1st November 2007, with no further increase before April 2009; but with an annual review of the rates to be paid being included as part of the normal annual budget-setting round.

The proposal supports delivery of Council Priority 5: *“Improve care for adults and children who most need our help”*. It is considered that these steps are now necessary in order to ensure that service users taking up this option are able to purchase the care that they require under local market conditions; to encourage further take-up of this option in line with local and Central Government policy; to achieve targeted performance against the relevant PAF indicator; and to support the broader move towards self-directed support which the Council has set as one of its key priorities – Flagship Action: 5.1; and (especially) Improvement Project: IP5C.

2.5 Considerations

2.5.1 Resources, costs and risks

Implementation of these proposals will involve an initial additional cost to the Council in respect of existing direct payment recipients, which is estimated at just under £76,300 over the remainder of the current financial year (£189,000 full-year effect). Just under 20% of these further costs (£14,800 and £36,700 respectively) will fall to Children’s Services budgets.

Adult Services: In relation to Adult Services, as direct payments are usually the most cost-effective way for the Council to meet assessed need as compared with other care arrangements; the costs here can be off-set by the savings achieved by the Council for each service user who agrees to take up this option, or who switches to a direct payment from a standard type of care arrangement.

The precise calculation will depend on the final price under the new domiciliary care contracts. It is anticipated that that final cost will be somewhere in the £13 - £16 per hour range: the following table estimates the number of additional users taking up or switching to the Direct Payments option that would be required to render this proposed change cost-neutral. These estimates also take account of the effects of paying the start-up costs for additional new users.

Final hourly rate for contracted domiciliary care	Differential against proposed Direct Payment hourly rate	No. of additional DP users in Adult Services required to render the proposal cost neutral
£13.00	£1.15	185
£14.00	£2.15	99
£15.00	£3.15	68
£16.00	£4.15	51

Further increases of approximately the same size would be required during 2008/09 to make the proposed change cost-neutral during the first full year. It is expected that increases of between 60 and 90 new users can be achieved over the remainder of the current year, with similar or greater increases achievable during 2008/09. Any additional increase in take-up over and above these levels would yield overall cost-savings, the extent of which will be dependent upon the final comparator cost of commissioned domiciliary care services.

The proposed wider set of changes to the Council's direct payment scheme (together with the proposed rate change) are anticipated to be more than adequate to attract at least this level of additional take-up in the use of this option. The cost of direct payments are met from the same budget allocation as is the cost of standard care packages; and all direct payments are paid net of any financial contribution that is assessed as being applicable to the service user.

The overall net cost is containable within the Directorate's current budget allocation for the year.

2.5.2 Impacts with regard to other changes affecting service users

There are other changes anticipated or possibly on the horizon which could potentially affect those using or considering taking up the Direct Payments option, and it is therefore important to consider this proposal in the light of these other possible changes. These changes affect only users of Adult Services, and fall into 3 broad areas: possible changes to eligibility criteria; the introduction of day care charges; and the possible introduction of 'per-minute' charging arrangements for domiciliary care services. Each of these is considered below:

2.5.3 Eligibility Criteria:

For users of Adult Services, access to services arranged through the Direct Payments option is subject to exactly the same eligibility arrangements (under Fair Access to Care Services) as apply to those choosing other forms of service provision. Subject therefore to the outcomes of the current legal

process, and the nature of the changes to the eligibility criteria (if any) that are finally implemented; it is possible that some of those current service users who would benefit from the proposed uplift in the hourly rates for direct payments, will subsequently (subject to a review of their needs) see their overall payment reduced again subsequently - if (at that later review) some or all of their needs were to be assessed as falling below the 'critical' level under the FACS criteria. Any such reduction in the level of their care funded by the Council (subsequent to an uplift from this proposal) could well give rise to some confusion for and possible negative criticism from users, carers, and / or others representing their concerns.

Should the currently envisaged changes to the eligibility criteria proceed, these would not in fact be implemented for existing service users until some time after the currently proposed changes to direct payment rates would have been implemented.

2.5.3 Introduction of Day Care Charges:

There are some people in receipt of direct payments who also receive a provided or commissioned day care service as part of their overall care package, and who may therefore potentially be affected by the introduction of day care charges in respect of that element of their care package.

There are however only a very few people in that situation (currently 7), a significant proportion of whom are likely to be exempt from those charges on income grounds in any case; so the number affected in this way is likely to be very small indeed.

Even though the numbers likely to be affected in this way is expected to be very small, the Directorate is committed to ensuring that communication to those service users and carers affected is carefully managed in a sensitive and timely way, and that they are fully supported to understand the implications of any such changes.

