



Notice of a Meeting

Adult Services Scrutiny Committee Wednesday, 9 September 2009 at 10.00 am County Hall

Membership

Chairman – Councillor Don Seale

Deputy Chairman – Councillor Mrs Anda Fitzgerald-O'Connor

| | | | |
|---------------------|-----------------|------------------|--------------------|
| <i>Councillors:</i> | Arash Fatemian | Anthony Gearing | Tim Hallchurch MBE |
| | Jenny Hannaby | Sarah Hutchinson | Larry Sanders |
| | Dr Peter Skolar | Alan Thompson | |

Notes: *All members of this Committee are asked to note that there will be a pre-meeting at 9.30 am on the day of the meeting in Committee Room 2.*

Date of next meeting: 15 October 2009

What does this Committee review or scrutinise?

- Adult social services; health issues;
- Conduct of best value reviews as specified in Paragraph 9 of Schedule 2 to the Functions Regulations

How can I have my say?

We welcome the views of the community on any issues in relation to the responsibilities of this Committee. Members of the public may ask to speak on any item on the agenda or may suggest matters which they would like the Committee to look at. **Requests to speak must be submitted to the Committee Officer below no later than 9 am on the working day before the date of the meeting.**

For more information about this Committee please contact:

| | | |
|-------------------|---|--|
| Chairman | - | Councillor Don Seale |
| | | E. Mail: don.seale@Oxfordshire.gov.uk |
| Committee Officer | - | Kath Coldwell, Tel: (01865) 815902 E.Mail: |
| | | kath.coldwell@oxfordshire.gov.uk |

Tony Cloke
Assistant Head of Legal & Democratic Services

August 2009

About the County Council

The Oxfordshire County Council is made up of 74 councillors who are democratically elected every four years. The Council provides a range of services to Oxfordshire's 630,000 residents. These include:

| | | |
|------------------|----------------------|-----------------------|
| schools | social & health care | libraries and museums |
| the fire service | roads | trading standards |
| land use | transport planning | waste management |

Each year the Council manages £0.9 billion of public money in providing these services. Most decisions are taken by a Cabinet of 10 Councillors, which makes decisions about service priorities and spending. Some decisions will now be delegated to individual members of the Cabinet.

About Scrutiny

Scrutiny is about:

- Providing a challenge to the Cabinet
- Examining how well the Cabinet and the Authority are performing
- Influencing the Cabinet on decisions that affect local people
- Helping the Cabinet to develop Council policies
- Representing the community in Council decision making
- Promoting joined up working across the authority's work and with partners

Scrutiny is NOT about:

- Making day to day service decisions
- Investigating individual complaints.

What does this Committee do?

The Committee meets up to 6 times a year or more. It develops a work programme, which lists the issues it plans to investigate. These investigations can include whole committee investigations undertaken during the meeting, or reviews by a panel of members doing research and talking to lots of people outside of the meeting. Once an investigation is completed the Committee provides its advice to the Cabinet, the full Council or other scrutiny committees. Meetings are open to the public and all reports are available to the public unless exempt or confidential, when the items would be considered in closed session

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, giving as much notice as possible before the meeting

A hearing loop is available at County Hall.

AGENDA

1. **Apologies for Absence and Temporary Appointments**
2. **Declarations of Interest - see guidance note**
3. **Minutes** (Pages 1 - 20)

To approve the minutes of the meetings held on 8 July 2009 (**AS3**) and to note for information any matters arising on them.

4. **Speaking to or petitioning the Committee**

SCRUTINY MATTERS

To consider matters where the Committee can provide a challenge to the work of the Authority and its partners

5. **Oxfordshire Learning Disability Partnership Board: Presentation and Q&A**

10:15

Contact: Eddie McDowall (Valuing People Manager – Oxfordshire Learning Disability Partnership Board) (01865 228191)

Mr McDowall, together with Ms Ann Nursey (Assistant Head of Adult Social Care – Learning Disabilities - OCC), Mrs Gail Hanrahan (Parent Carer), Mr Mike Edwards (Service User) and Mrs Sue Haffenden (Chairman of the Oxfordshire Learning Disability Partnership Board) will give a presentation to the Committee on the work of the Oxfordshire Learning Disability Partnership Board.

The Committee is invited to receive the presentation and conduct a question and answer session.

6. **Transforming Adult Social Care: Progress Update and Q&A** (Pages 21 - 26)

10:50

Contact: Alan Sinclair, Programme Director – Transforming Adult Social Care (01865 323665)

It has been agreed that a report on Transforming Adult Social Care will be brought quarterly to this Committee (**AS6**) and will include detail on self directed support.

Mr Sinclair will attend to provide the update and to answer the Committee's questions.

The Committee is invited to track progress and to conduct a question and answer session.

7. Fair Access to Care Services Consultation - Q&A and Response (Pages 27 - 98)

(Consultation on the revision of the FACS Guidance to support councils to determine eligibility for social care services).

11:20

Contact: Varsha Raja (Assistant Head of Service – Commissioning and Redesign) (01865) 323618

On 14 July 2009 the Department of Health issued a consultation document on Fair Access to Care Services, which is attached at **AS7(a)(i)**. This needs to be read in conjunction with the draft revised guidance (**AS7(a)(ii)**). These guidelines determine whether people are eligible for social care. This is a major review and responses are due by 6 October 2009. The Directorate is setting up arrangements to consider the consultation and then will want to consult with service users and carers. Consultation with elected members is also vital. A short briefing paper is attached (**AS7(b)**).

The Director for Social & Community Services together with Mr Paul Purnell (Head of Adult Social Care) will attend for this item to introduce the consultation and to answer members' questions.

The Committee is invited to discuss the consultation document, asking questions as necessary, and to forward its comments to the Directorate.

REVIEW WORK

To take evidence, receive progress updates and consider tracking reports.

8. Self Directed Support Task Group: Update

12:20

[Lead Member Task Group comprises Councillors Jenny Hannaby, Sarah Hutchinson, Larry Sanders and Lawrie Stratford]

The Committee is invited to receive an update on the work of the Task Group.

BUSINESS PLANNING

To consider future work items for the Committee

9. Annual Scrutiny Work Programme September 2009 - July 2010

12:30

Contact: Desmond Fitzgerald, Policy and Review Officer, (01865 810477)

The proposed scrutiny work programme consists of ideas generated by members, officers and the public. Each idea has been assessed against the criteria outlined in the proposal form. This includes an analysis of how the proposed review relates to the council's strategic priorities, its current performance in this area and whether it is an area where scrutiny can contribute to upstream policy development. The proposed reviews were discussed with the relevant directors or heads of service and their comments are included on the proposal form for members to consider.

Members are asked to consider the proposals relevant to their committee (**AS9 – to follow**) and to decide which work they wish to undertake and with what priority.

The Committee is asked to identify its priorities for its work programme, including its first choice activity.

10. Forward Plan

13:30

The Committee is asked to note any items of interest.

13:35 approx Close of Meeting

Declarations of Interest

This note briefly summarises the position on interests which you must declare at the meeting. Please refer to the Members' Code of Conduct in Section DD of the Constitution for a fuller description.

The duty to declare ...

You must always declare any "personal interest" in a matter under consideration, ie where the matter affects (either positively or negatively):

- (i) any of the financial and other interests which you are required to notify for inclusion in the statutory Register of Members' Interests; or
- (ii) your own well-being or financial position or that of any member of your family or any person with whom you have a close association more than it would affect other people in the County.

Whose interests are included ...

"Member of your family" in (ii) above includes spouses and partners and other relatives' spouses and partners, and extends to the employment and investment interests of relatives and friends and their involvement in other bodies of various descriptions. For a full list of what "relative" covers, please see the Code of Conduct.

When and what to declare ...

The best time to make any declaration is under the agenda item "Declarations of Interest". Under the Code you must declare not later than at the start of the item concerned or (if different) as soon as the interest "becomes apparent".

In making a declaration you must state the nature of the interest.

Taking part if you have an interest ...

Having made a declaration you may still take part in the debate and vote on the matter unless your personal interest is also a "prejudicial" interest.

"Prejudicial" interests ...

A prejudicial interest is one which a member of the public knowing the relevant facts would think so significant as to be likely to affect your judgment of the public interest.

What to do if your interest is prejudicial ...

If you have a prejudicial interest in any matter under consideration, you may remain in the room but only for the purpose of making representations, answering questions or giving evidence relating to the matter under consideration, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Exceptions ...

There are a few circumstances where you may regard yourself as not having a prejudicial interest or may participate even though you may have one. These, together with other rules about participation in the case of a prejudicial interest, are set out in paragraphs 10 – 12 of the Code.

Seeking Advice ...

It is your responsibility to decide whether any of these provisions apply to you in particular circumstances, but you may wish to seek the advice of the Monitoring Officer before the meeting.

ADULT SERVICES SCRUTINY COMMITTEE

MINUTES of the meeting held on 8 July 2009 commencing at 10.00 am and finishing at 12.54 pm

Present:

Voting Members:

Councillor Don Seale - in the chair

Councillor Mrs Anda Fitzgerald-O'Connor

Councillor Arash Fatemian

Councillor Anthony Gearing

Councillor Timothy Hallchurch MBE

Councillor Jenny Hannaby

Councillor Sarah Hutchinson

Councillor Dr Peter Skolar

Councillor Larry Sanders (in place of Councillor Chip Sherwood)

Councillor Alan Thompson

Other Members in Attendance:

Cabinet Member for Adult Services (Councillor Jim Couchman)

Officers:

Whole of meeting: K. Coldwell & D. Fitzgerald (Corporate Core)

Part of meeting: Director for Social & Community Services

Agenda Item

Officer Attending

- | | |
|-----|---|
| 6. | S. Collins & T. May (Shared Services); S. Kearey (Social & Community Services) |
| 7. | Director for Social & Community Services & S. Thomas |
| 8. | B. Leigh & G. Humphrey (Restore); F. Trevillion (Oxfordshire PCT); Director for Social & Community Services |
| 9. | A. Sinclair (Social & Community Services) |
| 10. | D. Fitzgerald (Corporate Core) & Director for Social & Community Services |

The Scrutiny Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting, together with a schedule of addenda tabled at the meeting and the following additional documents:

- *Restore's Annual Review in relation to agenda item 8*
- *Officer response in relation to points made by the Older People's Panel in relation to agenda item 9*

and agreed as set out below. Copies of the agenda, reports, schedule and additional documents are attached to the signed Minutes.

3/09 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

Apologies for absence and temporary appointments were received as follows:

| Apology from | Temporary Appointments |
|--------------------------|-------------------------------|
| Councillor Chip Sherwood | Councillor Larry Sanders |

4/09 ORDER OF BUSINESS

It was **AGREED** to vary the order of business as indicated in the Minutes.

5/09 INTRODUCTIONS

Given the recent changes in membership on this Committee, each Member was asked to give a brief outline of their interest and experience in the Adult Social Services field.

6/09 DECLARATIONS OF INTEREST

There were no declarations of interest.

7/09 MINUTES

The Minutes of the meeting of the Committee held on 16 June 2009 were approved and signed subject to changing 'in the chair' to 'Chairman' next to Councillor Don Seale's name under 'Present – Voting Members'.

The Minutes of the meeting held on 24 March 2009 were noted but not signed (due to the fact that the Committee's remit had now changed).

8/09 SPEAKING TO OR PETITIONING THE COMMITTEE

The following request to address the meeting had been agreed:-

| Request from | Agenda Items |
|--|---------------------|
| Ms Pam Blustin (Chair of the Oxfordshire Older People's Panel) | 6, 7 and 9 |

9/09 MONEY MANAGEMENT SERVICE: UPDATE ON WAITING LISTS (Agenda Item 6)

In December the Social & Community Services Scrutiny Committee had considered a report on the council's money management service which had set out the nature of the service, current levels of provision, the size of the existing team and key current issues. This service sits in Shared Services

but relates to clients who are over 18 and have been referred by a care manager in Social & Community Services. Costs are also recharged to Social & Community Services.

The Committee had agreed to review the operation of the waiting lists for the money management service following the implementation of the new client database which was due to 'go live' in April 2009.

The Committee had also commented to the Cabinet via the Corporate Governance Scrutiny Committee as follows:

- there is likely to be increased demand on the Money Management Service in future, especially in light of the introduction of self directed support and the increased take up of direct payments;
- the establishment figures for the team need to be reviewed to ensure that sufficient numbers of staff are provided to the service.

A report on the current situation was now before the Committee (AS6(a)), together with a minute of the Social & Community Services Scrutiny Committee's discussion at its December meeting (AS6(b)).

Mr Sean Collins (Assistant Head of Shared Services – Financial Services), together with Mr Tarquin May (Money Management Team Leader), Mr Simon Kearey (Head of Strategy & Transformation – Social & Community Services) and the Cabinet Member for Adult Services attended before the Committee in order to answer Members' questions.

The Committee had before it a number of comments from Ms Pam Blustin, Chair of the County's Older People's Panel, who made the following points:

- the current report made clear in some detail both the type and extent of the "pressures" that the service continued to face since the earlier report to Committee last December;
- it also indicated that the situation had not improved as further staff shortages had occurred and there was growing pressure of need;
- the report spelt out (paragraph 16) some of the implications of running the service, with the pressures described including risk to both clients (paragraph 17) and to the council itself (paragraph 18). Despite this, the conclusion "invites the scrutiny committee to continue to review the serviceand to receive a further reportbefore the setting of the 2010/11 budget";
- the Panel found it extremely worrying that this increasingly needed service seemed, by an apparently continuing delay to 'grasp the nettle' – to be set on a course of increased risk of failing such vulnerable people.

Mr Collins highlighted the main issues set out in the report to the Committee in December, stating that pressures on the service had grown since then. A more permanent pressure on the Team had resulted from the changes introduced by the Mental Capacity Act 2007 whereby greater powers had

been given back to the individual. This in turn meant that in Court of Protection Deputyship cases, the Deputy was required to consult fully with the client on all significant issues/decisions and could no longer act independently in the best interests of the client without reference back to them. These requirements had increased the workload of the Team - in terms of the time now required to consult with each client at each stage of a significant event - for example, selling of property or moving to new accommodation. A stricter auditing scheme was now in place in light of the Act.

The Committee then conducted a question and answer session.

A selection of the Committee's questions, together with the officers' and Cabinet Member's responses, is listed below:

- **Were any clients using the service as a result of having taken up self directed support or direct payments?**

No. Current referrals included clients who were vulnerable, for example, with addiction or mental health difficulties, who had been assessed by the Care Management Service and had met the statutory eligibility criteria.

- **Had there been many cases of financial abuse amongst clients?**

An increasing number of referrals to the service had been due to concern that financial abuse was occurring. There had been eighteen safeguarding cases since December and safeguarding cases were given top priority.

- **What was the current position with regard to the new client database which had been due to "go live" in April 2009?**

The database had not been implemented in April due to problems with the supplier. It had still not been fully implemented and was three months behind schedule. It was hoped that it would be in place by the end of the month and there was considerable pressure on the system supplier to deliver the outstanding elements of the system as a matter of urgency. However, the database would not do the work of the money management officers, although it would provide better management information. It was important to move clients through the system as quickly as possible and the database would help to better target resources. Officers needed to be looking at how the database would save the service money in the current financial climate rather than putting more money into the service.

- **Should the service be provided by the council given that it was not a statutory requirement and was something that Oxfordshire County Council had decided to provide? Not all councils provided this service.**

Mr May had been working with other money management services across the country and it was notable that other authorities were currently increasing the size of their teams and increasing support to the community. This had been largely driven by the requirements of the Mental Capacity Act. However, cutting back on the service was always an option.

- **If the County Council decided not to provide the Money Management Service, who else could/should/would?**

Assistance was provided by care managers in some authorities, who performed this function as part of their job. Officers in this authority felt that care managers would not have the correct skills for the task as both jobs required different skill sets. Money Management required complicated financial management.

Solicitors in the community could provide this service, as could anyone in the wider community who was deemed to be capable of doing so. Using a solicitor would be more costly to the client than using the Money Management Service. The service assisted some people who had insufficient funds for a solicitor to handle their affairs, as solicitors had standard fees and hourly charges and a person would need to have a considerable sum of money for a solicitor to take them on. Some voluntary sector organisations did not always want to deal with rough sleepers, or people with addictions or mental health difficulties.

The Money Management Service tended to be provided to people with no relative or suitable other person who could do this for them or if the person was at risk of financial abuse.

A member of the Committee stated that it was misleading to view the service as an “add on extra”. He asked how a situation could be ignored once a care manager had seen that someone could not manage their money or was being abused, stating that care managers and social workers were too busy to offer this type of service and that it was a very complex area. In his view, it seemed more efficient to have specialists focussing on this area as devolving the service would be less efficient and was likely to result in crises.

Mr Kearey then made the following points:

- he was aware of the importance of the Money Management Service;

- he reviewed the debtors list every month for people that owed the council money as part of care charges and there were a considerable number of people being assisted by the Money Management Service who owed the council money;
- officers were in the process of recruiting a safeguarding officer who would be specifically looking at financial abuse;
- Information Technology did not necessarily produce efficiency savings and it would be more productive to review the current clients using the service in order to see whether there were alternative methods of provision, for example, family members or other carers;
- promoting independence and signposting clients to alternative services was also important. Officers could look at whether clients had made use of the Citizens' Advice Bureau or Age Concern for financial and debt advice. It was hoped that clients had made use of these services before they were referred to the Money Management Service and more checking that this had taken place needed to be done in future.

