

REPORT TO: Healthy Halton Policy and Performance Board

DATE: 10th June 2008

REPORTING OFFICER: Strategic Director, Health & Community

SUBJECT: Review of Direct Payments Policy & Procedure

WARDS: Borough-wide

1.0 PURPOSE OF REPORT

1.1 To provide the Board with an update on the proposed changes to the Direct Payments Policy & Procedure for the Health & Community Directorate.

2.0 RECOMMENDED: That Members note and comments upon the appended Policy & Procedure.

3.0 SUPPORTING INFORMATION

3.1 Background

3.1.1 The Direct Payments Guidance notes for Community Care, Services for Carers and Children's Services 2003 state, "... the Direct Payment should be sufficient to enable the recipient lawfully to secure a service of a standard that the Council considers is reasonable to fulfil the needs for the service to which the payment relates."

3.1.2 DP rates were first set in 1999 by taking an average of Halton Borough Council's (HBC) accredited domiciliary care agency rates at the time. In subsequent years, the DP hourly rates were uplifted by annual percentage inflation rates.

3.2 Direct Payment Rates overview

3.2.1 In 2007/8 Halton BC's current payment rates were reviewed for new and existing service users and benchmarked against neighbouring Local Authorities.

3.2.2 Appendix 1 shows a comparison of Personal Assistant (PA) and agency rates for HBC's nearest neighbours who responded to HBC's survey in 2007/8.

3.2.3 Knowsley's rates are £7.85, £9.28 or £11.47. St Helen's rate is £8.40 an hour, although they pay higher rates for ¼ and ½ hour rates and higher agency rates up to a maximum of £12.20.

3.2.4 It can be seen that HBC's PA hourly rate is considerably higher than that of other neighbouring authorities.

3.2.5 There were three payment rates available to service users accessing a DP in 2007/8:

- A pilot scheme, whereby 12 service users who choose to use a domiciliary agency to provide their support were paid at the Council's cheapest contracted agency rate, according to their individual package of care and their residency. The average cost was £10.30 per hour in 2007/8
- If service users choose to employ a PA to provide their support, their package was costed at the hourly rate of either:
 - £9.12 for basic needs, or
 - £11.08 for complex needs.

Halton's rates also include a two-week contingency at the start of the agreement plus up to £259.00 in start up costs for insurance, CRB checks and recruitment. Annual payroll charges for a four weekly payroll (£7 per payroll including VAT) and online e filing of year-end returns (£58.75 per client including VAT), per service user are £149.75 by Disability Direct (the main provider of Payroll services if a service user employs their own PA).

3.2.6 As at 30th September 2007, 181 Adult Services users received DP for services (excluding respite and children's services), with:-

- 12 (7%) paid at the average pilot rate of £10.30;
- 141 (78%) paid at £11.08; and
- 28 (15%) paid at £9.12.

Those service users who have had their packages costed at £9.12 and £11.08 is shown below, by client group.

CLIENT GROUP	£9.12	£11.08
Adults with Learning Disabilities	4	76
Mental Health	2	3
Older People	11	10
Physical Sensory Disability	11	52
TOTAL	28	141

3.2.7 An analysis of payroll data from Disability Direct also showed that, where HBC pay the service user £9.12 per hour, the majority of employees' gross pay is £7.00 per hour and £9.00 if the service user is paid £11.08 per hour.

3.2.8 These rates are well above the legal minimum wage (from 01.10.2007) of £5.52, if service users employ a PA, including on-costs of employer's National Insurance, 20 days' holiday entitlement and 8 public holidays.

3.2.9 If the basic PA rate of £9.12 (2007/8 rate) is paid this would still allow service users to pay PAs above the minimum wage at approximately £7.00 an hour, and meet the criteria in the Direct Payment guidance notes (see 3.1.1).

3.2.10 Where PAs are employed, the DP team supplies a standard contract of employment, which is used by the vast majority of service users. This contract allows for variation to hours worked and rates of pay, stating in s1.4 “ *the employer may from time to time require you to carry out other duties with additional pay either on a temporary or permanent basis. Alternatively the Employer may have to reduce your duties and pay accordingly to their assessed continuing needs*”. Consequently, variation in hourly rate is permissible under the current contractual arrangements.

3.2.11 Thus, options were considered and recommendations were proposed to Executive Board Sub Committee on 20th March 2008; to consolidate and simplify the DP rates paid by the Council to an agency or a personal assistant, for new and existing service users:

- Paying a standard rate of £10.70 per hour 2008/9 (reduced pro rata for part hours e.g. ½ hour £5.35) based on the average agency hourly rate across the borough; or
- Paying a standard rate of £9.35 for a PA;
- The current complex rate of £11.36 2008/9 would only be paid in exceptional circumstances, for both agency and PAs with the direct approval of the respective Operational Director, given the complexity of the service user’s needs.

3.2.12 The 2007/8 and 2008/9 Direct Payment approved rates were/ are as follows:-

	AGENCY	PA
2007/8 RATES	£10.30 (average - pilot only), £9.12 standard or £11.08 complex	£9.12 Standard
		£11.08 Complex
2008/9 RATES (uplifted by 2.5%) from 7.4.2008	£10.70	£9.35
	£11.36 (exceptional circumstances)	£11.36 (exceptional circumstances)

3.2.13 DP rates will be kept under review, for further amendments in line with changes to tendering arrangements for domiciliary care agencies. New contracts are to be in place from 1st April 2009.

3.3 **Proposed Guidance on DP Rate Criteria to determine future payment rate**

3.3.1 As part of the benchmarking exercise in 3.2 above, Local Authorities were asked to comment on how DP rates were set. The criterion in Appendix 2 was developed based upon current good practice. It is intended this criterion will in future support the assessment of new service users and review processes by respective social work teams of existing Direct Payment Packages. To phase the introduction of this policy change, consultation would take place with existing service users, with implementation of the new assessed rates for both agency and personal assistants proposed to be in place in nine months time by

1st April 2009. This criterion would be used to assess all new service users from 1st April 2008.

3.3.2 To ensure controls are followed, an Operational Director will sign off the complex rate of £11.35 for new and existing service users.

4.0 POLICY IMPLICATIONS

4.1 The DP Policy & Procedure has been amended in the following areas:

- For changes in rate approved by Executive Board Sub Committee on 20th March 2008.
- To introduce an eligibility criteria to determine the rate at which DP's will be set based on current good practice.
- To reflect the growth in personal assistants and to include payroll charges in the set up costs if required, and annually thereafter as a supplement to be paid to the service user if required, when employing a Personal Assistant/s from 1.4.2008.
- To reflect the changes introduced by the Mental Capacity Act 2005, with additional detail on capacity – Appendix 1 to the Policy.

4.2 Implementation of the criterion in Appendix 2 will introduce consistency both in relation to all community care packages arranged by Care Managers and those purchased via DP's, as well as ensuring FACS criteria eligibility will be applied. Additionally, comparability would be maintained against our nearest neighbour Local Authorities.

5.0 OTHER IMPLICATIONS

5.1 By aligning services to service users reviewed needs, savings would be generated if service users currently employing agency staff or PA's receiving a DP at the rate of £11.35, on review were assessed as meeting the standard rather than the complex support criteria. This money would then be available to provide additional services where necessary.

5.2 However, whilst employment conditions can be changed, this action could create poor relations between the PA and service user, potentially causing the service user to lose a good PA due to a reduction in pay.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children & Young People in Halton

At this time, the proposal covers Adult Social Care Services only. The DP Team currently provides services to sixteen Children via a SLA with CYPD.

6.2 Employment, Learning & Skills in Halton

The proposal would ensure DP hourly rates reflect the cost of service and that local services to meet local need can be developed with care staff employed by the service users either via an agency or as PAs.

6.3 A Healthy Halton

The proposal clearly demonstrates the Council's commitment to promoting the service user's independence, health, well-being and choice and inclusion through receipt of Direct Payments, as well as ensuring value for money.

6.4 A Safer Halton

None.

6.5 Halton's Urban Renewal

None.

7.0 RISK ANALYSIS

7.1 Any reduction from the complex rate of £11.35 to the standard rate of £9.35 could result in service users needing to reduce their PA's hourly rate of pay or top up contributions themselves to either a PA or an agency. Consultation and the delayed introduction of these new arrangements for existing service users from 01.04.2009, could reduce transitional difficulties.

7.2 To date, all sample service users on the pilot have accepted the rate when paid at the lowest agency rate and are topping up the funding privately, where required, to employ their preferred provider.

7.3 By including payroll costs in start up costs and, if required, thereafter for Direct Payment recipients who employ PA's directly, potential difficulties and debt, in relation to tax and national insurance payments could be avoided. DP recipients, and in the future, Individualised Budgets recipients, could thereby employ a PA directly to meet their support needs, which is consistent with the Government's directive to promote the uptake of Direct Payments and Individualised Budgets.

8.0 EQUALITY & DIVERSITY ISSUES

8.1 All service users who choose to have their support needs met via DPs will have sufficient funds to access the services that they have been assessed as needing. It would also introduce consistency across all community-based services. The continued presence of the complex rate of £11.35 would allow for exceptions, with the introduction of DP criteria providing consistency.

8.2 If a Payroll Service is not funded for DP recipients who employ PAs directly, inequality would be created with service users from other neighbouring and nationwide Local Authorities.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

9.1 There are no background papers under the meaning of the Act.

Appendix 1 - Comparison of Local Authority Direct Payment Rates 2007/8

<u>APPENDIX 1</u>	<u>HALTON</u>	<u>CHESHIRE</u>	<u>TAMESIDE</u>	<u>KNOWSLEY</u>	<u>WIGAN</u>	<u>ST HELENS</u>	<u>STOCKPORT</u>
AGENCY RATES	<p>Package must be costed at the Contracted Agency Rates for geographical area, the cheapest cost is then applied.</p> <p>Anything else will need to be made up by the client</p>	<p>£9.92 per hour</p> <p>£9.00 per 3/4 hour</p> <p>£6.40 per 1/2 hour</p> <p>£4.64 per 1/4 hour</p> <p>Sleeping Night £63.37</p> <p>Waking Night £80.57</p>	<p>£8.55 per hour</p> <p>£4.27 per 1/2 hour</p> <p>Do not pay for 1/4 hour or 3/4 hour</p> <p>Sleep In £47.28</p> <p>Night Sits £80.38</p> <p>Respite £587.94 Adults Respite</p> <p>Respite £861.15 LD Respite</p>	<p>£7.85</p> <p>£9.28</p> <p>Enhanced up to £11.47</p> <p>These rates are applied whether the person is employing a PA or an agency.</p> <p>The rate for any part of an hour is achieved by dividing the hourly rate.</p>	<p>If using an agency, the Agency Rate for that particular agency the client decides to use would be applied, as long as it was within the current rates.</p> <p>Don't have different rates for people who choose to pool their DP's or access group activities.</p>	<p>If using an agency, pay the agency rate but up to a maximum of £12.20, If anyone wants to use an agency who charge more, then they have to make up the difference with their own money.</p> <p>Pay enhanced rates for specialist agencies - eg Deaf/blind support.</p> <p>Don't have different rates for people who choose to pool their DP's or access group activities.</p>	<p>£9.52 per hour</p> <p>£5.10 per 1/2 hour</p> <p>Same if using a PA</p> <p>No different rates for complex packages.</p> <p>No lower rates for group activities</p> <p>All client groups receive the same hourly rate UNLESS Service Manager agrees a different rate in an individual case (only 2 clients)</p> <p>No different rates for challenging cases.</p>
PERSONAL ASSISTANT RATES	<p>BASIC NEEDS RATE</p> <p>£9.12 per hour</p> <p>£6.84 per 3/4 hour</p> <p>£4.56 per 1/2 hour</p> <p>£2.28 per 1/4 hour</p>	<p>Same as above - for Personal Assistants</p>		<p>£7.85</p> <p>£9.28</p> <p>Enhanced up to £11.47</p> <p>These rates are applied whether the person is employing a PA or</p>	<p>£7.02 8.00am-8.00pm</p> <p>£9.37 evenings/weekends</p> <p>£44.01 midweek sleep</p> <p>£46.38 weekend sleep</p>	<p>£8.40 per hour</p> <p>£8.40 per 3/4 hour</p> <p>£6.15 per 1/2 hour</p> <p>£6.15 per 1/4 hour</p> <p>People need to budget in these amounts for any NI employer</p>	<p>£9.52 per hour</p> <p>£5.10 per 1/2 hour</p>

APPENDIX 2

Prior to a decision being made with the individual if they want a DP or a service provided by the authority, FACS criteria for eligibility must be applied

<u>Direct Payment Rate Criteria</u>
<p><u>High Level Need/ Complex Support Criteria = £11.36 (Agency & PA)</u></p> <p>In addition to some indicators for standard support below, the individual has:</p> <ul style="list-style-type: none">• <i>High level of challenging behaviours (requiring a level two risk assessment and a risk management plan to manage safety)</i>• <i>and</i>• <i>Complex needs which are eligible for SS/PCT joint funded package</i> <p><i>And/or Employed Carers require additional skills (beyond those required by carers who meet needs below) as certified by formal training. Certificates will need to be produced</i></p>
<p><u>Standard Support Criteria = £9.35 PA or £10.70 Agency rate</u></p> <p>The individual has an assessed need for:</p> <ul style="list-style-type: none">• Assistance to take medication• Support with incontinence• Physical assistance to use the toilet• Assistance with moving and handling• Assistance with washing/ bathing• Support to eat/ drink• Specific support and assistance to stimulate development of communication and/ or negotiation skills.• For support to access social activities. <p>NB. SP and ILF will be used to support other social activities for the service user.</p> <p><i>And/ or</i></p> <ul style="list-style-type: none">• Mental Health Needs that meets critical/ substantial FACS criteria or is demonstrably preventative and requires support.