If this current proposal is agreed, it is possible therefore that a very small number of people might find themselves receiving a welcome increase in their direct payment monies, and then subsequently have their total net payment reduced – where they are not exempt from charging on income grounds, and where they have either of the kinds of combined care package described in sections 2.9.1 and 2.9.2 above. However, the number of people so affected, if any, would certainly be very small indeed.

2.6 Staffing/workforce

No specific considerations. However, the launch of the proposed revised scheme will be preceded by a series of detailed preparatory briefing sessions for front-line staff; to ensure consistency of approach and to secure achievement of the maximum possible increase in take-up.

2.7 Equalities impact

No specific considerations.

2.8 Legal comments

The Council's Legal Officer advises that there is nothing in the legislation or guidance to prevent the updating of payments as proposed. In fact, not aligning payments with the market costs might leave the Council open to challenge - Department of Health guidance dated 2003 says that the rate should ensure a service can be obtained that meets the need for which payment is made and is of a reasonable standard. It is not considered necessary to undertake a formal consultation prior to introducing the changes proposed in this report.

The legal advice also is that to implement a possible option of introducing different payment rates for users of Adult Services and users of Children's Services would be very likely to leave the Council open to possible legal challenge, especially if the principal reason for introducing such an approach were one of seeking to reduce costs.

2.9 Community safety

No specific considerations.

2.10 Financial Implications

Whilst it is anticipated that the additional part-year effect in the current financial year can be contained within the Adults purchasing budget, it must be noted that there are considerable pressures within the service in relation to the current judicial review, PCT issues and other areas. At present this risk is covered by the contingency of unallocated grants and growth, but this position is highly volatile and continues to be closely monitored. It may be necessary to review the proposed figure once the final hourly rate for the re-tendered domiciliary care contracts is determined, to ensure that the rate remains cost-effective.

It should be noted that Direct Payments are also paid to Mental Health clients, the budget for which now forms part of the S75 agreement managed by CNWL. However, given that there are currently only a handful of mental health clients in receipt of direct payments, the increased cost should be contained within the pooled-budget contribution for the current financial year. The full-year impact, if significant, would then be reflected in increased contributions in future years as part of the budget-setting process, as appropriate.

2.11 Performance Issues

The relevant performance indicator covering this area is PAF C51, which measures the number of direct payment users at a given date who are within specific age-bands, as compared with the number of people in those age bands in the population as a whole (to provide for age-standardisation across

different Councils). This indicator is a Key Threshold Indicator for the current reporting year. Performance in this area will help the proposed LAA objective on 'users to direct their own care'.

The Council's 2006/07 out-turn performance against this indicator was 70, which is banded as '*acceptable*' (three blobs); although in fact the Council's performance is below that of most other Outer London authorities. The Council's target set for the current year is 100 which, if it is to be met, will require a further 52 people to be using this option by the year-end. The kind of increases required to render the proposed rate changes cost-neutral (as referred to in section 2.5 above) would uplift the Council's performance to an indicator value of 113. This (at presently defined levels) would represent a level of performance only slightly below the '*good*' (four blobs) banding level, despite the impact of a substantial uplift in the performance levels required for each banding. With increased effort the aim is to achieve '*good*' banding. If met, this performance could potentially place Harrow in the top quartile of Outer London authorities (dependent on their own performance changes).

Section 3 - Statutory Officer Clearance

Signature:
.....

Name:.....Donna Edwards.....

on behalf of the*
Chief Financial Officer

Date: 31/10/07

Signature:
.....

Name: ...Helen White...

on behalf of the*
Monitoring Officer

Date: 30/10/07

*Delete the words "on behalf of the" if the report is cleared directly by Myfanwy or Hugh.

Section 4 – Performance Officer Clearance

Signature:
.....

Name:David Harrington

on behalf of the*
Divisional Director
(Strategy and
Improvement)

Date: 1/11/07

*Delete the words "on behalf of the" if the report is cleared directly by Tom Whiting.

Section 5 - Contact Details and Background Papers

Contact: Paul Najsarek, Interim Corporate Director Adults and Housing,
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Mark Gillet, Divisional Director Adult Social Care,
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Background Papers:

'Our health, our care, our say – a new direction for community services': Department of Health White Paper, January 2006

Signature:

Position Corporate Director – Adults and Housing

Name (print)
Paul Najsarek

Date: 29/10/07

For Portfolio Holder/Leader

- * I do agree to the decision proposed

- * I do not agree to the decision proposed

- * Please delete as appropriate

Notification of personal interests (if any):

(Note: if you have a prejudicial interest you should not take this decision)

Additional comments made by and/or options considered by the Portfolio Holder

Signature:

Portfolio Holder

Date: