

A systems approach to direct payments: a response to Friend or foe? Towards a critical assessment of direct payments

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Abstract

Spandler (2004) identifies the need to move from reactionary to progressive arguments about direct payments in the UK to enable progress towards a critical assessment of direct payments in the context of progressive social policy. This reply develops Spandler's article to advocate a strategic view of direct payments within the social care system, by looking at the context within which direct payments operate and system issues that affect the whole social care sector. The discussion is based on the hypothesis that critical assessment of direct payments needs to look at their impact on the whole social care sector and not just a minority of those people who elect to receive them.

Introduction

I very much welcome the article by Helen Spandler 'Friend or foe? Towards a critical assessment of direct payments' published in the May 2004 edition of this journal. I fully endorse Spandler's argument identifying the need for a 'more critical awareness of the wider context in which direct payments operate' which is more likely to be achieved by focussing on 'progressive strategies' rather than on the 'more reactionary arguments' that either favour or are against development of direct payments (Spandler, 2004).

My major criticism is that the article doesn't go far enough in its stated objective to 'unpack the complexities involved in the implementation of direct payments'. This is particularly evident in the lack of distinction between benefits arising from improved assessment processes and those from using direct payments. Direct payments are only a mechanism (albeit progressive) for *providing* social care, and are a potential outcome from the assessment process. It is the assessment process that is the key decision point for determining how much social care, if any, will be provided to a claimant.

Similarly, I suggest that Spandler's focus on only looking at arguments based on 'progressive' positions does not go far enough in trying 'to move beyond a polarised debate' and still does not provide a sufficiently consistent basis within which to make a critical assessment of direct payments. In particular, Spandler's arguments fail to present the views of claimants who choose not to use direct payments. Therefore I advocate that as well as looking at 'progressive' rather than 'reactionary' arguments, a more consistent framework needs to be established that recognises direct payments as an integral part of the social care system rather than being in some way separate from it. From this basis it is then possible to be assessing the overall impact of direct payments on the whole of the social care system.

To illustrate these inconsistencies, I have analysed Spandler's arguments supporting 'proponents of' and 'critiques of' direct payments differentiating between arguments that do or do not affect the whole social care system.

In relation to the impact of direct payments on the *social care structure*, Spandler identifies the following arguments in support of direct payments:

- direct payments have the capacity to change the focus of community care provision
- user-controlled money goes further because the budget holder sets his/her own priorities
- direct payments provide potential for more culturally aware services

Spandler also identifies potential negative impacts of direct payments on the social care structure as being:

- risks to development of new services
- encouragement of an individualistic approach rather than concern for the whole group
- more choice for a few at the expense of less choice for the majority
- less development of self help initiatives, by removing those people most likely to be vocal
- an excuse for local authorities to make lower payments by relying on the goodwill of workers and the avoidance of financial costs associated with management and administration
- deregulation of employment rights for directly employed personal assistants (PA's)

Other arguments in favour of direct payments relate to benefits only obtained by *direct payment recipients*. These are identified as:

- facilitating people living in ways they choose – choice and control over support arrangements
- benefits in social networks, recipients confidence and assertion

Apart from the many 'reactionary arguments against direct payments' the only other negative impacts on direct payment recipients are identified as those arising from bureaucracy, paperwork and administration.

To summarise Spandler's arguments, proponents of direct payments have tended to focus primarily on personal benefits to potential and actual direct payment recipients, whereas critics of direct payments have tended to focus either on reactionary arguments or on system issues affecting the entire social care structure. Such polarisation makes like-for-like comparisons extremely difficult and hence impedes development of a critical assessment of direct payments.

Whilst in no way wishing to devalue or discount the tremendous benefits to individuals who have discovered greater empowerment through direct payments, I think that the most effective way to progress a critical assessment is by looking at the system issues that affect the entire social care structure.

Therefore the aim of this article is to propose a more consistent framework within which to develop a critical assessment of direct payments, that looks at all arguments from the perspective of the impact of direct payments on the whole social care system. To this end, I look at three areas in greater detail:

- The assessment process and its relationship to direct payments – I am concerned to redress confusion that may arise from Spandler's lack of differentiation between the benefits of improved assessment processes and provision of a direct payment.
- Service development – I agree with Spandler's argument but I think it doesn't go far enough. In particular I identify the importance of making benefits of flexibility, choice and

control that are linked with direct payments also available to social care claimants who prefer to receive support through more traditional services.

- Social inclusion – this is very much at the heart of developing a rights based approach to social care. Spandler refers to improvements for direct payment recipients, with which I agree. She does not mention the impact of direct payments on other social care claimants, so I introduce a new argument, looking at the impact of direct payments on social inclusion of all claimants.

The assessment process and its relationship to direct payments

As a precursor to making critical assessments of direct payments, it is essential to try to establish a level playing field within which to make like for like comparisons. Crucially it is important to separate the assessment process (a *purchaser* decision) which determines how much social care, if any will be available to claimants meeting the eligibility criteria of the social care system, from the various methods that are available or could be developed to *provide* that social care.

Direct payments is a relatively new method of *providing* social care, in which the recipient makes his/her own decisions about how and when assessed social care is to be provided. In discussing arguments in support of direct payments, Spandler and some of the authors she cites (Pearson, 2000 and Stainton, 2002) tend to combine these separate system components resulting in an unbalanced argument which incorrectly attributes benefits arising from improved assessment processes to the provision of direct payments.

Firstly, I shall look at the complexity of the assessment process, which illustrates the difficulty in having a consistent basis from which to make a critical assessment of any component of the social care system, and in particular, direct payments.

All social care operates within a complex political arena and local authorities have differing agendas for interpreting government guidelines. This is well illustrated by Pearson who compares 'the development and implementation of direct payments in two local authorities' (Pearson, 2000). She identifies the differing balances between the degree of autonomy in the policy structure and the freedom of opportunities for purchasing services in these two local authorities. These differences affect both the assessment process and the ways in which direct payments are implemented.

Recent government guidelines on Fair Access to Care Services (FACS) have provided guidance on eligibility criteria for adult social care, with the aim of reducing variation in social care provision in different parts of England. These guidelines are based on a hierarchy of needs and risks, with the underlying principle that the local authority should make one eligibility decision only – 'should people be helped or not?' (Department of Health, 2002).

Historically, assessments were made in terms of service provision rather than by reference to the particular claimant (Stainton, 2002). The disability movement has campaigned long and hard for a rights based approach to social care. Implementation of direct payments is itself a result of the disability movement's campaigning. Stainton 'considers the nature of justice and rights, arguing that these can plausibly be seen to be grounded in the idea of autonomy and that a rights or justice based social policy and practice must be grounded in the protection, enhancement and development of the capacity for autonomous action' (Stainton, 2002). In relation to the assessment process, Stainton argues:

'In practice then, ... the user should not only be able to define their needs but also how those needs are to be met. The role of the local authority ... is not to define what a person's needs are or how they are to be met, but to negotiate with the individual what needs are legitimate claims against the state and to support the person in meeting those needs deemed legitimate in ways which are acceptable to them. What defines the need as legitimate is (1) whether it is required to protect or promote the person's autonomy and (2) whether the need is consistent with ensuring that the individual has an equal capacity for autonomy as any other citizen. What is demanded by a rights based system then is a structure in which the individual has greater control over the degree and nature of the supports required to pursue his or her ends, and ultimately has the power to choose the nature of those ends without structural constraints unrelated to his or her needs or the demands of equality.' (Stainton, 2002: 757)

This definition of a rights based approach to social care is a long way from the practicalities of local authorities balancing available resources, government guidelines and national and local political pressures. The assessment process is further complicated by the human dimension of an individual care manager's perception of and sympathy with the case being presented by the claimant. The complexity of the arena in which assessments are made is illustrated in figure 1.

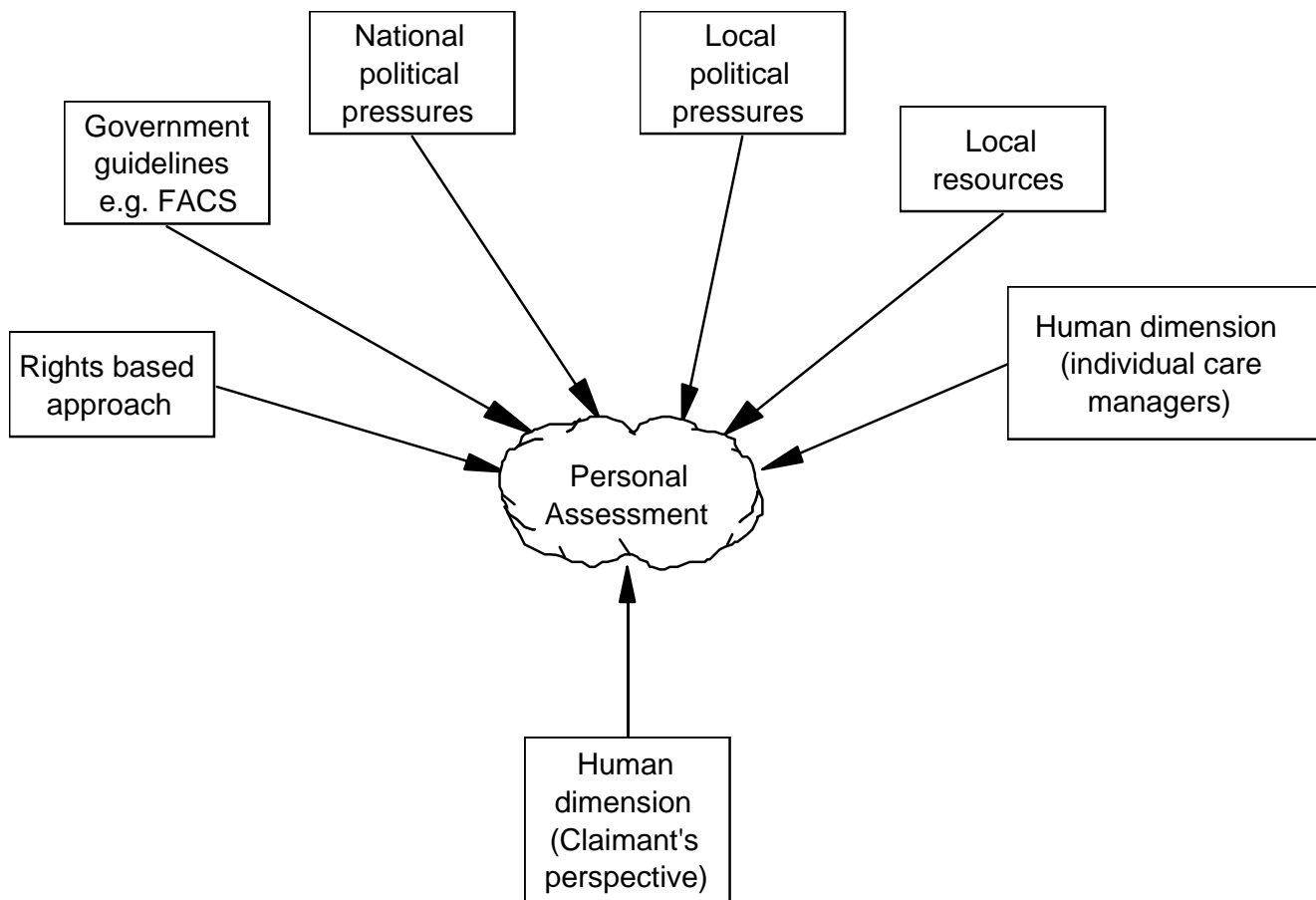


Figure 1

Now that I've looked at the assessment process, I move on to interrelationships between it and direct payments.

As already discussed, direct payments are a potential outcome of the assessment process, but that is not the full story as they have also played a crucial role in moving the assessment process away from a service provision approach. These improvements affect all social care claimants and not just those who choose to use direct payments.

Direct payments continue to play a key role in on-going improvement of assessment processes, both because they encourage the assessor to focus on the individual rather than a menu of potential service provisions, and also because they highlight inconsistencies in social care provision – it being much easier to make comparisons of cash awarded than of services being provided.

There is still a long way to go before social care assessments use a rights based approach and for claimants to have complete freedom in how to use the support package awarded. Direct payments are likely to continue to challenge the assessment process, but it is essential that these challenges are recognised as applying to the assessment process and not just the award of a direct payment, so that all claimants benefit from these assessment process improvements.

Service Development

Firstly, I aim to develop Spandler's arguments about risks associated with using direct payments to justify lack of investment in service development.

Spandler cites O'Brian and O'Brian (1999) in her observation that

'by developing services one at a time for individuals who decide to 'opt out' of mainstream services, direct payments can become an excuse for avoiding the development work necessary to make services resourced, flexible and responsive to individuals' changing needs' (Spandler, 2004: 195).

Some proponents of direct payments argue that there is no need for services to be developed as direct payments provide the opportunity for all claimants to do their own thing rather than using provided services. This argument is unrealistic and does not even take account of the needs of direct payment recipients, who are likely to need to fall back on traditional domiciliary care agencies for contingency arrangements when PA's are not available.

There are also situations when claimants will prefer to use a provided service, which may only be required short-term (Carmichael and Brown, 2000). Most people would find it very difficult to move from living in a care home to living alone in the community using direct payments, in a single step, and would be likely to require some provided services to support their own personal development.

The difficulty is that development of new services is costly, both in terms of initial capital funding where relevant, and also the need for revenue costs to be met by having a sufficiently large volume of ongoing business to cover overheads and make the service financially viable. Therefore, decisions to develop new services usually require some guarantee of their future usage, hence the potential conflict with direct payments.

Moving now to the issue of more choice for some at the expense of less choice for the majority, Spandler argues that choice in service provision is fundamental to the development of a rights based approach to meeting assessed needs. I fully endorse her concerns and

provide an example where this has occurred, and a different example illustrating a more progressive approach resulting in choice to all service users.

The situation of services that are meant to increase choice for service users actually resulting in less choice for others is not confined to direct payments. For example, in situations where local authority policy is not to block contract (see glossary) with private domiciliary care providers, thereby giving open choice to users, this policy may actually result in less or no choice for some users. Places that have difficulty in getting any agency cover at all would be much better off developing a block contract with one agency giving some certainty of service for both the user and the provider.

In contrast a new approach by a local authority based on its intention to provide day opportunities through a direct payment approach has resulted in greater flexibility, choice and control for all claimants, not just those actually using a direct payment.

In this example, community based day opportunities are being developed based on users receiving direct payments for a complete day service (likely to include some or all of: personal assistance, transport, activities, lunch) not just the personal support. Initially, this opportunity was biased in favour of those who were prepared to use direct payments until the local authority was persuaded to operate spot purchasing (see glossary) on behalf of those who could not or did not want to manage a direct payment.

This example illustrates the greater potential benefits to all claimants if services are developed to integrate benefits associated with direct payments, such as greater flexibility, choice and control, with the security of using a provided service. Direct payments have a major role to play in changing the expectations of service providers and users, so that all services become more responsive to the needs and aspirations of potential and actual users.

Social inclusion

In this section, I introduce a new argument, looking at the impact of direct payments on other social care claimants who choose not to use direct payments.

Beneficial effects of reducing social exclusion for direct payment recipients are already well documented (Carmichael and Brown, 2002; Stainton, 2002). However, direct payments may actually work against addressing fundamental issues of social inclusion by encouraging direct payment recipients to use PA support to find individual solutions rather than address fundamental issues that cause social exclusion. The problem is further exacerbated because, as Spandler observes, 'direct payments could remove those most likely to initiate new challenges' (Spandler, 2004: 196). The power of claimants who choose not to use direct payments is reduced, both because of reduced numbers and also because they are often less able people (politically, socially, emotionally, intellectually, academically, or through energy or other limitations of their impairment) and may be less likely to engage in militant action.

Spandler suggests that tensions and seemingly conflicting challenges of individual choice and collective provision have been created by direct payments. My observation is that these already existed but that direct payments have heightened existing divisions between claimants in these two categories, i.e.

- (a) – those who wish to pursue individual solutions to achieving greater social inclusion
- (b) – those who want the support and security from using provided services and may also want to be part of a group.

One of the outcomes of this division is the tendency for people in category (a) to take a superior attitude to people they perceive as belonging to category (b), rather than recognising that people are different and that an individual may want one approach at some stages in his/her life and a different approach at other stages of life. This superior attitude results in category (b) experiencing even greater marginalisation and exclusion because, as well as being marginalised by society as a whole they are also marginalised by other social care claimants.

The social care system operates in a less than perfect world that itself creates tensions between individual choice and collective provision due to factors such as:

- restrictions of the built environment
- people's attitudes
- other people's safety
- complex support needs
- poor social skills

Some people who would like a more individual approach may be prevented from doing so by one or more of these factors. An example is a comment made by a disabled person:

'I would really like to go to a football match. But what would happen if I need to go to the toilet. There are accessible toilets at the stadium, but they're no good to me – there's no room for me, my wheelchair, a hoist and two carers in any of them.'

While these tensions between groups of disabled people exist, it is extremely difficult to develop social policies that accommodate both extremes. In the past, social care favoured category (b) by investing resources in specific services. The pendulum has now swung the other way and the aspirations of category (a) are now considered to be more politically correct.

There is a risk that individual solutions to social exclusion via direct payments could distort the general picture allowing the general public to believe that social exclusion is not a significant problem. This parallels the special school/mainstream school debate in that many people who are not directly affected assume that mainstream school provision solves all problems of social exclusion for disabled children.

Recent research in the UK by Leonard Cheshire (a large voluntary sector care provider), indicates that 'a majority of the public agrees that disabled people are consigned to social exclusion' (Christie, Batten and Knight, 2000). A later report investigating poverty and social exclusion concludes that 'the risk of material and social poverty due to higher daily living costs and poor access to services and jobs is much greater (for disabled people) than it is for the average non-disabled person' (Knight, Heaven and Christie, 2002).

Although EU and UK disability and human rights laws implemented in the last ten years or so mean that legislation is at last supportive towards social inclusion, the above and other research attests to the fact that social exclusion continues to be a major problem for disabled people. Therefore, in addition to seeking individual solutions, it is essential to address root causes that create social exclusion.

Conclusions

The main purpose of this paper has been to look at the impact of direct payments on the whole social care system. This objective is consistent with Spandler's paper.

Where I differ is that I advocate the need for a more consistent basis, seeing direct payments as a component of, rather than a competitor to, the social care system. Seeing direct payments as a competitor to the social care system is likely to result in greater tensions between claimants and may encourage a two-tier system. The greatest benefits of direct payments are those that challenge and improve the social care system for everyone and not just direct payment recipients. Rather than using direct payments to justify avoiding service development, the challenge for local authorities is to support service development that incorporate principles of flexibility, choice and control as the norm for all styles of service provision.

There is a tendency for provision of social care to be affected by fashions and trends in social policy. For there to be effective development of the social care system, the system will need to embrace the requirements of claimants seeking individual solutions *and* those preferring to be part of a group – not looking for some middle ground providing a compromise that satisfies nobody, but moving forward with apparently conflicting ideologies of service provision to develop a better system for everyone.

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Glossary

Direct payments	Provision of a direct cash payment instead of services
Personal assistant	A person providing 1:1 support to a claimant receiving social care, under the direction of the claimant
Block contract	An agreement between a local authority and service provider for the service provider to carry out a specified amount of work (for multiple users) over a given period of time
Spot contract	An agreement between a local authority and service provider that purchases a service on an individual basis for a user

References

Campion, J., Greenhalgh C. and Knight J. (2003) *Mind the Gap: Leonard Cheshire's social exclusion report 2003*. London: Leonard Cheshire

Carmichael, A. and Brown, L. (2002) 'The Future Challenge for Direct Payments', *Disability & Society* 17(7): 797–808.

Christie., Batten, L. and Knight, J. (2000) *Committed to Inclusion? The Leonard Cheshire social exclusion report 2000*. London: Leonard Cheshire

DoH (Department of Health) (2002) *Local Authority Circular: Fair Access to Care Services Guidance on Eligibility Criteria for Adult Social Care*. London: Stationery Office

DoH (Department of Health) (2002) *Fair Access to Care Services: Guidance on Eligibility Criteria for Adult Social Care*. London: Stationery Office

Knight, J. and Brent, M. (1998) *Access Denied: Disabled people's experience of social exclusion*. London: Leonard Cheshire

Knight, J. and Brent M. (1999) *Excluding attitudes: Disabled people's experience of social exclusion*. London: Leonard Cheshire

Knight J., Heaven, C. and Christie (2002) *Inclusive citizenship: The Leonard Cheshire social exclusion report 2002*. London: Leonard Cheshire

O'Brien, J. and O'Brien, L. (1999) *The Politics of Person Centred Planning*. Georgia, USA: Responsive Systems Associates.

Pearson, C. (2000) Money Talks? Competing Discourses in the Implementation of Direct Payments, *Critical Social Policy* 20(4): 459–77.

Spandler, H. (2004) Friend or Foe? Towards a critical assessment of direct payments. *Critical Social Policy* 24(2): 187–209

Stainton, T. (2002) 'Taking Rights Structurally: Disability, Rights and Social Worker Responses to Direct Payments', *British Journal of Social Work* 32: 751–63.

Biography

Jane Lyon is studying for a Masters degree at the University of Derby through a flexible learning programme, developing a research and consultancy profile. Jane is a disabled person who receives community support services. She has experience of recruiting and managing PA's without actually being the legal employer.

Jane has represented service users on contract management boards and has been involved in development of supported living, residential and day services for a large voluntary sector care provider.

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