The Committee Member commented that whilst the Citizens Advice Bureau (CAB) and Age Concern both provided excellent services, it was important to monitor the extent to which they were able to assist clients in light of the demand on those services. He added that it could take weeks to get through to the CAB answering service and that if people could not manage their money then it should be the council's responsibility to assist them.

The Cabinet Member for Adult Services stated that there had been other losses since December, for example, vacancies arising from staff moving to other jobs. Whilst it was commendable that the county council operated such a good scheme which should be protected, the council was operating in a difficult financial climate and it was unlikely that the number of full time staff working for the service could be increased.

- **Some clients had been on the service's waiting list for a considerable amount of time. Were there any safeguards in place to protect them whilst they were awaiting assistance?**

Some clients had been on the waiting list for up to eight months. They were clients who had been deemed as "safe". For example, they could be in a care home, needing someone to administer their benefits. Interim measures would be put in place to support them without them taking on the whole service provided by the Money Management Service. In practice, this would be to ensure that the client had food and shelter. The debt issue would not be dealt with at that point in time.

- **Were the criteria for accepting referrals still appropriate? Assistance seemed to be based on the amount of money involved rather than how desperate a person was.**

The criteria were still appropriate. Assistance was dependent on whether the person was deemed to have the capacity to deal with the problem or not. Court of Protection Deputyship gave the person assisting the individual the right to act as if they were the individual themselves, subject to liaison with the individual concerned on all significant issues/decisions. Appointeeship involved administering a person's state benefits and was carried out in negotiation with the individual concerned.

- **Who would be refused assistance and what would happen to them?**

People who had able but unwilling family members or where solicitors were dealing with their affairs would not be assisted.

- **Was there not a hidden saving to be made if the council helped people before they got into a bad way?**

Yes, there were hidden savings to the council in relation to the work on debt management, as this had implications for the payment of care home fees and charges for domiciliary care. This was hidden income as far as the Money Management Service was concerned as it could not claim the money.

Following discussion the Committee **AGREED** to:

- thank officers for their report;
- note that there were still problems within this service which officers were trying to eradicate through the use of IT and other techniques; and
- advise the Cabinet that a further report on this "essential" service would be brought to this Committee's December meeting to enable it to consider – prior to the setting of the 2010/11 budget – whether the situation had improved as a result of the implementation of the specialist money management database.

This report would include the results of the current benchmarking work being undertaken by the Association of Public Sector Deputies (APAD) and the impact that the new joint panel arrangements would be having on both the waiting lists and the numbers of clients supported to return to independent living in the community.

10/09 INTRODUCTIONS TO ADULT SOCIAL CARE

(Agenda Item 7)

The Committee had before it the following documents:

- Care Quality Commission Self Assessment for Annual Performance Process;
- Update on the Care Quality Commission Independence, Wellbeing and Choice Inspection of Adult Social Care.

The Director for Social & Community Services, together with Mr Steve Thomas (Performance Information Manager – Strategy and Transformation – Social & Community Services) attended before the Committee in order to answer any questions which members may have wished to ask.

Care Quality Commission Self Assessment for Annual Performance Process

The Committee noted that the assessment would look at outcomes for adults generally in Oxfordshire, not just service users that the council was responsible for. The work of Oxfordshire PCT, Health, the district councils and voluntary sector services would also be assessed. Other areas that the Directorate would be assessed on included the quality of its leadership, the quality of its commissioning (80% of its services are provided by external providers), the quality of services provided and how well the scrutiny function was operating.

Adult Social Care Inspection

Ms Blustin, Chair of the County's Older People's Panel, informed the Committee that at the Inspectors' request, four members of the County Older People's Panel, together with four members from the Health and Social Care Panel (facilitated by Age Concern), had met with an Inspector interested in older people's involvement with policy. They had spent a very useful 1 ½ hours looking at this and the Older People's Panel looked forward to the outcome of the inspection with interest.

The Director for Social & Community Services reported that the draft report would be received for comment in a few weeks' time but the inspection results would not go into the public domain until they were reported at Cabinet. The view on the feedback to date was that it was very comprehensive and fair and that the vast majority of points covered issues that the Directorate had already been intending to action.

A selection of the Committee's questions, together with the officers' responses, is listed below:

- **The robustness of the council's out of hours adult safeguarding arrangements had been flagged up in the Inspectors' initial feedback as an area for further exploration. Was the Directorate working on this?**

The Director for Social & Community Services responded that there was a 24 hour emergency duty team in place operating 365 days a year and that any referrals should go to them. With regard to the recent correspondence that had been raised at the Oxfordshire Joint Health Overview and Scrutiny Committee and referred to this Committee, he had responded to the GP concerned to remind her of the arrangements in place and to the PCT to ask them to remind all GPs of this process.

- **With regard to the survey (What older people and their carers using services have told us so far) (30 respondents) how were the respondents chosen, how were the questions put and could the figures be trusted?**

The Inspectors had wished to focus on a relatively small number of people and to meet their carers, their care manager and their manager, in order to look at practice and process.

The Inspectors had asked to see 100 safeguarding cases and 200 older people's cases. From the 200 older people's cases, 150 questionnaires had been despatched, eliciting a response rate of only 30 people. Therefore the Inspectors had told the Directorate not to place too much credence on the findings. The responses were however, a useful context for what was evidenced in the detailed work.

11/09 RESTORE PRESENTATION AND Q&A

(Agenda Item 8)

Restore is a mental health charity that works across Oxfordshire and is partly funded by the county council.

The Committee had been invited to hear how Restore was spending county council money and the impact this had in enabling people with mental health difficulties to access employment.

A briefing paper on the work of Restore was before the Committee, together with a copy of Restore's Annual Review, which was circulated at the meeting.

Mr Benedict Leigh (Chief Executive – Restore) attended to give a presentation about Restore, accompanied by Ms Gemma Humphrey (External Relations Manager).

Ms Fenella Trevillion, Lead Commissioner for Mental Health Services for both Oxfordshire County Council and Oxfordshire PCT also attended for this item to give her perspective.

Mr Leigh briefly presented the key points as summarised below. A copy of the presentation is appended to the signed Minutes.

- over the past year Restore had supported 125 unemployed people to start work. This was a very high success rate compared to other parts of the country;
- Restore used an evidence based model for employment related support (Individual Placement and Support (IPS)) which started with a rapid job search before people were trained for work. The evidence from a large scale blind trial in America and Europe was that training people prior to looking for jobs was less effective;
- intervening early when people went off sick with mental health problems was crucial, as people who had been off work for a year with mental health problems were unlikely to return to work for seven years;
- 6,000 people in Oxfordshire were workless, receiving incapacity benefit (IB) and severe disability allowance (SDA) due to mental health problems;
- 54% of those people on IB/SDA in Oxford were as a result of having mental health problems, meaning that Oxford was in the top 5 worst performing districts in England, worse than the average figure for England and the South East figure. Oxfordshire was the 39th worst county in England in this respect;
- keeping people with mental health problems sat in a bedsit with nothing to do made them more unwell and increased admissions to hospitals and subsequent pressure on services;
- in terms of commissioning, Oxfordshire was lucky to have a strong, active and large group of local provider organisations who were committed to the county. In Restore's view, there was a risk that individually sensible decisions about direct purchasing of services created a local market that was bad for Oxfordshire. Local organisations could bring money into Oxfordshire, which was generally difficult as government funding was related to issues such as deprivation. National organisations tended to target their bid writing in areas where it was easier to gain funding such as in the North of the country and the South East coast. In his view, commissioners needed to think about shaping the market as well as directly purchasing individual services.

Ms Humphrey invited all members of the Committee to visit the Restore facilities and to contact Ms Coldwell for contact details if they wished to visit.

The Committee then conducted a question and answer session. A selection of the Committee's questions, together with the officers' and Cabinet Member's responses, is listed below:

- **Did the PCT see the work undertaken by Restore as a way to address the increase in the number of people with mental health problems? Was this going to be the ongoing commissioning pattern even though funding for the NHS might be problematical in the future? Could Oxfordshire PCT (OPCT) work with other PCTs in its commissioning approach?**

Ms Trevillion responded as follows:

- OPCT did work with the Strategic Health Authority (SHA), which was in the early stages of developing its direction of travel, with particular regard to mental health and would shortly be providing a strong lead on this;
 - Mental Health and Wellbeing was now one of the PCT's objectives and it had invested a considerable amount of money into this area over the past few years (circa £2.500K in the past 2 years). In addition, over £1.5m from the government had been invested in Oxfordshire to increase access to psychological services and this was the largest area of investment nationally;
 - OPCT's commissioning strategy had prioritised employment, as its benefits were well documented. It had been the PCT's focus over the past 6 – 9 months as there had been a change of focus nationally, with the shift to wellbeing. This put pressure on the county council and the PCT's commissioning budgets, which were focused on secondary services and now needed to be reshaped to include the whole pathway of care including well being;
 - OPCT was in the process of reviewing the voluntary organisations it commissioned and as mentioned, this was being carried out though focussing on the whole pathway of care.
- **The briefing paper stated that the funding from Oxfordshire County Council to Restore over time saved substantial amounts of social care costs – people were less likely to go into hospital, less likely to need ongoing social [services] support, more likely to be working and not be in receipt of benefits. How could this be quantified?**

Mr Leigh stated that the evidence was primarily from America. However, a large trial was due to start this year in the UK. IPS trials showed that people were spending 20% less time in hospital as a result and that people who worked consumed less social care support. They were also paying taxes once they were working.

- **Would it be possible to provide data on how much money this type of support was saving Oxfordshire in future?**

Ms Trevillion stated that officers would try to do this, commenting that measuring outcomes in mental health was difficult. However, the

Strategic Health Authority was working on developing metrics for mental health and this would include those mentioned.

- **How could the county council play a greater role in mental health without costing too much and was there any way in which scrutiny activity could add value?**

Ms Trevillion stated that county council involvement was very important, as was the New Horizons policy. The PCT's focus was extensively on wellbeing, early intervention and prevention. The county council could assist with this in conjunction with the district councils. Employment and leisure were vital to this.

The Director for Social & Community Services reminded the Committee that Ms Trevillion was the Lead Commissioner on behalf of Oxfordshire County Council and the PCT in terms of services for adults with mental health problems. The Council was the lead commissioner in terms of learning disabilities. He added that the Health and Wellbeing Partnership Board had drawn up three core priorities on which to focus: prevention of ill age in older people, obesity and mental wellbeing.

The Cabinet Member for Adult Services stated that there was now a major pooled budget for mental health. This would lead to a more co-ordinated service between Oxfordshire County Council, the PCT and Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust (OBMHT). He added that in terms of savings, there was a distinction to be made between savings and costs avoided and that in his view, costs avoided was more important.

Mr Leigh stated that there were plenty of actions that could be taken to assist people with mental health problems that were not costly. The county council, the district councils and Health were major employers in the county. Preventative action could be taken to reduce sickness absence, increase staff wellbeing, and increase the recruitment of people with mental health problems.

The Director for Social & Community Services stated that the council had an employment service that was designed to increase the recruitment of people with disabilities, especially people with mental health problems. If people with mental health problems were put on their books they would be treated in the same way as staff that went through the council's redeployment process, meaning that they would be automatically considered for a post if they met the criteria. He added that Oxfordshire County Council was keen to encourage other key local employers to follow this lead as people with mental health problems were an untapped resource who could make a valuable contribution.

Ms Trevillion confirmed that work with other key employers was already underway.

Following the question and answer session, the Committee thanked Mr Leigh for his informative presentation and Ms Trevillion for her contribution.

12/09 TRANSFORMING ADULT SOCIAL CARE: PRESENTATION, PROGRESS UPDATE AND Q&A

(Agenda Item 9)

It had been agreed that a report on transforming Adult Social Care would be brought quarterly to this Committee (AS9) and would include detail on self directed support.

The Committee was invited to track progress, conduct a question and answer session and nominate at least two Councillors to join the Self Directed Support Task Group.

Ms Pam Blustin, Chair of the County's Older People's Panel, had requested to speak at this item and made the following points:

- the Panel welcomed the much needed development of collaborative working across central and local government, the NHS, the third sector and the private sector to achieve the aim of independent living for all adults;
- as to reported progress, on Stakeholder engagement (paragraph 8) it was noted that there was an awareness that networks and reference groups could be expanded and it was hoped that the value of linking with the Panel would be recognised;
- on the progress of specific project areas (paragraph 11 onwards) the Panel:
 - congratulated the council on being chosen as an information accreditation pilot site and wished to record its pleasure both in being asked to review "The Information" – the council's source book for older people and carers – and to have found it to be such an accessible and useful publication;
 - was concerned to see that steps would be taken wherever possible to protect vulnerable people from neglect and abuse in whatever form or circumstances it might occur;
 - noted that under 'Reshaping the Supply Market' the council was developing a scheme to accredit non-registered and non-traditional providers of social care schemes. Bearing in mind the persistence of reports of instances of less than satisfactory service – no doubt a very small number in the scheme of things – the Panel hoped that the Committee would consider it important to be assured that all providers were to be subject to requirements to provide a high standard of service by appropriately trained staff, that there would be a diligent monitoring and swift action taken in the event of adverse reports, with 'whistle blower' protection built in;
 - asked the Committee to consider what action would be appropriate in order to ensure that vulnerable people were safeguarded.

The Committee noted the Directorate's response to the Panel's concern, a copy of which is appended to the Minutes (Refer Appendix 1) and to the signed Minutes.

Mr Alan Sinclair (Programme Director – Transforming Adult Social Care) then gave a brief presentation to the Committee, a copy of which is attached to the signed Minutes.

Mr Sinclair made the following points:

- the government wanted significant progress on Transforming Social Care to have been made by March 2011, although it had not defined what was meant by 'significant';
- Everyone eligible for a personal budget must have been provided with one by March 2011;
- officers needed to ensure that changes were sustainable rather than just ticking the box. This was a challenge;
- there was all party support for the Transforming Social Care agenda;
- there were a number of additional challenges/opportunities:
 - this was about whole system change and not just change at the margins;
 - increasing numbers of people would need support;
 - funding/financial sustainability in a climate of efficiency savings – how could this be sustained beyond the £5m that had been provided for the three year implementation period;
 - support to all people who require adult social care services – a shift towards supporting the whole community, not just those adults who met the council's eligibility criteria. Officers would need to think about how they could help people not to hit the eligibility criteria as soon or at all, and to avoid needing future services (a shift to early intervention and prevention and what would work for Oxfordshire);
 - working with key partners – the PCT, OCC and the third sector. Services would be developed in conjunction with a wide range of stakeholders including people who currently used and would be using social care; and
 - a Green Paper on the future of social care was due out next Wednesday and would probably push the personalisation agenda even further;
 - in terms of the supply market the message was that no-one was obliged to buy traditional services (e.g. go to a day centre);
 - quality information provision was crucial to ensure that service users could make informed choices, whether it was provided by the council, Heath or the third sector. Information would also be provided to people who did not meet the eligibility criteria but had money to spend to purchase services;
 - people would be supported to live independently, to stay healthier and recover from illness more quickly, to have maximum control over their lives, to be active and equal members of society (e.g.

- encouraging more older people to volunteer and to have the best quality of life);
- there were potential risks involved. Officers needed to be provided with information on how to manage risk, conduct good assessments, reviews and support plans;
- the reshaping of the supply market would address many of the issues raised by the Older People's Panel;
- the self directed support pilot in Banbury was bringing up more questions than answers regarding how to make the self directed support model sustainable for the future.

Following the presentation, the Committee **AGREED** to:

- thank Mr Sinclair for his informative presentation;
- nominate Councillors Sarah Hutchinson and Jenny Hannaby to join Councillors Larry Sanders and Lawrie Stratford on the Self Directed Support Task Group.

13/09 SCRUTINY WORK PROGRAMME

(Agenda Item 11)

Members of the Committee were asked to put forward areas which they would wish to look at in future as part of this Committee's Scrutiny Work Programme or in conjunction with any other of the Scrutiny Committees where relevant.

Members were reminded that any suggested items should be supported with a clear explanation of the expected outcome of the proposed work.

The Committee was asked to agree a preferred list of ideas which the Policy & Review Team would consider in more detail through the scrutiny proposal form procedure. The proposal forms would be presented to the Committee for consideration at its September meeting when it would be asked to agree its future work programme.

The Director for Social & Community Services provided the following suggestions to the Committee:

- **Dementia** – the national Dementia Strategy had said that local authorities were not doing enough, especially in conjunction with the Health Service. It would be useful for this Committee and/or the Oxfordshire Joint Health Overview & Scrutiny Committee to look at actions underway in Oxfordshire in relation to dementia;
- **Green paper on Care and Support** – this Committee needed to be aware of the proposals and to offer comment on them;
- **Carers** – the Directorate had received positive feedback from the Carers' Conference but there was more to be done and this was at the heart of the prevention agenda;

- **Care Quality Commission Inspection** – it would be advisable for the **Committee** to monitor the results of this and to identify specific issues for scrutiny activity;
- **Council efficiency savings** – £60m savings on top of the previously identified £30m savings would need to be made over a five year period, a significant amount of which would have to be made in Adult Social Care.

Following discussion, the Committee **AGREED** to:

- (a) put forward the following items to be worked up into scrutiny proposal forms and considered at its September meeting:
 - domiciliary care (how it's working in practice - outcomes)
 - telecare
 - dementia
 - carers' strategy
- (b) consider the following items at its October 2009 meeting:
 - Green paper on Care and Support – for information and comment;
 - Dementia
- (c) place 'Impact of Council Financial Planning on Adult Services' (effect of any budget changes over the next five years on the provision of Adult Social Care services) on future agendas from October 2009 onwards;
- (d) consider if there were any areas for scrutiny activity arising from the recent 'Independence, Wellbeing and Choice' Inspection of Adult Social Care services*.

All members of this Committee were invited to attend the Cabinet meeting for the Performance Assessment Item – where a presentation and action plan would be given by the Care Quality Commission on their 'Independence, Wellbeing and Choice' Inspection of Adult Social Care services. The exact date would be confirmed shortly.

- (e) express the wish for members of this Committee to visit the House of Commons to view a select committee in action (e.g. Westminster Explained Seminar Series).

Councillors were also urged to watch a select committee in action on the parliamentary channel.

Councillor Larry Sanders undertook to speak to Des Fitzgerald outside of Committee regarding his suggestions for activity around residential homes and the Relatives and Residents Association.

The Cabinet Member for Adult Services stated that the council conducted safeguarding checks on its homes but that the registration of homes was not within the council's remit.

Councillor Sanders was advised that nominated members within the Local Involvement Networks (LINKs) had the right of access to these establishments.

Ms Coldwell undertook to provide the following suggestion from Councillor Larry Sanders to Mr Gibson, for consideration at the September meeting of the Safer and Stronger Communities Scrutiny Committee:

Community building and social capital as part of the prevention agenda.

Building social care into villages in the county – how this can be done.
½ day workshop – hear from voluntary sector partners including Age Concern plus the community. What it might mean in terms of how services are delivered.

(community cohesion and the voluntary and community sector fall under the remit of that Committee).

14/09 FORWARD PLAN
(Agenda Item 10)

The Committee was asked to suggest items from the current Forward Plan on which it might have wished to have an opportunity to offer advice to the Cabinet before any decision was taken.

This item had been covered under the Scrutiny Work Programme.

.....in the Chair

Date of signing.....2009

ANNEX 1

Directorate response to a specific point made by the Chair of the Older People's Panel

Item 9. Transforming Adult Social Care (AS9)

On Progress of specific project areas (Para 11 et seq) :-

The Panel is concerned to see steps taken wherever possible to protect vulnerable people from neglect and abuse in whatever form or circumstance it may occur.

The Panel notes that under 'Reshaping the Supply Market' the Council is developing a scheme to accredit non -registered and non-traditional providers of social care schemes.

Bearing in mind the persistence of reports of instances of less than satisfactory service - no doubt a very small number in the scheme of things -the Panel hopes that the Committee would consider it important to be assured that all providers are to be subject to requirements to provide a high standard of service by appropriately trained staff, that there will be a diligent monitoring and swift action taken in the event of adverse reports, with 'whistle blower' protection built in.

Directorate response

- Our traditional contracting processes involve us specifying service standards to our suppliers.
 - a. For registered providers these are based around National Minimum Standards plus any additional requirements we stipulate.
 - b. For non-registered providers we stipulate service requirements that reflect best practice.
- Safe recruitment of staff is a major theme that runs throughout our contract documentation. Provisions are included in both the Contract and our Service Specifications; in this way we require our providers to ensure that they stop those who might do harm to vulnerable service users from entering the social care market.
- Training is another key area where specific requirements are laid down for our suppliers to adhere to. We require providers to ensure that staff allocated to deliver service are trained and competent to do so, and that they record the same.
- Whistleblowing is a standard condition in our Contracts.
- The Social & Community Services Scrutiny Committee previously received a report about the Commission for Social Care Inspection's (CSCI) (now Care Quality Commission (CQC)) Star Rating System when it agreed that whenever possible the County Council will purchase services from registered providers rated as Excellent or Good.

- My staff do respond with swift action when adverse reports are received either through safeguarding procedures or contract monitoring or a combination of both. We believe we are very effective in both areas and have considerable success in raising service standards throughout our provider portfolio. This is evidenced by improvements in star ratings that providers achieve when we work with them and the compliments we receive from them about this.
- An internal R.A.G. Traffic Light system is used to alert Adult Services staff to providers where we have concerns.
- More recently we have developed a new Schedule to our contracts that covers 'Safeguarding'. We are consulting a number of our key providers on the content and expect comments and responses soon. The intention is to introduce and append this schedule to all of our contracts.

Scrutiny will be aware that the Putting People First agenda requires a shift in direction to more of a hands-off arrangement by Oxfordshire County Council (OCC) with the service user being more in-control. Under 'Self Directed Support', Brokers and Service Users will be able to requisition services through traditional Council contracts or Council-provided services as at present if they wish. They will then have the full protection of contract monitoring processes as set out above.

Some Service Users will opt for more choice and control, and will receive their Personal Budget via a Direct Payment. They may choose to spend their budget on services which are not regulated by CQC, and are not contracted or monitored directly by the Council. For example, they may ask a neighbour to provide personal care or help with bathing, and the neighbour would be paid by the Service User. This local, informal type of arrangement is strongly encouraged by 'Putting People First'. There would be a regular review of outcomes, and if the needs of the User were not being met, there could be some intervention by the Care Manager to insist on a more formal care input.

Where Service Users request a non-registered service such as a Personal Assistant or Support Broker, they will be encouraged to use a Provider Approved under the 'Care with Confidence' scheme. The criteria for Approval will include CRB and Vetting/Barring checks, references, suitable mandatory training and monitoring. In the event of performance being found to be below standard, Approval can be withdrawn. At present, it is not considered appropriate to insist that only Approved Providers can be used, as this would restrict choice and flexibility. A Service User could ask a family member to act as their Personal Assistant, and such a person would not usually be Approved under Care with Confidence, although training could be offered.

Scrutiny Committee will appreciate that the benefits of choice and control brings some increase in risk. However, each Support Plan will be signed off by a Care Manager or Unit Manager, and safeguarding issues will be a high priority in deciding if a proposed arrangement is safe and effective.

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Division(s): All

ITEM AS6

ADULT SERVICES SCRUTINY COMMITTEE – 9 SEPTEMBER 2009

TRANSFORMING ADULT SOCIAL CARE – UPDATE ON PROGRESS

Report by Director for Social & Community Services

Introduction

1. This report summarises the progress being made by Social & Community Services (S&CS) in implementing the Transforming Adult Social Care (TASC) change programme. The Transforming programme was summarised in a report to the Social & Community Services Scrutiny Committee in July 2008 and further progress reports were presented in December 2008 and July 2009.

Background

2. The Government introduced a major change programme for adult social care in December 2007: *Putting People First: A shared vision and commitment to the transformation of Adult Social Care*. It is a concordat signed and agreed by all the major government departments led by the Secretary of State for Health, which sets out a collaborative approach between central and local government to achieve independent living for all adults. This will require all local authorities to work with their key partner agencies, especially the NHS.

Key areas of this transformation include:

- for every locality to have a single community based support system based on the health and well being of the population;
- to introduce a mainstream system focussed on prevention, early intervention, enablement and high quality personally tailored services;
- for people to have maximum choice, control and power over the support services they receive to meet their needs and to have the best quality of life and equality of opportunity for independent living;
- to introduce personal budgets for people to choose their own support services;
- to ensure that those people who, through illness or disability, are unable to express needs or wants will be supported and protected.

This means that everyone who receives social care support regardless of their level of need, in any setting, whether from statutory services, the third and community or private sector or by funding it themselves will have choice and control over that support.

Overall Progress

3. **Programme Office/Support:** During the summer there has been a review of the approach and structure of the TASC Programme. The outcome of this review will ensure that the Programme will be more effective and efficient in the way that it will be delivering the changes required.

4. The changes include a confirmation of Vision for the Programme:
To inspire people to live successful and independent lives through information, support, communities and real choice

With a strapline of:

'Inspiring lives through real choice: your choice'

5. There has also been a change to the governance arrangements with a clarification of the roles and responsibilities of the sponsors and leaders of the changes. The different project areas have been combined into four workstreams with clear lead managers:

- Access, Information and Advice – Jacquie Bugeja
- Community Building, Promoting Independence and Prevention – Karen Warren/Sara Livadeas
- Real Choice and Support (Self Directed Support (SDS) and Reshaping the Supply Market) – Martin Bradshaw
- Sustaining the Changes (Workforce, Finances, ICT) – Caroline Parker (with Directorate Leadership Team support from Simon Kearey)

6. A Programme Assurance group is also being developed to support the work of the Transformation Team in achieving the objectives. This group will consist of a representative sponsor from the Programme Board, a representative of the service user and carer reference group, Internal Audit and a SE regional office representative.

7. Stakeholder engagement: There is a thriving service user and carer group that is constantly being reviewed to ensure that it is working in a way that involves people appropriately. It has also changed its brief to be one supporting the developments in the whole Programme rather than just working on the Self Directed Support project.

8. A Transforming Adult Social Care marketing, communication and information strategy has been agreed and a plan is being developed to support each of the workstream leads. Communication of the changes to the Programme has taken place.

9. The Programme Team have been assisting Business Plan owners in S&CS to identify areas for development of their services in line with Transforming Adult Social Care and to also identify where efficiency savings could and will be made.

Progress on the specific project areas:

10. **Access, Information and Advice**

Information and Advice: There has been a slight stall in this area as we needed to change the strategic lead. An updated brief has been agreed with a change of emphasis of the project to ensure the sustainability of improved information. Quick wins of an updated web site content and standards for information have been agreed.

Access: Now that the new Integrated Assessment and Enablement Service has started Jacquie Bugeja will begin to develop a brief to identify areas of improvement.

11. **Community Building, Promoting Independence and Prevention**

Community Building: work is ongoing in identifying areas of best practice and analysis of what will work best in Oxfordshire. Once this work is completed a Project Initiation Document (PID) will be produced and an action plan developed.

Promoting Independence and Prevention: Options are being considered for investment in Prevention services that will lead to improved outcomes for people and will lead to efficiency savings for the Council and the PCT. A bid to the SE region for development funding for an enhanced continence service for Oxfordshire has been approved.

12. **Real Choice and Support**

Self Directed Support: The Learning Exercise in the North of the County has been running since 1 December 2008. As of 18 August 2009 132 people have been allocated a personal budget and the majority (116) have opted for a support broker to assist them to develop their plan. The development of proportionate outcome focussed reviewing will be a critical part of ensuring that people's needs are being met and that any risks are identified and are being managed.

The formal evaluation of the Self Directed Support learning exercise is to be completed in September 2009. A workshop at the end of September 2009 will be recommending a business as usual model and a county-wide implementation plan for Self Directed Support. This new model will require a restructure of teams and will have implications for the current care management teams and workforce.

The development of Self Directed Support in mental health services has moved forward with the appointment of a project manager and a successful joint bid between Oxfordshire and Buckinghamshire County Council to be a demonstrator site for Mental Health and Self Directed Support in the SE Region.

The new web site takingcontroloxon.org.uk was launched in March 2009 with 2,526 hits on the site by 20 August 2009.

Reshaping the Supply Market: Work continues with the new Provider Forum and in developing the Care with Confidence Scheme. This scheme will provide some assurance and guarantee of quality and price to people who will be using their personal budget to purchase their own support.

13. **Sustaining the Changes**

Workforce Development: Work continues here in developing a new workforce development strategy and plans and also on the implications for the workforce of the proposed Self Directed Support model. Regular meetings with Unison are taking place. The programme team are continuing to work with a specialist change consultant to help support the team and operational managers deal with the major changes that will be taking place over the coming two years.

Financial Sustainability: Implications for investments and efficiency savings are being identified to support the implementation of transforming adult social care. This work is being completed to support the financial planning/star chamber process and business plan owners to ensure these are covered in client group/service plans.

ICT/Systems: Implications for ICT and systems and processes are becoming clearer as the models for delivering the changes required become clearer. There is more work to do in this area to ensure that systems and process will support the new models of working and for staff to be more efficient in the way they work.

Scrutiny Working Group

14. The group has met once and with two new members is confirming the areas that it would like to prioritise.

Revised Milestones

15. October 2009

Reablement Business Case complete
PIDs for Information, Community Building & Prevention approved
Investments and Efficiency savings related to TASC confirmed
Communication Strategy and Plan approved
Client group and service area business plans incorporating TASC objectives complete

December 2009

Prevention developments confirmed
Community Building developments confirmed
Care with Confidence Scheme operational
Reshaping Supply Strategy confirmed
Information quick wins
Access brief approved

2010-11 onwards

Access PID by April 2010.
Brokerage service commissioned by April 2010
User led organisation developed by April 2011
Programme Closure Sept 2011

Self Directed Support Milestones

September 2009:

Evaluation of Learning Exercise

Managers workshop

October 2009:

Brokerage Workshop

SDS model approved by Programme Board

Autumn 2009 Onwards:

Structures developed and system analysis to support SDS model Oct-Dec 09

Staff consultation Dec 09-March 10

Go live April/May 10

Roll Out county wide completed by Dec 10

Business as usual transition complete

Project closed April 11

JOHN JACKSON

Director for Social & Community Services

Background Papers: Nil

Contact Officer: Alan Sinclair Programme Director Transforming Adult
Social Care Tel: (01865) 323665

August 2009

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Prioritising need in the context of *Putting People First: A whole system approach to eligibility for social care*

*Consultation on the revision of the Fair Access to Care
Services guidance to support councils to determine eligibility
for social care services*

DH INFORMATION READER BOX

| | |
|----------------|--|
| Policy | Estates |
| HR / Workforce | Commissioning |
| Management | IM & T |
| Planning / | Finance |
| Clinical | Social Care / Partnership Working |

| | |
|----------------------------|--|
| Document Purpose | Policy |
| Gateway Reference | 12234 |
| Title | Consultation on the revision of the Fair Access to Care Services guidance |
| Author | Department of Health |
| Publication Date | 14 Jul 2009 |
| Target Audience | Local Authority CEs, Directors of Adult SSs, Directors of Finance, Communications Leads, Directors of Children's SSs |
| Circulation List | Voluntary Organisations/NDPBs |
| Description | Following CSCI's independent review of the application of eligibility criteria for social care, we are now putting draft revised guidance on social care eligibility out to consultation. The aim of the revised guidance is to support fairness, transparency and consistency of application and to reflect the increased focus on personalisation and prevention as set out in Putting People First. |
| Cross Ref | CSCI, Cutting the Cake Fairly: CSCI review of eligibility criteria for social care |
| Superseded Docs | N/A |
| Action Required | Responses to the consultation on the draft revised guidance should be sent to social.care.eligibility@dh.gsi.gov.uk |
| Timing | Consultation period of 12 weeks |
| Contact Details | Social Care Eligibility Consultation Social Care Policy & Innovation Room 118, Wellington House 133 -155 Waterloo Road London SE1 8UG 0207 972 4097 |
| For Recipient's Use | |

Prioritising need in the context of *Putting People First*: A whole system approach to eligibility for social care

Consultation on the revision of the Fair Access to Care Services guidance to support councils to determine eligibility for social care services

Prepared by Department of Health – Social Care Policy & Innovation

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Introduction

1. This document is a consultation undertaken by the Department of Health on the revision of the “Fair Access to Care Services” guidance (FACS), which provides local authorities with a framework for determining individual eligibility for social care. It should be read alongside the draft revised guidance, *Prioritising need in the context of Putting People First: A whole system approach to eligibility for social care*, which is intended to replace the 2003 FACS guidance.
2. The Fair Access to Care Services framework was introduced in 2003 to provide councils with a mechanism for allocating the limited resources available for social care as fairly and consistently as possible. The aim was to enable councils to stratify need for social care support in a way that is fair and proportionate to the impact it will have on individuals and the wider community, taking into account local budgetary considerations.
3. Public funding for social care will always be limited in the face of demand and as such, there is widespread acceptance for the need to prioritise available resources according to individual need. However, since the introduction of eligibility criteria for social care, concerns have been raised that financial pressures have led some local authorities to shift their focus towards those groups with the highest needs. Many councils have raised the level of their eligibility thresholds, leading to concerns that some people who ought to be receiving support are now being ruled as ineligible.
4. In 2007 the Government launched the cross-sector agreement *Putting People First* which sets out a shared vision for the transformation of adult social care, putting service users and their carers at the heart of reform.¹ The document signals that personal budgets, enabling service users to understand what resources are available for their support and to make decisions accordingly, will become the default delivery mechanism for social care. Integral to successful transformation therefore, will be a transparent, open and fair system for the allocation of available public resources with a strong focus on outcomes for people seeking support. *Putting People First* also placed significant emphasis on prevention and early intervention to help people to live independently at home and avoid or delay recourse to social care services.
5. In response to concerns about the way in which FACS has been implemented in some local authorities, and in recognition of the vital new policy context articulated in *Putting People First*, the Commission for Social Care Inspection (CSCI) was asked by the then Minister for Care Services to undertake an independent review of the application of eligibility criteria for social care and its impact on people. The revised guidance which is the subject of this consultation has been produced in response to the recommendations made by CSCI in their report *Cutting the Cake Fairly: CSCI review of eligibility criteria for social care*.² These recommendations were intended to support the ambitions of *Putting People First* and as

¹ HM Government, *Putting People First: a shared vision and commitment to the transformation of Adult Social Care* (2007) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081118

² Commission for Social Care Inspection, *Cutting the Cake Fairly: CSCI review of eligibility criteria for social care* (2008) - http://www.cqc.org.uk/_db/_documents/FACS_2008_03.pdf

such, CSCI's report emphasises that personalisation and prevention are key policy objectives that any revised guidance on eligibility should uphold.

6. The Department is now seeking views and comments on the draft revised guidance, specifically around two key objectives:
 - to situate the application of eligibility criteria firmly within the new policy context of personalised provision of care and support;
 - to ensure that the process for determining eligibility is as fair, transparent and consistent as possible, leading to high-quality outcomes for people seeking support.

7. The revision of the FACS guidance is aimed at bringing about improvements to the system as it currently stands, making implementation fairer and more consistent for people seeking support and reinforcing the current direction of policy established by *Putting People First*. However, this consultation on the revised guidance is being undertaken in parallel with another wider consultation instigated by the recently published Care and Support Green Paper. This lays out a series of options for reform of the social care system, to ensure that care is high-quality and cost-effective; that people have choice and control over the care they receive and that the funding system is fair, sustainable and affordable for individuals and the State. Respondents to this consultation on social care eligibility criteria may therefore also wish to comment on proposals for longer-term reform set out in the Green Paper.

Development of the new guidance

8. CSCI's consultation with stakeholders during the course of their review was particularly wide-ranging, involving the general public, people using services and their carers, councils, care providers, professional bodies, voluntary and independent organisations, government departments, academics and other stakeholders. Their recommendations were therefore developed from a wide base of views and in working to address these recommendations, the Department has sought to maintain this collaborative approach.
9. The draft revised guidance was produced with the help and advice of a stakeholder working group comprising social care, local government and service user representation. This consultation is now aimed at anyone with an interest in the process by which local authorities determine eligibility for social care, as well as the arrangements they make to support individuals within their communities, whether or not such individuals are eligible for statutory support.
10. In revising the FACS guidance we have sought to re-emphasise the principles of consistency and transparency incorporated into the original framework. CSCI identify that much of what was proposed in their review constitutes "a restatement of councils' existing responsibilities" and a recognition of the need for "changes in the culture and working practices of councils and health and other partners." Successful outcomes for individuals seeking support will depend upon the effective application of these first principles at local level. To support the publication of revised guidance therefore, the Department is also exploring how we can give further practical help to staff in local authorities to support them to use the framework appropriately to ensure the best possible outcomes for all citizens in their locality.

Aim of the revised guidance

11. CSCI's report demonstrates a wide consensus that some method for the fair allocation of finite resources for social care will always be necessary. In this context, many people consulted during the course of their review acknowledged that FACS represents a significant improvement to the previous system in that it aims to provide greater consistency and transparency and a "whole person" approach to needs.
12. Nevertheless, much of the evidence collated was critical of FACS, particularly in respect of the way it has been interpreted and implemented by some councils. The review also highlighted perceived tensions between the FACS framework and new models of self-directed support currently being developed within local authorities. CSCI therefore made a number of recommendations to improve fairness and clarity of access and to set eligibility criteria for that access within a broader context that is more consistent with *Putting People First*, offering some level of assistance and advice to everyone seeking care and support.³
13. In light of these recommendations the aim of the revised guidance is to:
 - Assist councils to determine eligibility in a way that is fair, transparent and consistent, ensuring that all their citizens can expect some level of support, whether or not they receive statutory funding;
 - Emphasise the benefits of early intervention and prevention and greater access to universal services, including high quality information and advice enabling people to make choices;
 - Ensure that eligibility criteria for social care are applied in a way that is consistent with the personalisation agenda set out in *Putting People First*, based on choice and control, enabling people to live independently within strong and supportive local communities.
14. At the same time as the revised FACS guidance is published for consultation, the Government has also published the Care and Support Green Paper in recognition of the fact that England's social care system needs fundamental reform in order to meet the costs of increased demand and higher expectations. Such reform may have significant future implications for the way in which eligibility for social care is determined and funded. However, while longer-term options are being considered and debated, it is clear that there are important issues to address in the current system. This consultation on the revised FACS guidance focuses upon these more immediate issues of implementation. Respondents wishing to comment on longer-term arrangements, including funding arrangements for social care, should respond to the Green Paper consultation.

³ For further details of CSCI's recommendations see *Cutting the Cake Fairly*

Detail of the new guidance

15. The development of the draft revised guidance focused on a number of key themes, which are explored in more detail below.

Integrating eligibility criteria into the personalisation agenda

16. We believe that eligibility criteria can and should be applied within a personalised system of social care. However, *Cutting the Cake Fairly* highlighted areas where confusion may have arisen as a consequence of the shift towards personalisation since FACS was first introduced in 2003. To support the aims and objectives articulated within *Putting People First*, the draft revised guidance seeks to integrate eligibility criteria within the new model of self-directed support.

17. The revised guidance will therefore benefit both local authority staff and individuals seeking support by improving compatibility between personalisation and prioritisation of need – therefore increasing consistency and clarity. This is particularly important around the assessment of need, moving away from a professionally led approach to one that is more transparent, person-centred and conducted in full partnership with the service user. The new guidance emphasises the value of self-assessment as a tool to support choice and control in the overall assessment process. More personalised approaches should also be reflected in support planning and care management processes.

18. The draft revised guidance also places greater emphasis on outcomes, using the seven outcomes identified in the White Paper *Our health, our care, our say* to ensure that consideration of need is holistic and well-rounded, focusing on what is important to the individual. The guidance makes it explicit that the level of support required will not always equate with the complexity of individual need and that support options will vary depending on the specific circumstances and aspirations of the individual. If councils base their approach to needs on achieving outcomes rather than providing specific services, then people with similar needs should expect to receive similar outcomes.

19. To reflect the increasing availability of personal budgets, we have also sought to incorporate the use of resource allocation systems (RAS) into the process of assessment and support planning. The guidance emphasises that rather than detracting from a council's duty to determine eligibility, a RAS should serve as a useful tool to give an approximate indication of what it may reasonably cost to meet a person's particular needs according to their individual circumstances. While implementation of a national resource allocation system is at this stage very unlikely, the Department of Health will continue to support councils to develop greater transparency in the way they allocate resources, to ensure a more equitable system for service users.

20. The draft revised guidance also sets out the key principles that should inform commissioning strategies to ensure that service users are able to draw upon high-quality, flexible services which maximise their ability to exercise independence, choice and control. It reminds councils of the benefits of investing in building the capacity of user-led

organisations, to enable service users and carers to play an active role in supporting the key aims of personalisation and choice.

Q.1: Do you think the guidance sufficiently integrates the application of eligibility criteria within the new policy context of personalisation, choice and control? If not, what changes would you propose?

Support for all citizens

21. *Cutting the Cake Fairly* described an expectation that social care and public services more generally should be organised in such a way that all citizens can expect some level of support and those with the greatest needs can access additional help. *Putting People First* emphasised that “every locality should seek to have a single community based support system focussed on the health and wellbeing of the local population”.
22. The draft revised guidance therefore recommends that councils should have in place strategies for “place-shaping” and promotion of well-being through universal services. This involves ensuring that people feel supported, included and able to participate in the community in which they live.
23. It is particularly important that councils are able to ensure provision of universal information and advice to support everyone living in their local community make informed choices, whatever the level of support they might require. The draft revised guidance therefore identifies the need to provide effective signposting and high-quality, accessible information and advice to help people make confident choices, whether or not they are eligible for support. It is recommended that councils should take steps to gain a better insight into the information needs of their local population and the most appropriate channels by which to reach all groups, including those most socially isolated.

Q.2: Do you think the guidance sufficiently outlines councils’ responsibilities towards their wider community as well as those individuals with eligible needs? If not, what changes would you propose?

Prevention and early intervention

24. The report by CSCI drew attention to the importance of prevention and early intervention, not just to avoid the intensification of needs and potentially higher costs at a later stage, but also to address wider social inclusion objectives and support community well-being. CSCI suggested that while the FACS framework published in 2003 mentioned the need for preventative strategies, prevention has tended to be seen as an add-on to the framework rather than a fully integrated component. This needs to change, in light of the aspiration described in *Putting People First* for:

“a locally agreed approach, which informs the Sustainable Community Strategy, utilising all relevant community resources especially the voluntary sector so that prevention, early intervention and enablement become the norm.”

25. The draft revised guidance therefore focuses much more on prevention and early intervention than its predecessor. It emphasises the importance of targeted interventions to support individuals at increased risk, joint health and social care planning and effective service and market development. The aim is to encourage local authorities to consider the needs of their wider population, which early evidence suggests may help avoid rising levels of need and associated costs at a later stage.

Q.3: Do you think the guidance sufficiently explains the need for councils to implement preventative strategies as well as the benefits that such strategies can bring? If not, what changes would you propose?

Eligibility criteria

26. To help overcome the difficulties of interpreting and implementing the current FACS criteria, CSCI proposed adopting three new eligibility criteria bands, based on “priorities for intervention” to replace the current four bands based on risks to independence. The Department of Health has been working closely with a stakeholder working group to consider the relative costs and benefits that such a change might entail.

27. Given the scale of change currently facing local authorities and in view of parallel discussions about future resource allocation arrangements instigated by the Care and Support Green Paper, we have taken the view that it would be more cost-effective and cause less upheaval to retain the current eligibility criteria and focus instead on fairer and more transparent implementation.

28. However, if councils are successful in devising strategies to support a broader base of citizens through investment in universal services and prevention, then there may be an argument for discontinuing the use of the fourth eligibility criteria band (low). This band is now hardly ever used. In view of the fact that almost all councils now fix their eligibility threshold somewhere above this band, it may be more practical for them to make available more universal and open-access services aimed at supporting the independence and well-being of those individuals who might once have fallen into this criteria band.

Q.4: Given the emphasis upon access to universal and preventative services as set out in *Putting People First*, do you think there is still a need for a fourth criteria band (low)? Please give reasons for your answer.

Fairness, clarity and transparency of implementation

29. At the heart of CSCI’s recommendations was the need to ensure that any revised guidance on social care eligibility should strengthen and maintain the principles of fairness, clarity and transparency. The draft revised guidance seeks to do so in a variety of ways, particularly by reinforcing the importance of effective first response and subsequent timely and proportionate assessment.

30. The guidance specifies that a council’s initial response to people approaching or referred to them for support is vital. It reminds councils of the risks associated with screening people

out of the assessment process before sufficient information is known about them. It recommends that timescales for assessments should be flexible to allow time for relationship-building and to ensure that the needs of individuals are considered in the longer-term. It also recommends that councils consider a period of intermediate care or enablement to maximise what the individual is able to achieve before a longer-term assessment of need is undertaken.

31. CSCI identified several groups at risk of marginalisation in the process to determine eligibility. The draft revised guidance highlights such groups and the importance of making sure that councils have in place sufficient expertise to understand and support people with a range of needs. The guidance also states that during assessment of need, assumptions should not be made about the capacity of families and carers to provide support. It reminds councils that carers have a right to request an assessment of their needs *as carers*, independent of the needs of the person they provide care for.
32. In particular, the draft revised guidance re-emphasises that decisions as to who gets local authority support should be made after an assessment, which should be centred on the person's aspirations and support needs, involving both the person seeking support and their carers (with self-assessment as a key tool for doing so). Information should be provided throughout the process to ensure that it is transparent and understandable for the person seeking support and their carers.
33. Assessment of need should follow a human-rights based approach. This means that the evaluation of "risks to independence and well-being" should relate to all areas of life, so that with the exception of life-threatening circumstances or serious concerns about safeguarding, there will be no hierarchy of needs or outcomes.
34. Following CSCI's concerns that people are being asked about their financial resources prior to any assessment of need and consequently being diverted from the system too early, the draft revised guidance restates the point made in the 2003 guidance that any assessment of a person's financial situation must not be made until after there has been a proper assessment of needs.

Q.5: Do you think the guidance sufficiently underlines the principles of fairness, consistency and transparency in the process for determining eligibility for social care? If not, what changes would you propose?

Q.6: Do you think the guidance itself is sufficiently transparent and understandable for both health and social care professionals and people seeking support? If not, what changes would you propose?

Equalities

35. Revising the FACS guidance presents an important opportunity to evaluate what implications equality and human rights might have for eligibility. The concept of equality of access to services goes beyond merely requiring services not to overtly discriminate against people on the basis on faith, beliefs, sexuality, colour, ethnicity, disability or any other criterion. It must also be the case that in practice the eligibility criteria for social care do not operate in a way that discriminates implicitly. The draft guidance also reminds

councils of their statutory duties to have due regard to the need to promote equality in the areas of gender, disability and race.

36. A partial Equality Impact Assessment has been published alongside this consultation. To inform a full Equality Impact Assessment, we would welcome views on how the revised guidance can promote equality and ensure that all citizens, regardless of age, race or ethnicity, disability, religion or belief, gender, sexual orientation or socio-economic status can feel reassured that their specific needs will be considered and that they are given appropriate information to make the right choices for them.

Q.7: To what extent do you think the revised guidance will have a positive impact on equality? Is there anything else that you would like to see in the guidance to manage any adverse impact and to promote positive impact?

Costs and benefits

37. A consultation stage impact assessment has been made available alongside this document, which outlines the projected impact of the revised guidance – both for local authorities implementing the guidance and for people seeking support. An updated final stage impact assessment will be published following the consultation alongside the final version of the revised guidance. We would therefore welcome views about the projected costs and benefits of the revised guidance, monetary or otherwise.

38. It is suggested that revising the FACS guidance will have the following benefits:

- Better outcomes from assessment for individuals seeking support;
- Better signposting and increased access to information and advice;
- Strategies for prevention and early intervention to help people maintain independence and well-being for longer;
- More consistent alignment with the personalisation agenda.

39. Realising such benefits may incur financial costs, particularly in the early stages of implementation where councils may need to make adjustments to their systems and the way in which their social care staff guide people seeking support through the assessment and support planning process. It is possible that the publication of revised guidance may lead to increased numbers of people approaching the council for support, meaning that councils will need to undertake more assessments. In addition, improving outcomes for the wider community may require a shift in investment strategies, to support the development of universal services, information and advice, and prevention and early intervention. However, while evidence about the cost benefits of investment in these areas is still at an early stage in development, initial indications suggest that broadening the focus of commissioning in this way could potentially lead to a reduction in demand for services at a later stage.

40. The revision of the FACS guidance has been undertaken specifically to support the objectives of the Transforming Adult Social Care programme set out in *Putting People First*.

As such, we envisage that costs incurred to local authorities through changes to the guidance should be met through the Social Care Reform Grant.⁴

Q.8: Do you have any comments about the costs and benefits (monetary or otherwise) that the revised guidance will involve? Do you foresee any impact on local authorities or people seeking support that we have not identified?

⁴ The Social Care Reform Grant provides £520 million over three years (2008-2011) to enable councils to invest in the necessary system and process development to support transformation. The Grant is intended to provide specifically for the range of process reengineering, capability and capacity building activities required to redesign social care systems.

How to respond

41. Consultation responses are sought in particular on the questions set out in the text and repeated below but responses on any other points will also be welcomed. A template has been provided (please see the website) for your responses.

42. Please send your response template to:

Social.care.eligibility@dh.gsi.gov.uk

Or write to: Social Care Eligibility consultation
 Department of Health
 Room 118
 Wellington House
 133 – 155 Waterloo Road
 London SE1 8UG

43. Responses should be sent by **6 October 2009**. Please let us know if you would like us to acknowledge receipt of your response (acknowledgements will be by email).

Annex A – Consultation Questions

Q.1: Do you think the guidance sufficiently integrates the application of eligibility criteria within the new policy context of personalisation, choice and control? If not, what changes would you propose?

Q.2: Do you think the guidance sufficiently outlines councils' responsibilities towards their wider community as well as those individuals with eligible needs? If not, what changes would you propose?

Q.3: Do you think the guidance sufficiently explains the need for councils to implement preventative strategies as well as the benefits that such strategies can bring? If not, what changes would you propose?

Q.4: Given the emphasis upon access to universal and preventative services as set out in *Putting People First*, do you think there is still a need for a fourth criteria band (low)? Please give reasons for your answer.

Q.5: Do you think the guidance sufficiently underlines the principles of fairness, consistency and transparency in the process for determining eligibility for social care? If not, what changes would you propose?

Q.6: Do you think the guidance itself is sufficiently transparent and understandable for both health and social care professionals and people seeking support? If not, what changes would you propose?

Q.7: To what extent do you think the revised guidance will have a positive impact on equality? Is there anything else that you would like to see in the guidance to manage any adverse impact and to promote positive impact?

Q.8: Do you have any comments about the costs and benefits (monetary or otherwise) that the revised guidance will involve? Do you foresee any impact on local authorities or people seeking support that we have not identified?

Annex B – Consultation Process

1. How we will respond

The Department will report back on the responses to the consultation and seek to take account of them as the final revised guidance is developed for distribution to local authorities.

The consultation document is also supported by a consultation stage Impact Assessment including an initial Equality Impact Assessment.

You have been invited to comment on equality issues relating to the proposed revised guidance. Both the impact and the equality impact assessment will be revised following the consultation in light of comments received.

2. Criteria for consultation

This consultation follows the Government's Code of Practice on Consultation. This Code sets out what people can expect from the Government when it runs formal, written consultation exercises on matters of policy or policy implementation.⁵

In particular we aim to:

- consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at a stage where there is scope to influence the policy outcome;
- be clear about what our proposals are, who may be affected, what questions we want to ask, the expected costs and benefits of the proposals and the timescale for responses;
- ensure that our consultation is clear, concise and widely accessible;
- keep the burden of consultation to a minimum;
- ensure that we provide feedback regarding the responses received and how the consultation process influenced the development of the policy;
- monitor our effectiveness at consultation including through the use of a designated consultation co-ordinator; and
- ensure our consultation follows better regulation best practice, including carrying out a consultation stage Impact Assessment.

3. Comments on the consultation process itself

If you have concerns or comments which you would like to make relating specifically to the consultation process itself please contact:

⁵ The code can be found on the Department for Business, Innovation and Skills website - <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

Consultations Coordinator
Room 3E48, Quarry House
Quarry Hill
Leeds
LS2 7UE

Email: consultations.co-ordinator@dh.gsi.gov.uk

Please do not send consultation responses to this address.

4. Confidentiality of information

We manage the information you provide in response to this consultation in accordance with the Department of Health's **Information Charter**.

Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

5. Summary of the consultation

A summary of the response to this consultation will be made available within three months of the end of the live consultation period and will be placed on the Department of Health consultations website page at:

<http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/index.htm>



Prioritising need in the context of *Putting People First: A whole system approach to eligibility for social care*

*Guidance on Eligibility Criteria for Adult Social Care,
England 2009 (consultation stage)*

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| Policy | Estates |
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| Document Purpose | Policy |
| Gateway Reference | 12234 |
| Title | Consultation on the revision of the Fair Access to Care Services guidance |
| Author | Department of Health |
| Publication Date | 14 Jul 2009 |
| Target Audience | Local Authority CEs, Directors of Adult SSs, Directors of Finance, Communications Leads, Directors of Children's SSs |
| Circulation List | Voluntary Organisations/NDPBs |
| Description | Following CSCI's independent review of the application of eligibility criteria for social care, we are now putting draft revised guidance on social care eligibility out to consultation. The aim of the revised guidance is to support fairness, transparency and consistency of application and to reflect the increased focus on personalisation and prevention as set out in Putting People First. |
| Cross Ref | CSCI, Cutting the Cake Fairly: CSCI review of eligibility criteria for social care |
| Superseded Docs | N/A |
| Action Required | Responses to the consultation on the draft revised guidance should be sent to social.care.eligibility@dh.gsi.gov.uk |
| Timing | Consultation period of 12 weeks |
| Contact Details | Social Care Eligibility Consultation Social Care Policy & Innovation Room 118, Wellington House 133 -155 Waterloo Road London SE1 8UG 0207 972 4097 |
| For Recipient's Use | |

Prioritising need in the context of *Putting People First: A whole system approach to eligibility for social care*

*Guidance on Eligibility Criteria for Adult Social
Care, England 2009 (consultation stage)*

Prepared by Department of Health – Social Care Policy & Innovation

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Introduction

Context

1. The Fair Access to Care Services (FACS) framework was introduced six years ago to address inconsistencies across the country about who gets support, in order to provide a fairer and more transparent system for the allocation of social care services.¹ The principle behind FACS was that there should be one single process to determine eligibility for social care support, based on risks to independence over time. Its aim was to provide a framework to enable councils to stratify need for social care support in a way that is fair and proportionate to the impact it will have on individuals and the wider community, taking into account local budgetary considerations. Despite significant developments in social care policy since 2003, in this respect the original principles guiding the FACS framework still very much hold firm.
2. Public funding for social care will always be limited in the face of demand and such resources as are available should therefore be allocated according to individual need in a way that is as fair and transparent as possible. There is evidence that in recent years, financial pressures have influenced local authorities to shift their focus towards those groups with the highest needs. Many councils have raised the level of their eligibility threshold, leading to concerns that some people who ought to be receiving support are now being ruled as ineligible. This is despite evidence indicating that limiting access through raising eligibility criteria has only a modest and short-term effect on expenditure.²
3. At the same time as many councils have been seeking to manage their resources by tightening eligibility criteria, a programme for the significant transformation of social care services has been put into place. This reform programme is described in the cross-sector agreement *Putting People First: a shared vision and commitment to the transformation of Adult Social Care*.³ *Putting People First* sets out a shared ambition for radical reform of public services, promoting personalised support through the ability to exercise choice and control against a backdrop of strong and supportive local communities. To broaden their focus beyond those with the highest needs, councils should ensure that the application of eligibility criteria is firmly situated within this wider context of personalisation, including a strong emphasis on prevention and early intervention. In practice, this may mean that councils now need to make adjustments where necessary to ensure a seamless approach between their personalisation programmes and the determination of eligibility for social care.
4. *Putting People First* makes it clear that personalisation will only flourish where investment is made in all aspects of support including:

¹ Department of Health, *Fair Access to Care Services – guidance on eligibility criteria for adult social care* (2003)

² Commission for Social Care Inspection and Audit Commission, *The effect of Fair Access to Care Services Bands on Expenditure and Service Provision* (2008)

http://www.carestandards.gov.uk/PDF/Tracked%20Audit%20Commission%20report%20on%20FACS%2013%20August_ty_peset.pdf

³ HM Government, *Putting People First: a shared vision and commitment to the transformation of Adult Social Care* (2007)
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081118

- *Universal services* – the general support available to everyone within their community including transport, leisure, education, employment, health, housing, community safety and information and advice.
 - *Early intervention and prevention* – helping people live at home independently, preventing them from needing social care support for as long as possible and potentially creating future cost efficiencies.
 - *Choice and control* – giving people a clear understanding of how much is to be spent on their care and support and allowing them to choose how they would like this funding to be used to suit their needs and preferences.
 - *Social capital* – fostering strong and supportive communities that value the contribution that each of their citizens can make.
5. These themes also run through the recently published Care and Support Green Paper which sets out a number of longer-term proposals to meet the challenges of rising demand and expectation facing the current system. Building on the programme for reform set out in *Putting People First*, the Care and Support Green Paper seeks to ensure that care is high quality and cost-effective; that people have choice and control over the care they receive and that the funding system is fair, sustainable, and affordable for individuals and the State.
6. To effectively deliver the transformation envisaged in *Putting People First* and beyond, councils need to have both a strong focus on the overall well-being of their communities and also a recognition that people should be helped in a way that may prevent, reduce or delay their need for social care support. This shift in focus to community well-being and preventative approaches is also fundamental to the effective application of eligibility criteria. There is a growing evidence base that interventions can prevent or delay people entering the social care system and therefore produce better outcomes for people at a lower overall cost.
7. The development of accessible and universal services will be vital for those individuals whose needs do not meet the council's eligibility criteria but who still need a certain level of support in order to maintain their independence and well-being. In particular, everyone should be able to access high-quality information and advice to point them in the right direction for help.
8. The Commission for Social Care Inspection (CSCI) *State of Social Care* report 2006-07 noted the trend for councils to raise their eligibility thresholds and the potential implications for people seeking support.⁴ In light of these findings, CSCI was asked in January 2008 by the then Minister for Care Services to review the application of eligibility criteria and their impact on people. The subsequent report *Cutting the Cake Fairly: CSCI review of eligibility criteria for social care* was published in October 2008.⁵
9. Recognising that some method to prioritise the limited resources available will always be necessary, *Cutting the Cake Fairly* makes several recommendations for making the implementation of eligibility criteria more equitable and effective. In the longer-term future, the recently published Care and Support Green Paper may have significant implications for

⁴ CSCI, *State of Social Care in England 2006-07*

http://www.carestandards.gov.uk/about_us/publications/state_of_social_care_07.aspx

⁵ CSCI, *Cutting the Cake Fairly: CSCI review of eligibility criteria for social care* (2008)

http://www.cqc.org.uk/_db/_documents/FACS_2008_03.pdf

the way in which social care is delivered.⁶ However, while longer-term options are being considered and debated, there are still important issues to address within the current system, as made very clear by CSCI's review, and it is for this reason that this guidance is now being issued.

Aim of this guidance

10. The aim of this guidance is to assist councils with adult social services responsibilities (CASSRs) to determine eligibility for adult social care, in a way that is fair, transparent and consistent, accounting for the needs of their local community as a whole as well as individuals' need for support.
11. This guidance is issued under section 7(1) of the Local Authority Social Services Act 1970 and replaces *Fair access to care services - guidance on eligibility criteria for adult social care* which was issued in 2003. It has been written in light of recommendations made in CSCI's review *Cutting the Cake Fairly* to support fairer, more transparent and consistent implementation of the criteria. Practice guidance to support effective implementation will be published separately.
12. The revised guidance also aims to set social care eligibility criteria firmly within the context of both the new direction of policy established by *Putting People First*, and more generally within a broader theme of public service reform. Priorities for this reform include greater choice and control, better access to public services and information, empowerment of service users at local level and the definition of user satisfaction as a key measure of success.⁷ In this way, Government can work to support its citizens' aspirations for "public services to be on their side: fitting around their needs and lives, giving them security, control, information, and letting them know what they are entitled to."⁸
13. We recognise that the Care and Support Green Paper currently put forward for consultation may have potential implications for how social care eligibility is determined in the future, including reconsideration of the balance between national and local responsibilities for assessment. However, this guidance reflects the current responsibility held by local authorities for identifying local priorities and allocating their own resources accordingly.
14. This means that there may be variation in the response of different councils to individuals with similar levels of need. However, if councils base their approach to needs on achieving outcomes rather than providing specific services, then people with similar needs within the same local authority area should expect to receive a similar quality of outcome, according to the individual circumstances and aspirations of each individual. Councils should ensure that each decision about a person's eligibility for support is taken following appropriate assessment, involving both the person seeking support and the people around them assisting with their care and choices. This assessment should be based on the individual's needs, following which planning for support should be undertaken to identify what outcomes the individual would like to achieve and how they might use the resources available to them to do so.

⁶ <http://www.careandsupport.direct.gov.uk/>

⁷ Cabinet Office Strategy Unit, *Excellence and Fairness: achieving world class public services* (2008) http://www.cabinetoffice.gov.uk/strategy/publications/excellence_and_fairness/report.aspx

⁸ HM Government, *Working together: Public services on your side* (2009) <http://www.hmg.gov.uk/workingtogether.aspx>

15. Councils should also ensure that in applying eligibility criteria to prioritise individual need, they are not neglecting the needs of their wider population. Eligibility criteria should be explicitly placed within a much broader context whereby public services in general are well-placed to offer all individuals some level of support. For example, people who do not meet the eligibility threshold should still be able to expect adequate signposting to alternative sources of support. Such arrangements will improve outcomes for the wider population and could help some individuals avoid or delay having to rely on health or social care services for support.

Links to other legislation and guidance

The Mental Capacity Act

16. The Mental Capacity Act 2005 provides a statutory framework for acting and making decisions on behalf of people who lack capacity to make particular decisions for themselves, or who have capacity and want to make preparations for a time when they may lack capacity in the future. It sets out who can act and take decisions on behalf of a person who lacks capacity, in which situations, and how they should go about this.
17. The Act sets out five principles which must be adhered to when working with people who lack capacity to make certain decisions. Councils are expected to follow these principles carefully during assessment and supporting planning.⁹
18. Councils should also consider where the use of Independent Mental Capacity Advocates (IMCAs) and other advocates – such as dementia advocates or learning disability advocates – might be appropriate to ensure that as far as possible people are supported to be involved in the decision-making process.

Health

19. An individual aged over 18 who needs care to be provided over an extended period of time to meet physical or mental health needs which have arisen as a result of disability, accident or illness (“continuing care”) may require services from NHS bodies and/or local authorities. Both NHS bodies and local authorities therefore have a responsibility to ensure that the assessment of eligibility for, and provision of, continuing care, takes place in a timely and consistent fashion. Where an individual is eligible for NHS CHC, it is the responsibility of the PCT to provide appropriate services to meet the needs of an individual; the package to be provided is that which the PCT think is appropriate for the individual’s needs. However, this does not prevent a local authority from providing further services, as it sees fit. Reference should be made to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (June 2007).¹⁰ This is currently under review to ensure that access to NHS Continuing Healthcare is as fair and transparent as possible and that assessment for eligibility continues to support this aim.

⁹ Councils should refer to the *Mental Capacity Act Code of Practice* (2007) for further guidance about putting the Act into practice - <http://www.publicguardian.gov.uk/mca/code-of-practice.htm>

¹⁰ Department of Health, *The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care* (2007) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_076288

Children and Families

20. In the course of assessing an individual's needs, councils should recognise that adults who have parenting responsibilities for a child under 18 years may require help with these responsibilities. In this respect, in addition to the provision of adult care assessment and support, councils should be prepared to address their duty under the Children Act 1989 to safeguard and promote the welfare of children in their area. The Children Act 1989 also specifies the need to take the views and interests of children into account.¹¹
21. Under the Carers and Disabled Children Act 2000, parents of disabled children can also request an assessment for the purposes of ascertaining whether they are in need of services under section 17 of the Children Act 1989. The 2000 Act also amended the 1989 Act to the effect that direct payments could be made to parents for the purposes of arranging care for their disabled children and in some cases to older disabled children.

Discrimination

22. When drawing up eligibility criteria for social care, councils should have due regard to their race, gender and disability duties, which are broadly:
- a duty, when exercising their functions, to eliminate unlawful discrimination and to promote equality of opportunity, and good relations, between persons of different racial groups (section 71 of the Race Relations Act 1976);
 - a general duty (section 49A of the Disability Discrimination Act 1995) to have due regard to:
 - the need to eliminate discrimination that is unlawful under the Disability Discrimination Act 1995;
 - the need to eliminate harassment of disabled persons that is related to their disabilities;
 - the need to promote equality of opportunity between disabled persons and other persons;
 - the need to take account of disabled persons' disabilities even where that involves treating disabled people more favourably than other persons;
 - the need to promote positive attitudes towards disabled persons; and
 - the need to encourage participation by disabled persons in public life; and
 - a general duty to have due regard to the need to eliminate unlawful discrimination and harassment and the need to promote equality of opportunity between men and women (section 76A of the Sex Discrimination Act 1975).
23. These duties are supplemented by more specific duties in secondary legislation.
24. The courts have considered the nature of public authorities' equality duties, in particular the meaning of the term "have due regard". Councils should note the case of *Chavda v Harrow LBC* [2007] EWHC 3064 (Admin) in which the council's decision to restrict adult care

¹¹ For more information on the Children Act and related legislation, see <http://www.dcsf.gov.uk/childrenactreport/>

services to people with critical needs was challenged. A summary of an equality impact assessment simply stating that implementing the proposal could result in potential conflict with the Disability Discrimination Act 1995 had been submitted to the council in preparation for its decision. The court found that this was insufficient to enable the council to comply with the duties in the 1995 Act and that the decision was therefore unlawful. There was no evidence that the legal duty and its implications had been brought to the attention of the decision-makers, who should have been informed not just that the decision raised implications for equality, but of the particular obligations imposed by the law in relation to those issues.

Investing in prevention and well-being

25. Prevention and early intervention are at the very heart of the vision for social care set out in *Putting People First*, and fully endorsed by the Care and Support Green Paper. *Putting People First* says that there needs to be “a locally agreed approach...utilising all relevant community resources especially the voluntary sector so that prevention and early intervention and enablement become the norm.”¹²
26. Although the duty placed on councils to meet social care needs only applies to people who have been assessed as having eligible needs, councils should also consider the significant benefits of addressing the needs of their local community more generally. There is a growing evidence base around interventions that can prevent or delay older people in particular from needing social care, although much work still needs to be done in this area.¹³ Aside from the potential cost savings to be made through preventative strategies, it would appear that simple, low cost interventions may have considerable impact on day-to-day quality of life.
27. In *Cutting the Cake Fairly*, CSCI identified evidence that raising eligibility thresholds without putting in place adequate preventative strategies often leads to a short term dip in the number of people eligible for social care followed soon after by a longer-term rise. Councils should therefore avoid using eligibility criteria as a way of restricting the number of people receiving any form of support to only those with the very highest needs. Rather, they should consider adopting a strong preventative approach to help avoid rising levels of need and costs at a later stage. Early interventions can also improve general community well-being and wider social inclusion.
28. To be most effective, preventative strategies should be embedded at every level of the social care system, informed by assessment of local needs and created in partnership with other relevant local agencies. Such strategies might include the following:

Place-shaping and promotion of well-being through universal services

- This involves ensuring that people feel supported, included and able to participate in the community in which they live. It might include activities to address social inclusion such as luncheon clubs or befriending; healthy living advice and support; employment advice and support; physical recreation and leisure pursuits; community safety; housing support and transport.
- Only a minority of these universal services will be funded through social care and many will be reliant on community-based provision. In considering their local population's needs, councils might therefore wish to consider investment in voluntary and community

¹² Further guidance on preventative approaches is provided by *Making a strategic shift towards prevention and early intervention: Key messages for decision makers* (October 2008)

<http://networks.csip.org.uk/Prevention/type/Resource/?cid=4421>

¹³ *National Evaluation of the Partnerships for Older People Projects (POPP) programme* (October 2008)

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_079422 The evaluation is ongoing and further final findings will be reported in autumn 2009.

organisations which can deliver universal and open-access services. Many councils already appear to be taking this approach, as evidenced by CSCI's *State of Social Care* report 2007-08, which noted that grants made by social services to voluntary organisations providing services to adults had increased by 7% over the previous year.¹⁴

- Promoting access to employment can be a highly effective way of improving social inclusion for disabled people. Councils should seek to ensure that disabled people can access high quality support and advice about employment which is appropriate to their needs.
- Whoever they are provided by, universal services work best when everyone can get the information, advice and support they need to be able to access them at the right time and in the right way. The Care and Support Green Paper also places a high level of emphasis on access to the right information and advice to help people know what they are entitled to and what support is available in their local area.

Targeted interventions to support individuals at increased risk

- This approach aims to identify and support people at risk of specific health conditions or events, or those with existing low-level social care needs. Councils might find it effective to use predictive tools that can proactively identify and target people at risk or people potentially able to benefit from signposting and early decision-making.¹⁵
- Targeted interventions might include information and advice to support people in making decisions and access to advocacy and brokerage to assess care options. If people are supported to make informed choices at an early stage, the risk of needs escalating in the future may be reduced.
- Early evidence also suggests that timely investment in re-ablement services, therapy and intermediate care (all closely connected with housing services) can reduce the number of older people requiring ongoing social care support.¹⁶ Councils may also wish to work with local health services to make available recovery services for people with mental health disorders and rehabilitation for people with newly-acquired disabilities.
- Councils may also wish to consider commissioning for assistive technologies, designed to help people with long-term conditions or support needs to maintain their independence and to reduce unnecessary hospital and care home use. An evaluation of the Telecare Development Programme commissioned by the Scottish Government suggests that telecare can provide opportunities to promote independence and improve the quality of life of service users and carers, particularly for older people and those with dementia.¹⁷ The Nuffield Trust is also currently leading a multidisciplinary evaluation of the impact of telecare and telehealth on the use of NHS and social services, and the associated costs.¹⁸

¹⁴ CSCI, *State of Social Care in England 2007-08*

http://www.cqc.org.uk/db/documents/SOSC08%20Report%2008_Web.pdf

¹⁵ The King's Fund, *Predicting who will need costly care: How best to target preventative health, housing and social problems* (2007) http://www.kingsfund.org.uk/publications/other_work_by_our_staff/predicting_who.html

¹⁶ Care Services Efficiency Delivery Programme, *Research into the Longer Term Effects/Impacts of Re-ablement Services* (2007)

¹⁷ York Health Economics Consortium, *Evaluation of the Telecare Development Programme* (2009)

<http://www.jitscotland.org.uk/action-areas/telecare-in-scotland/telecare-publications/>

¹⁸ The Nuffield Trust, *Evaluation of the Whole System Demonstrator Project*

<http://www.nuffieldtrust.org.uk/projects/index.aspx?id=294> The evaluation is ongoing and due to be completed at the end of 2010.

- In recognition of the benefits of re-ablement, telecare and targeted information, the Care and Support Green Paper puts forward proposals for making targeted support services more universally available to help people regain confidence and retain independence in their own home.

Integrated services and joint planning

- It has long been recognised that coordination of care can lead to increased customer satisfaction by simplifying someone's journey within complex and often confusing systems.¹⁹ As well as improving outcomes for individuals, evidence may suggest that joint approaches between health and social care can also reduce demand on both systems. As well as contributing to longer-term independence and well-being for example, investment in re-ablement and intermediate care can prevent hospital admission or post hospital transfer to long-term care, or reduce the level of ongoing home care support required. Social care interventions can lead to reductions in the need for health services, just as health interventions can also reduce the need for social care services.
- Joint health and social care planning supports the principle set out in the NHS Constitution which commits the NHS to working “across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population.”²⁰ The Care and Support Green Paper sets out an ambition for individuals to be placed at the centre of a system which brings together health, housing and social care services and facilitates better integration between social care and other public services.

29. Establishing an effective strategy for prevention and early intervention will also be facilitated by:

- **A holistic, whole-system approach:** Prevention should not be seen as the sole preserve of adult social services or the NHS, rather it is most effective when brought about through partnerships between different parts of a council and between other related agencies, including the voluntary sector. Councils will need to continue to work with health partners in their Local Strategic Partnerships to undertake Joint Strategic Needs Assessments (JSNAs), which will in turn be informed by, and support other needs assessments and plans (such as the Sustainable Community Strategy and local housing strategies). This reflects the shared responsibilities for health and wellbeing of citizens, families and communities as set out in the NHS Operating Framework.²¹
- **Effective service and market development:** This means working with service providers, health partners and user-led, voluntary and community organisations to stimulate the development and provision of sufficient types of services and support, which should relate not just to personal care needs but to overall quality of life. Councils should have in place strategies to foster, stimulate and develop user-led organisations

¹⁹ The Nuffield Trust, *Integrated Care: Lessons from Evidence and Experience* (2008)

<http://www.nuffieldtrust.org.uk/publications/detail.aspx?id=145&prID=519>

²⁰ NHS Constitution for England (January 2009)

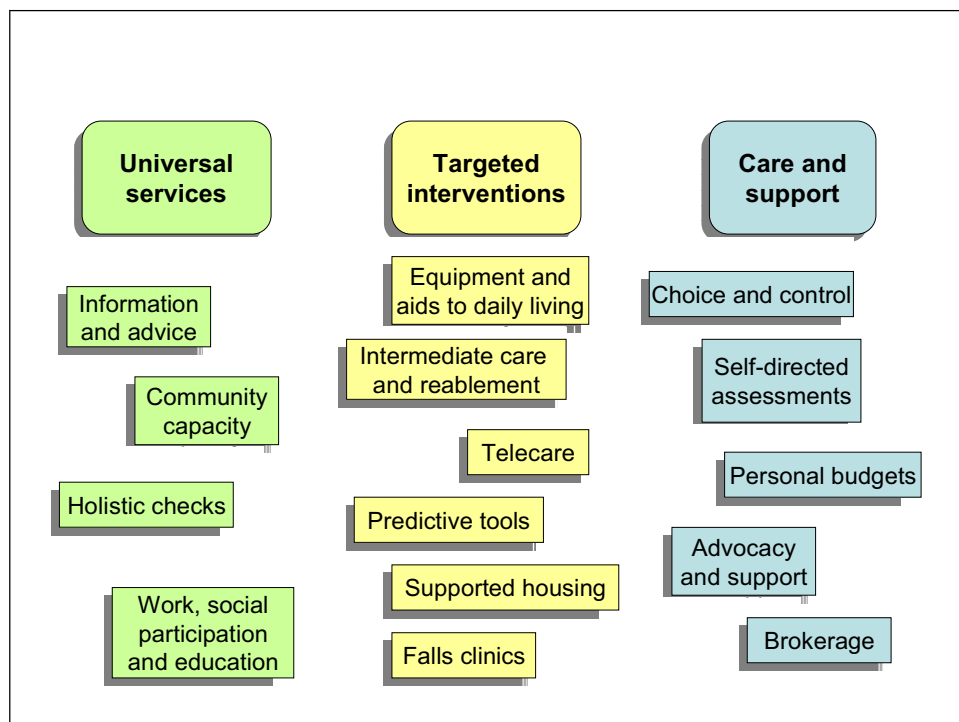
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093419

²¹ *The Operating Framework for the NHS in England 2009/10: high quality care for all*

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_091445

to help them become key delivery partners within their local communities. Developing a strong, diverse and responsive market will require a good understanding of local need and the local market informed by the JSNA and the wider Sustainable Communities Strategy as well as data collected on the National Indicator Set.

- **Addressing barriers to social inclusion:** To ensure that older and disabled people can access universal services, information and advice and can participate as active members of their communities, it is vital that councils actively engage their citizens in commissioning for transformation. By involving people in planning and monitoring of services councils can help ensure that they are meeting their legal duties on equality and human rights for their community as a whole.



29. Many components of a council's preventative strategy can be implemented without significant additional resources; others will involve the reshaping of existing resources. Some components may require further investment, such as resources made available to councils from 2008 to 2011 through the Social Care Reform Grant, specifically allocated to support the delivery of transformation.²² Directors of Finance should consider the potential longer-term benefits brought about by additional investment earlier in the system, including investment in local user-led, community and voluntary sector organisations to build a broader economy of support.

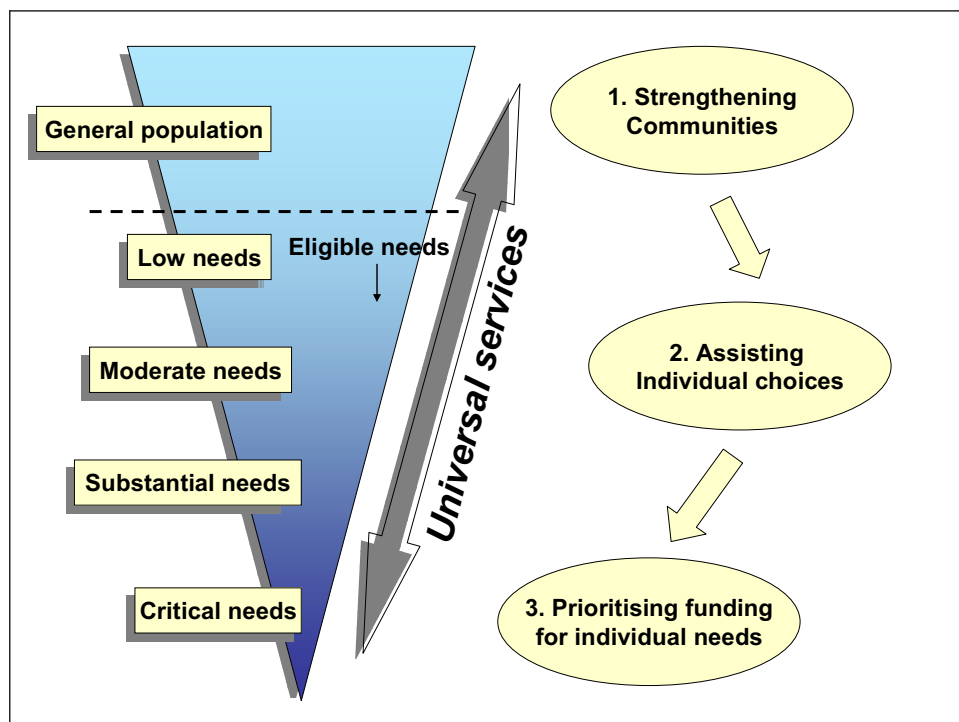
30. Alongside their published eligibility criteria, councils should make available their community-wide strategy for prevention and early intervention addressing the issues above.

²² Department of Health, *LAC(DH)(2009)1: Transforming adult social care* (March 2009)
http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/DH_095719

Eligibility for social care

31. It is clear therefore that councils need to consider the needs of their wider population and to put into place support strategies to reduce the number of people entering the social care system in the first place. Before proceeding to determine eligible needs, councils should consider whether an individual might benefit from a short period of re-ablement or intermediate care to increase what they are able to do for themselves before an assessment of longer-term need is undertaken.

32. Inevitably, there will always be individuals whose needs are such that they will require more specific types of support. The most effective community support systems will be ones in which all citizens can expect some level of support and those with the greatest needs can access additional help.



Setting eligibility criteria

33. In general, councils may provide community care services to individual adults with needs arising from physical, sensory, learning or cognitive disabilities and impairments, or from mental health difficulties. In this regard, councils' responsibilities to provide such services are principally set out in the:

- National Assistance Act 1948
- Health Services and Public Health Act 1968
- Chronically Sick and Disabled Persons Act 1970
- National Health Service Act 2006
- Mental Health Act 1983

34. In setting their eligibility criteria, councils should take account of their own resources, local expectations, and local costs. Councils should take account of agreements with the NHS, including those covering transfers of care and hospital discharge. They should also take account of other agreements with other agencies, as well as other local and national factors.
35. Although final decisions remain with councils, to promote greater clarity and transparency, they should consult service users, carers and appropriate local agencies and organisations about their eligibility criteria and how information about the criteria is presented and made available. Eligibility criteria should be made readily available and accessible to service users, the public more generally, and other relevant local bodies.
36. Councils should review their eligibility criteria in line with their usual budget cycles. Such reviews may be brought forward if there are major or unexpected changes, including those with significant resource consequences. However, councils should be mindful of the evidence cited above which suggests that raising eligibility thresholds without a parallel investment in preventative strategies may lead to increasing demand for services in the longer term.

Interpretation

37. In this guidance, the issues and support needs that are identified when individuals approach, or are referred to, councils seeking social care support are defined as “**presenting needs**”. Those presenting needs for which a council will provide help because they fall within the council’s eligibility criteria, are defined as “**eligible needs**”. Eligibility criteria therefore describe the full range of eligible needs that will be met by councils, taking their resources into account. Councils should work with individuals to identify the outcomes they wish to achieve, and where unmet needs are preventing the realisation of such outcomes.

Determining eligibility in respect of individuals

38. An individual’s eligibility for statutory support is determined following assessment. The NHS and Community Care Act 1990 specifies that where someone for whom a council may provide or commission community care services appears to the council to be in need of such services, the council has a duty to carry out an assessment of that person’s needs for those services. Councils must not exempt any person who approaches or is referred to them for help from the process to determine eligibility for social care, regardless of their age, circumstances or the nature of their needs. To this effect, councils should avoid being too rigid in their categorisation of “client groups”. Rather needs should be considered on a person-centred, individual basis.
39. As part of the assessment, information about an individual’s presenting needs and related circumstances should be established and recorded. The NHS and Community Care Act 1990 requires that, having conducted the assessment, councils must decide whether the person’s needs call for the provision by it of any community care services. Councils can use the eligibility criteria framework set out below to identify the needs which call for the provision of services (eligible needs), according to the risks to independence and well-being

both in the immediate and longer-term. These eligible needs should also be recorded and agreed wherever possible, by the individual or their representatives.

40. Once eligible needs are identified, councils should take steps to meet those needs in a way that supports the individual's aspirations and the outcomes that they want to achieve. (Support may also be provided to meet other presenting needs as a consequence of, or to facilitate, eligible needs being met.) Throughout the process of assessment, people should be supported and encouraged to think creatively about how their needs can best be met and how to achieve the fullest range of outcomes possible within the resources available to them.

41. Councils should use the following eligibility framework to describe those circumstances that make individuals eligible for help. The eligibility framework is graded into four bands, which describe the seriousness of the risk to independence and well-being or other consequences if needs are not addressed. The four bands are as follows:

Critical - when

- life is, or will be, threatened; and/or
- significant health problems have developed or will develop; and/or
- there is, or will be, little or no choice and control over vital aspects of the immediate environment; and/or
- serious abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out vital personal care or domestic routines; and/or
- vital involvement in work, education or learning cannot or will not be sustained; and/or
- vital social support systems and relationships cannot or will not be sustained; and/or
- vital family and other social roles and responsibilities cannot or will not be undertaken.

Substantial – when

- there is, or will be, only partial choice and control over the immediate environment; and/or
- abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out the majority of personal care or domestic routines; and/or
- involvement in many aspects of work, education or learning cannot or will not be sustained; and/or
- the majority of social support systems and relationships cannot or will not be sustained; and/or
- the majority of family and other social roles and responsibilities cannot or will not be undertaken.

Moderate – when

- there is, or will be, an inability to carry out several personal care or domestic routines; and/or
- involvement in several aspects of work, education or learning cannot or will not be sustained; and/or
- several social support systems and relationships cannot or will not be sustained; and/or
- several family and other social roles and responsibilities cannot or will not be undertaken.

Low - when

- there is, or will be, an inability to carry out one or two personal care or domestic routines; and/or
- involvement in one or two aspects of work, education or learning cannot or will not be sustained; and/or
- one or two social support systems and relationships cannot or will not be sustained; and/or
- one or two family and other social roles and responsibilities cannot or will not be undertaken.

42. In constructing and using their eligibility criteria, and also in determining eligibility for individuals, councils should prioritise needs that have immediate and longer-term critical consequences for independence and well-being ahead of needs with substantial consequences. Similarly, needs that have substantial consequences should be placed before needs with moderate consequences and so on.

43. This evaluation should take full account of how needs and risks might change over time and the likely outcome if help were not to be provided. Assessment is often most effective when conducted as an iterative and ongoing process rather than a one-off event.

44. Councils should also consider that people at all levels of need, regardless of whether or not they have eligible needs or fund their own care, may be able, with the right type of tailored intervention, to reduce or even eliminate their dependency on social care support. Support plans should be constructed with such outcomes in mind, focusing on what people will be able to achieve with the right help, rather than simply putting arrangements in place to stop things from getting any worse. Councils may therefore wish to consider broadening the range of support planning services on offer to target people who may not currently be eligible for services.

Applying eligibility criteria fairly and consistently

45. Councils should work with individuals to explore their presenting needs and identify what outcomes they would like to be able to achieve. In this way they can evaluate how the individual's presenting needs might pose risk to their independence and/or well-being, both in the immediate and longer-term. Councils should also consider with the individual any external and environmental factors that have caused, or exacerbate, the difficulties the individual is experiencing.

46. In particular councils will need to consider whether the individual's needs prevent the following outcomes from being achieved:

- Exercising choice and control;
- Health and well-being, including mental and emotional as well as physical health and well-being;
- Personal dignity and respect;
- Quality of life;
- Freedom from discrimination;
- Making a positive contribution;
- Economic well-being;
- Freedom from harm, abuse and neglect, taking wider issues of housing and community safety into account.

47. Councils should be aware that the “risks to independence and well-being” relate to all areas of life, and that with the exception of life-threatening circumstances or where there are serious safeguarding concerns, there is no hierarchy of needs. For example, needs relating to social inclusion and participation should be seen as just as important as needs relating to personal care issues, where the need falls within the same band. A disabled person who is facing significant obstacles in taking up education and training to support their independence and well-being should be given equal weight to an older person who is unable to perform vital personal care tasks – and vice versa. Councils should make decisions within the context of a human rights approach, considering people’s needs not just in terms of physical functionality but in terms of a universal right to dignity and respect.

48. Councils should not assume that low-level needs will always be equated with low-level services or that complex or critical needs will always require complex, costly services in response. Someone with relatively low needs may still need more complex intervention in the short-term to counter the immediate risks to their independence and/or well-being. On the other hand, it may be that an individual’s independence and/or well-being is at immediate risk but that a simple one-off intervention, such as the provision of the right piece of equipment, could provide them with sufficient support to get back on track. CSCI also identified that carers are often willing to provide substantial amounts of personal care but can find it difficult to manage with household tasks at the same time. For this reason, councils should avoid being too restrictive about what kind of support should be made available if it can sustain the caring role and maintain independence and well-being in the longer-term.

49. Councils should ensure that a person’s needs are considered over a period of time, rather than at a single point, so that the needs of people who have fluctuating and/or long-term conditions are properly taken into account. Before final decisions are taken about longer-term needs for support, and whether those needs are eligible for local authority support, councils should always consider whether a period of re-ablement or intermediate care should be made available, in order to maximise what people can do for themselves before further assessment of needs is undertaken. This should also minimise the risk of premature decisions being taken about people’s long-term needs. Such services might be funded by the NHS or, alternatively, jointly with councils.

50. In addition to people with long-term or fluctuating conditions, councils should be aware that there are other groups whose disabilities are such that they are at risk of being overlooked in the assessment of eligible need. Such groups might include people who have very specific communication needs, or blind and partially sighted people who may be disadvantaged by assessors who are unaware of the impact of loss of vision. To maximise

what individuals are able to do for themselves, councils should consider the benefits of making available rehabilitation services to those who have newly acquired disabilities before undertaking an assessment of longer-term need. Others with “hidden” needs might include people with autistic spectrum conditions, whose support needs may not be as immediately apparent or easily understood as those of other client groups. The Government is committed to publishing a new national strategy for autism later this year, in recognition of the need for better understanding of the needs of people with autism and to support the development of high quality services tailored to their individual requirements.²³

51. People who access specialist services (such as mental health service users or people with learning disabilities) should also expect to receive an assessment of eligibility for mainstream support, like any other individuals seeking support. These groups should be supported by both health and social care teams, so that all their needs are appropriately addressed.

²³ http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/DH_095172

Response to first contact and assessment

52. Given the necessity of prioritising needs for social care, fair and transparent allocation of available resources depends upon effective assessment. Decisions as to who gets local authority support should be made after an assessment, which should be centred on the person's aspirations and support needs, involving both the person seeking support and their carers. When responding to and assessing people in need of assistance, councils should pay particular attention to the values set out in the General Social Care Council's Code of Practice.²⁴
53. Councils should not operate eligibility criteria to determine the complexity of the assessment offered; rather the depth and breadth of the assessment should be proportionate to individuals' presenting needs and circumstances.
54. Councils should provide an immediate response to those individuals who approach them, or are referred, for social care support in emergencies and crises. After this initial response, they should inform the individual that a fuller assessment will follow, and that support may be withdrawn or changed as a result of this assessment.
55. Once an individual's needs have been assessed and a decision made about the support to be provided, an assessment of their ability to pay charges should be carried out promptly, and written information about any charges payable, and how they have been calculated, should be communicated to the individual.²⁵ This means that once a person has been identified as having an eligible need, councils should take steps to ensure that those needs are met, regardless of the person's ability to contribute to the cost of these services.²⁶ An assessment of the person's ability to pay for services should therefore only take place after they have been assessed as having eligible needs. A person's ability to pay should only be used as a reason for not providing services in circumstances where a person has been assessed as needing residential care, the person has the means to pay for it and if the person, or someone close to them, is capable of making the arrangements themselves.²⁷

²⁴ General Social Care Council Codes of Practice for employers and social workers - <http://www.gsccl.org.uk/codes/>

²⁵ See paragraph 96 of *Fairer Charging Policies for home and other non-residential social care services practice guidance* (2003) - http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4117930

²⁶ See section 29 of the National Assistance Act 1948 and LAC(93)10 -

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/AllLocalAuthority/DH_4004121

Also section 2 of the Chronically Sick and Disabled Persons Act 1970.

²⁷ See paragraphs 9 and 10 of LAC(98)19 -

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/AllLocalAuthority/DH_4004080 Also section 21 of the National Assistance Act 1948.

First response

56. With reference to section 47(1) of the NHS and Community Care Act 1990, before starting a community care assessment councils should first ascertain whether a person appears to be in need of community care services.
57. Evidence suggests that the quality of response to a person's first contact with the council is crucial to the outcomes they later experience. However, submissions to the CSCI review and evidence from CSCI inspectors have raised concerns about the quality of this first response across councils. In particular, the review highlighted the inexperience of staff making judgements, that people's needs are often insufficiently explored and that people are screened out too early or not given adequate signposting to other sources of support.
58. Getting the initial response right can save time and costs on assessment later. Service improvements and significant efficiency savings can be made by streamlining the way in which individual cases are managed at the first point of contact. Several councils have found that putting in place a single access point for all new and current customers not only speeds up and simplifies the process for people approaching the council, but also frees up time for professional staff to focus on more complex cases.²⁸
59. Councils should, however, be aware of the risks of screening people out of the assessment process before sufficient information is known about them. Removing people from the process too early could have a significant impact upon their well-being as well as potential economic costs, as it may well lead to them re-entering the system at a later date with a higher level of need. To avoid such situations, the initial response to people seeking help must be effective. Councils will need to ensure that their staff are sufficiently trained and equipped to make the appropriate judgements needed to steer individuals seeking support towards either a more formal community care assessment, a period of re-ablement or more universal services, as appropriate to their particular needs and circumstances.
60. In particular, any assessment of a person's financial situation must not be made until after there has been a proper assessment of needs. In a survey undertaken by CSCI, one third of people who failed to get an assessment reported that they were told they did not meet their council's financial criteria.²⁹ From the beginning of the process, councils should make individuals aware that their individual financial circumstances will determine where or not they have to pay towards the cost of the support provided to them. However, an individual's financial circumstances should have no bearing on the decision to carry out a community care assessment. Neither should the individual's finances affect the level or detail of the assessment process.

Assessment

61. The purpose of assessment is to identify and evaluate an individual's presenting needs and how these needs impose barriers to that person's independence and/or well-being. Information derived from an individual's assessment should be used to inform decisions on eligibility. Where eligible needs have been identified, an appropriate support plan can then

²⁸ Care Services Efficiency Delivery Programme, *Initiative 007 – Access Management* (May 2007)

<http://www.csed.csip.org.uk/solutions/solutions/assessment--care-management/access-management.html>

²⁹ CSCI, *Cutting the Cake Fairly*.

be put together in collaboration with the individual, describing the support they will draw upon to overcome barriers to independence and well-being, both in the immediate and the longer term.

62. From their very first contact with the council, an individual seeking support should be given as much information as possible about the assessment process. As part of the self-directed support process, assessment should be carried out as a collaborative process, in a way that is both transparent and understandable for the person seeking support so that they are able to:
- Gain a better understanding of the purpose of assessment and its implications for their situation;
 - Actively participate in the process;
 - Identify and articulate the outcomes they wish to achieve;
 - Identify the options that are available to meet those outcomes and to support their independence and well-being in whatever capacity;
 - Understand the basis on which decisions are reached.
63. Councils should help individuals who may wish to approach them for support by publishing and disseminating information about access, eligibility and social care support, including personal budgets, in a range of languages and formats. The information should also describe what usually happens during assessment and care management processes, related time-scales, and how individuals can benefit from self-directed support. Councils should promote the development of services that provide interpreters, translators, advocates, and supporters to help individuals access and make best use of the assessment process. Particular attention should be paid to those least able to articulate their views and choices.
64. Councils have a duty under the Community Care Assessment Directions 2004 to consult the person being assessed (and their carers where appropriate); to take all reasonable steps to reach agreement with the person about the kind of support to be provided; and inform the person about the amount of the payment (if any) which they will be required to contribute. The Government has recently consulted on new guidance to accompany the existing Fairer Charging guidance, which provides councils with a model to help them decide how much (if anything) a person should contribute to their personal budget.³⁰
65. The assessment process should be person-centred throughout. Councils should recognise that individuals are the experts on their own situation and encourage a partnership approach, based on a person's aspirations and the outcomes they wish to achieve, rather than what they are unable to do. Professionals should fully involve the person seeking support by listening to their views about how they want to live their lives and the type of care and support that best suits them and by helping them to make informed choices. This includes identifying the support the person needs to make a valued contribution to their community.
66. Councils may wish to consider encouraging those who can and wish to do so to undertake an assessment of their own needs prior to the council doing so. Although self-assessment

³⁰ Department of Health, *Fairer Contributions Guidance: A consultation on the extension and revision of the statutory guidance for charging for non-residential social services in relation to personal budgets* (2009)
http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_093730

does not negate a council's duty to carry out its own assessment, which may differ from the person's own views of their needs, it can serve as a very useful tool for putting the person seeking support at the heart of the process.³¹

67. Where appropriate, assessment should involve a full discussion not only with the person seeking support, but also with carers and other close family members, to consider the impact of a person's needs on those around them, taking into account their views about the person's needs and recognising the contribution that they can make to the person's support and life (see section below on Carers).
68. Assessment should be co-ordinated and integrated across local agencies relevant to the individual concerned. Agencies should work together to ensure that information from assessment and related activities is shared among professionals, with due regard to data protection, in such a way that duplication of assessment is minimised for service users and professionals alike. In coordinating assessment, agencies should maintain an emphasis on outcomes rather than functions or services. The result will be an assessment process that individuals experience as consistent, seamless and timely. The Government has recently consulted on proposals for the development of a Common Assessment Framework (CAF) with the aim of promoting more person-centred assessments and facilitating more efficient, timely and secure sharing of information around assessments.³² This approach is endorsed by the Care and Support Green Paper which sets out the ambition for one joined-up assessment process that considers people's individual needs, means and eligibility for all forms of support.
69. When a service user permanently moves from one council area to another, the council whose area they move into should take account of the support that was previously received and the effect of any substantial changes on the service user when carrying out the assessment and making decisions about what level of support will be provided. If the new council decides to provide a significantly different support package, they should produce clear and written explanations for the service user. As discussed above, in the longer-term, proposals for a more national system of assessment set out in the Care and Support Green Paper may have implications for portability of social care, but the Green Paper also recognises the role of local authorities to shape services according to the needs of their local area.
70. Councils should make sure that they are able to draw on sufficient expertise to understand and support people with a range of needs so that specific groups of people are not marginalised by the assessment process. They should help people prepare for the assessment process and find the best way for each individual to state their views. The use of interpreters, translators, advocates or supporters can be critical in this regard.
71. Councils should also be aware of the unique position of adults who lack capacity, as defined by the Mental Capacity Act 2005. Adults who lack capacity may find it harder to communicate their needs and aspirations and may require additional support during assessment and support planning, such as the use of alternative forms of communication

³¹ DH Care Networks have produced a self-assessment template as part of their Resource Allocation guide - <http://www.dhcarenetworks.org.uk/Personalisation/Topics/Browse/Resourceallocationssystems/?parent=2671&child=3228>

³² Department of Health, *Common Assessment Framework for Adults: a consultation on proposals to improve information sharing around multi-disciplinary assessment and care planning* (2009) http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_093438

and information as well as access to an independent advocate. Councils should pay particular attention to the five statutory principles set out in section 1 of the Mental Capacity Act when working with people lacking capacity and their representatives.

Mental Capacity Act 2005
The five statutory principles

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Equality and human rights

72. Councils have statutory duties to have due regard to the need to promote disability, gender and race equality, as described above in paragraphs 22 to 24. Councils should be also proactive about putting in place arrangements to ensure that they do not unfairly discriminate against individuals on the grounds of their age, religion, personal relationships, or living and caring arrangements, or whether they live in an urban or rural area.

73. Equality should be integral to the way in which social care is prioritised and delivered, allowing people to enjoy quality of life and to be treated with dignity and respect. Such objectives will be supported by:

- **Equality of access** to care and support, meaning that councils should not preclude anyone from having an assessment for community care services, if their needs appear to be such that they may be eligible for support.
- **Equality of outcomes** from care and support, meaning that within the same council area people with similar levels of needs should expect to achieve similar quality of outcomes, although the type of support they choose to receive may differ depending on individual circumstances. The development of resource allocation systems (RAS) should support greater transparency in how resources are allocated to individual service users (see paragraphs 102 - 107 below).
- **Equality of opportunity**, meaning that councils should work together with individuals to identify and overcome any barriers to economic and social participation within society.

Carers

Taking support from carers into account when determining eligibility

74. Determination of eligibility should take account of the support from carers, family members, friends and neighbours which individuals can access to help them meet presenting needs. If, for example, an individual cannot perform several personal care tasks, but can do so without difficulty with the help of a carer, and the carer is happy to maintain their caring role in this way, both currently and in the longer-term, then it is reasonable that the individual should not be perceived as having eligible needs.
75. However, during assessment, no assumptions should be made about the level or quality of support available from carers. Inappropriate assumptions about how much support carers are willing or able to provide can lead to an underestimation of potentially eligible needs. An individual might be supported by a carer but still be eligible for community care services because of the nature of their needs and the level of support that both the individual and the carer require to uphold their independence and well-being.
76. Under the Community Care Directions 2004, carers are entitled to be consulted during assessment, if councils think this appropriate. Councils should involve and seek the agreement of carers throughout the process to ensure a realistic evaluation of the support they are able to provide and that the caring relationship is sustainable.

Assessing carers' own needs

77. Carers have a right, under the Carers and Disabled Children Act 2000, to request an assessment of their needs *as carers*, independent of the needs of the person they provide care for. Evidence suggests that councils are making some considerable progress in providing for the needs of carers. In 2006-07 for example, there was a 25% increase in the number of carers receiving a service or direct payment.³³
78. Therefore, where it is identified that the well-being of a carer, a dependant or another family member is at risk, that person should be offered an assessment of their physical and mental health and social well-being. The Carers (Equal Opportunities) Act 2004 also places a duty on councils to inform carers, in certain circumstances, of their right to this assessment.
79. The 2004 Act also sets out that councils should take into consideration whether or not the carer works or wishes to work and whether or not the carer is undertaking or wishes to undertake education, training or leisure activity, and the impact that their caring role might have on these commitments or aspirations.
80. Councils may therefore wish to consider providing support to a carer to meet their own needs. This may be in the form of support directly for the carer, or support for the person requiring care, in order to ease the burden placed upon the carer. Further guidance is

³³ CSCI, *State of Social Care in England 2006-07*

contained in the Carers and Disabled Children Act 2000 and Carers (Equal Opportunities) Act 2004 combined policy guidance.³⁴

³⁴ Department of Health, *Carers and Disabled Children Act 2000 and Carers (Equal Opportunities) Act 2004 combined policy guidance* (2005)
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4118023

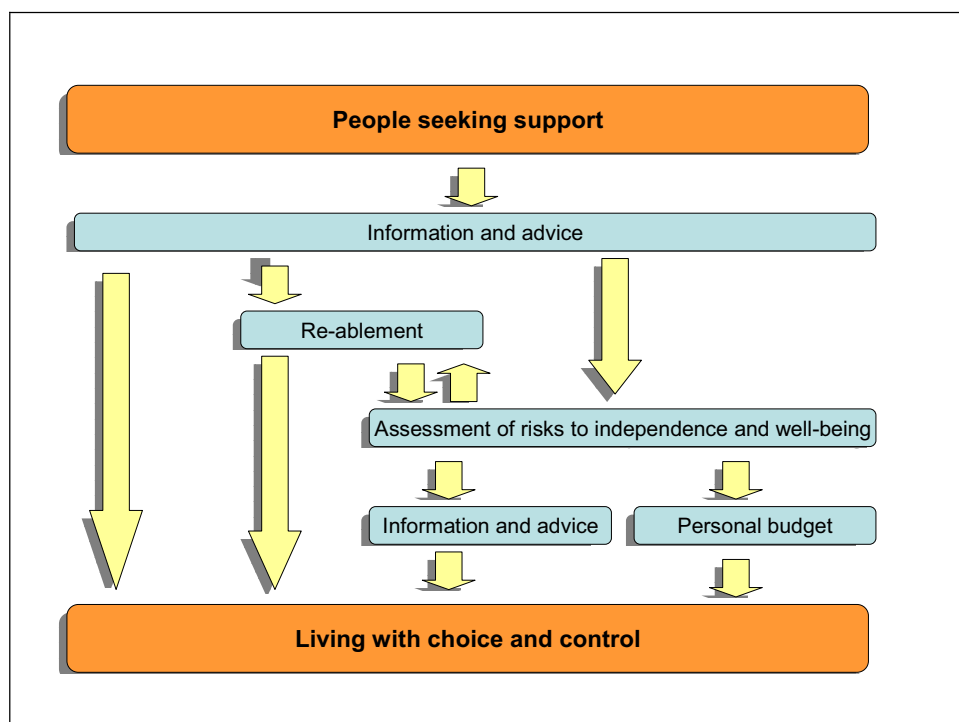
Assisting individuals not eligible for social care support

81. CSCI highlighted the tendency of some councils to regard people funding their own care as outside of council responsibility. They also identified a common perception that people funding their own care are capable of making all of their own arrangements for care and support, when in fact they may be highly isolated and vulnerable. All individuals, whether or not they are funding their own care, can benefit from effective information, signposting and support planning. Individual financial means should have no bearing on this offer. As emphasised above, councils must consider how they can work to support high quality outcomes for all their citizens, including those funding their own care and support.
82. Undoubtedly some people will not be eligible for support because their needs do not meet the council's eligibility criteria. In reaching such conclusions, the council should have satisfied itself that needs would not significantly worsen or increase in the foreseeable future because of a lack of help, and thereby compromise key aspects of independence and/or well-being, including involvement in employment, training and education and parenting responsibilities.
83. Where councils do not offer direct help following assessment, or where they feel able to withdraw the provision of support following review, they should put the reasons for such decisions in writing, and make a written record available to the individual. Councils should tell individuals who are found ineligible for help that they should come back if their circumstances change, at which point their needs may be re-assessed. A contact number in the council should be given.
84. Councils should also make individuals aware of how they can use complaints procedures to challenge decisions to withhold or withdraw the provision of support. In April 2009 new legislation introduced a common approach to handling complaints in the NHS and adult social care, providing an opportunity for all organisations to review their local systems in order to respond flexibly to complaints and to use the lessons learned to improve citizens' experience of services.³⁵
85. CSCI noted in *Cutting the Cake Fairly* that 35% of people who did not meet their council's eligibility criteria or did not approach their council because they did not expect to meet the criteria, reported that they consequently struggled to manage without help. Where councils do not offer direct help following assessment or where people refuse or opt out of assessment, councils should still be prepared to provide individuals with useful information and advice about other sources of support. This might include assistance for people to build their own support plans to help maintain their independence and well-being. It may well be that someone who is found ineligible following assessment may still benefit considerably from effective support planning and signposting to more universal sources of support. If

³⁵ The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. For further guidance see *Listening, improving, responding: a guide to better customer care* (Department of Health, 2009) - http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_095408

individuals need other services, councils should help them to find the right person to talk to in the relevant agency or organisation, and make contact on their behalf.

86. Councils should exercise considerable caution and sensitivity when considering the withdrawal of support, particularly where reviews of needs have not been carried out for some time. In some individual cases it may not be practicable or safe to withdraw support, even though needs may initially appear to fall outside eligibility criteria. Councils should also check any commitments they gave to service users at the outset about the longevity of support provided. If, following a review, councils do plan to withdraw support from an individual, they should be certain that needs will not worsen or increase and the individual become eligible for help again in the foreseeable future as independence and/or well-being are undermined.
87. To effectively address the needs of their wider population and not just those individuals with eligible needs, councils will first need to consider how to support the development of the universal and open-access services mentioned above. Secondly, the provision of high-quality information and advice will help people to make more confident choices by knowing what support is available.
88. *Putting People First* identifies the need for “a universal information, advice and advocacy service for people needing services and their carers irrespective of their eligibility for public funding.” This approach is endorsed in the recently published Care and Support Green Paper. Councils may wish to take steps to gain a better insight into the information needs of their local population and the most appropriate channels by which to reach all groups, including those most socially isolated. They may also wish to consider working with user and carer support networks and other user-led organisations to ensure that the right information and advice gets to those who need it. Building capacity in ULOs will enable them to play an active role in supporting the key aims of personalisation and choice.



Commissioning

89. Effective commissioning is vital to the success of social care reform and the personalisation of care services. The Local Authority Circular 'Transforming Social Care,' describes the expectation that by 2011 all councils will have:

'a commissioning strategy, which includes incentives to stimulate development of high quality services that treat people with dignity and maximise choice and control whilst balancing investment in prevention, early intervention/reablement and providing intensive care and support for those with high-level complex needs.'³⁶

The Care and Support Green Paper confirms the role of local authorities to shape and stimulate local markets to reflect the needs their local communities

90. To support the objectives of *Putting People First*, commissioning should involve councils "working together with citizens and providers to support people to translate their aspirations into timely and quality services, which – meet their needs; enable choice and control; are cost effective; and support the whole community'.³⁷ Some services will be commissioned specifically for people that meet the eligibility criteria (such as specialist services for those with complex needs). Others will be commissioned to meet the needs of the wider community (such as information and advice) and should therefore be made available to all people regardless of their eligibility for care and support.

91. Extending choice and control through personal budgets must be accompanied by commissioning strategies that put people at the centre. Services should be commissioned to more flexible, outcome-focused specifications to ensure that they are fully integrated around the needs of the individual. Councils may wish to consider the use of individual service funds which involve the individual and the service provider working together to determine the best fit of services to meet their objectives.³⁸ Councils should take proactive steps to ensure that user experience can directly inform commissioning.³⁹ Gaps in the market and trends in how people use their personal budgets need to be understood and reflected in commissioning practice.

92. Building on the assessment of local needs, commissioning also needs to include action to support the health and well-being of the population as a *whole*, and not just individuals. This especially applies to groups at particular risk (for example a specific locality or people with a particular condition) and those who are economically or socially excluded. In this

³⁶ LAC(DH)(2009)1: *Transforming adult social care* -

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/DH_095719

³⁷ Department of Health, *Commissioning for Personalisation: A Framework for Local Authority Commissioners* (2008) -

<http://www.dhcarenetworks.org.uk/Personalisation/PersonalisationToolkit/Blueprint/Commissioning/?parent=3110&child=3241>

³⁸ For more information on individual service funds, see *Managing the Money – Resource deployment options for personal budgets*, Department of Health 2008 -

<http://www.dhcarenetworks.org.uk/Personalisation/PersonalisationToolkit/Blueprint/ManagingtheMoney/?parent=3116&child=3430>

³⁹ For example, see *Co-producing commissioning: individual to strategic change*, Department of Health 2009. This describes a process for using person-centred information from individual reviews to inform commissioning.

respect, community-wide assessments of the needs of people who will fund their own support are as important as assessing the needs of people who already use services, or who may need them in the near future.

93. All councils and PCTs are required to have commissioning plans for the areas of service for which they are responsible. To support the development of a more personalised social care system, effective commissioning strategies should be able to demonstrate a focus on the following key areas:

- Diverse and innovative provision of services tailored to people's needs and aspirations and focused on outcomes. This will enable people to exercise choice and control over the types of services they want and directly shape the services that are commissioned on their behalf.
- A greater focus on prevention, early intervention and support for self-care.
- Shared strategic needs assessment co-produced with local citizens and communities informing decisions across health, social care and local government. This should facilitate greater flexibility in shifting resources to where investment can have greatest impact on current and future health and well-being needs. It will also ensure the sufficient supply of care staff and services to meet known and expected demand.

94. It is the duty of local authorities and PCTs to undertake a Joint Strategic Needs Assessment - a crucial tool for local partnerships to use in identifying the priorities for local health and well-being.⁴⁰ Councils may also wish to consider holding discussions with local providers concerning how identified needs can best be met, responding to changes in demand and ensuring choice and control for citizens using their services.

⁴⁰ Department of Health, *Guidance on Joint Strategic Needs Assessments* (2007)
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081097

Personalisation and support planning

Person-centred planning for care and support

95. If an individual is eligible for help then the council should work with that individual to develop a plan for their care and support. *Putting People First* sets out a vision where all people in receipt of social care support should be in control of their own lives, using personal budgets to direct the funding available to them to meet their needs in the way that suits them best. The Care and Support Green Paper confirms this direction of travel.
96. The success of self-directed support initiatives will therefore depend upon effective support planning. This should be person-centred, exploring what is important to the individual concerned and how they can spend their personal budget to organise and create support in order to achieve their aims. In local authorities where personal budgets have not yet been implemented, choice and control should also be available to people receiving directly managed services to help identify personalised solutions to meet their outcomes. In this way, a support plan will reflect the decisions made by the individual, supported by anyone they have chosen to assist them in this planning.
97. Councils should agree a written record of the support plan with the individual which should include the following:
- A note of the eligible needs identified during assessment;
 - Agreed outcomes and how support will be organised to meet those outcomes;
 - A risk assessment including any actions to be taken to manage identified risks;
 - Contingency plans to manage emergency changes;
 - Any financial contributions the individual is assessed to pay;
 - Support which carers and others are willing and able to provide;
 - A review date.
98. Support planning involves allowing people to make their own informed decisions - including decisions about risk. Councils have a responsibility to ensure that, wherever possible, the choices made by the individual are respected and supported. The benefits of increased autonomy and social inclusion may have to be weighed against risks associated with particular choices. It is very important that discussions around such choices are accurately recorded in writing, to ensure that both the council and the individual are clear about any potential consequences and how the risk can be managed.⁴¹ The Government recently launched a consultation on the review of the *No Secrets* guidance, which aims to bring together policy on adult safeguarding and risk empowerment, to ensure that safeguarding is fully integrated into the personalisation agenda.⁴²
99. Councils should plan with regards to outcomes, rather than specific services. They should consider the cost-effectiveness of support options on the merits of each case and may take

⁴¹ More information on care planning, personalisation and risk management can be found in *Independence, choice and risk: a guide to best practice in supported decision making*, Department of Health (2007)

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_074773

⁴² *Safeguarding adults: a consultation on the review of the 'No Secrets' guidance* (2009)

their resources into account when deciding how best to achieve someone's agreed outcomes. However, this does not mean that councils can take decisions on the basis of resources alone. Once a council has decided it is necessary to meet the eligible needs of an individual, it is under a duty to provide sufficient support to meet those needs. Councils should provide support promptly once they have agreed to do so, but where waiting is unavoidable they should ensure that alternative support is in place to meet eligible needs.

100. A council should ensure that all service users in its area with similar eligible needs receive support packages that are capable of achieving a broadly similar quality of outcome, even though the particular form of help offered will be tailored to the individual service user.
101. Councils should consider the benefits of person-centred support planning not only for people with eligible needs, but also for those people who privately pay for their own care or who are seeking some form of informal support to assist with leading their lives the way they want to. This involves not only discussing available options for support – perhaps using information, advocacy or brokerage services, but also encouraging and enabling people to make the best use of their own strengths, capabilities and resources to live as independently as possible. This will strengthen social capital, help to maintain people's independence and may reduce their need for social care in the future.

Personal budgets and resource allocation

102. *Putting People First* envisages the availability of personal budgets for everyone eligible for publicly funded social care support. Councils should therefore support all individuals with eligible needs to draw on the benefits of self-directed support. This includes making sure that individuals understand the options available for using personal budgets, either as a direct payment or as a notional budget to be held by the council or a third party.
103. The Local Authority Circular 'Transforming Social Care,' describes as an essential component of transformation the "clear, upfront allocation of funding to enable (people) to make informed choices about how best to meet their needs, including their broader health and well-being".⁴³ To support the delivery of personal budgets, many councils have begun to explore resource allocation systems (RAS) as a way of determining how much money a person should get in their personal budget to meet their needs.
104. The aim of the RAS should be to provide a transparent system for the allocation of resources, linking money to outcomes while taking account of the different levels of support people need to achieve their goals. It allows people to know how much money they have available to spend so that they can make choices and direct the way their support is provided.⁴⁴
105. Calculating what resources should be made available to individuals should not detract from a council's duty to determine eligibility following assessment and to meet eligible needs. Rather a RAS should be applied as a means of giving an approximate indication of

⁴³ *LAC(DH)(2008)1: Transforming adult social care*

⁴⁴ DH Care Networks have produced a Resource Allocation Guide, setting out principles and challenges as well as examples of models adopted -

<http://www.dhcarenetworks.org.uk/Personalisation/PersonalisationToolkit/Blueprint/ResourceAllocation/>

what it may reasonably cost to meet a person's particular needs according to their individual circumstances. It is important for councils to ensure that their resource allocation process is sufficiently flexible to allow for someone's individual circumstances to be taken into account when determining the amount of resources he or she is allocated in a personal budget.

106. The Association of Directors of Adult Social Services (ADASS) has been working with eighteen councils and inControl to develop a common resource allocation system based on an agreed framework, which can be voluntarily adopted by local authorities if they so choose.⁴⁵ While it is very unlikely that a single national RAS will be implemented across the country, given the wide variation in local circumstances, the Department of Health is committed to working with local authorities to take forward the learning from emerging systems. Evaluation of the ADASS model will take place in autumn 2009 after the councils in the development group have used the system for six months.
107. However councils choose to develop systems for resource allocation, the first principle underpinning such systems must be transparency. Working towards greater transparency of resource allocation represents the first stage in a longer-term process to support the delivery of a more equitable system for all groups of service users based on need. As a next step, councils should consider the way in which they commission services, and where possible take action to deconstruct inherent inequalities that may have built up in their commissioning systems, including the way in which staff ratios and pay structures may have contributed to the cost of care. They should also consider how they might build and develop social capital, strengthening the existing capacity of their local communities to support independence and well-being for all citizens.

Risk management

108. Giving people more choice and control inevitably raises questions about risk, both for individuals exercising choice over their care and support, and for public sector organisations who may have concerns about financial, legal or reputational risk. Therefore, at the heart of every council's plan for transformation, there needs to be a comprehensive and proactive approach to risk. Councils should take steps to ensure that an effective risk management strategy is embedded at every level of their organisation, from the development of high-level policy and strategy, through commissioning and care management processes, to support planning with individuals and service delivery on the frontline.⁴⁶
109. Such a strategy should engage all relevant parts of the council, NHS colleagues, local providers and service users and carers, in order to bring about collaborative change and to build support for a cultural shift away from risk-aversion towards genuine user control and supported decision-making. This will require agreement from all relevant parties about what proportionate safeguarding measures should be put in place for each individual requiring

⁴⁵ For further information and to join the Resource Allocation Reference Group, see DH Care Networks – www.dhcarenetworks.org.uk

⁴⁶ See Department of Health, *Independence, choice and risk: a guide to best practice in supported decision-making* (2007) for further information about user empowerment and risk management - http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_074773

support. Good practice in media management is vital to the reputation of the organisation and its corporate approach to managing risk.

Transitions

110. Councils should have in place arrangements to ensure that young people with social care needs have every opportunity to lead as independent a life as possible and that they are not disadvantaged by the move from children's to adult services.
111. There is evidence to suggest that young people entering adult services are at greater risk of marginalisation during the transition process.⁴⁷ Half of the councils surveyed in a CSCI study said that young people's care packages change at, or after, transition and this generally represented a significant reduction in services.⁴⁸ Noting the additional challenges faced by disabled young people in the critical transition to adulthood, the Government has allocated £19 million over three years for a Transition Support Programme to help young people and their families benefit from coordinated support and person-centred planning.⁴⁹
112. Transition planning for young people with complex needs requires a coordinated multi-agency approach. In particular, directors of adult social services should work in partnership with directors of children's social services to carry out joint appraisals of local arrangements, commissioning strategies and the outcomes for young disabled people and their families. Young people and their families should also be involved in this strategic planning process.
113. Successful transition depends on early and effective planning, putting the young person at the centre of the process to help them prepare for transfer to adult services. The process of transition should start while the child is still in contact with children's services and may, subject to the needs of the young person, continue for a number of years after the transfer to adult services. This will ensure that young people and parents know about the opportunities and choices available and the range of support they may need to access.
114. Further information about preparing for transition can be found in the guidance *Transition: getting it right for young people* (2006), *A transition guide for all services* (2007) and *Transition: moving on well* (2008).⁵⁰

⁴⁷ CSCI, *Cutting the Cake Fairly*

⁴⁸ CSCI, *Growing up matters: Better transition planning for young people with complex needs* (2007) http://www.csci.org.uk/about_us/news/nightmare_for_teenagers_with_d.aspx

⁴⁹ HM Treasury and Department for Education and Skills, *Aiming High for Disabled Children: Better Support for Families* (2007)

More information about the Transition Support Programme can be found at <http://www.transitionssupportprogramme.org.uk/>

⁵⁰ Department of Health and Department for Education and Skills, *Transition: getting it right for young people: Improving the transition of young people with long term conditions from children's to adult health services* (2006)

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4132145

Department for Children, Schools and Families and Department of Health, *A Transition Guide for all Services* (2007) and *Transition: Moving on well* (2008) <http://www.everychildmatters.gov.uk/resources-and-practice/IG00322/>

Reviews

115. As individual needs are likely to change over time, councils must therefore ensure that arrangements are put in place for regular reviews of support plans. The projected timing of the review should be established with the service user at the outset.
116. Like initial assessments, reviews should be focused on outcomes rather than services.⁵¹ In particular, reviews should:
- Establish whether the outcomes identified in the support plan are being met through current arrangements;
 - Consider whether the needs and circumstances of the service user and/or their carer(s) have changed;
 - Support people to review their personal goals and consider what changes if any should be made to the support plan to better facilitate the achievement of agreed outcomes;
 - Ensure that the risk assessment recorded in the care plan is up to date and identify any further action that needs to be taken to address issues relating to risk;
 - Demonstrate a partnership approach across agencies and with the service user as well as their family and friends if they choose;
 - Support people to strengthen their informal support networks;
 - Support people to increase their productive role in their community;
 - Help determine the service user's continued eligibility for support.
- A written record of the results of these considerations should be kept and shared with the service user.
117. Councils should record the results of reviews with reference to these objectives. For those service users who remain eligible councils should update the support plan. For those people who are no longer eligible, councils should record the reasons for ceasing to provide support and share these with the individual both verbally and in writing. They should also offer information about alternative forms of support to the individual.
118. The frequency of reviews should be proportionate to the circumstances of the individual but there should be an initial review within three months of help first being provided or major changes made to current support plans. Thereafter, reviews should be scheduled at least annually or more often as is necessary. Councils should also consider conducting reviews when requested to do so by the service user or provider.
119. Councils should be prepared to be flexible about the way in which reviews are carried out. Individuals should be consulted about which way works best for them. Councils might wish to ask service users where they would like to have the review and who else should be involved. Depending on the individual circumstances, it may be appropriate to involve carers and representatives of the service user, brokerage and support services and providers of services. Where appropriate, peer support can be used to encourage people to engage as actively as possible in the review process.

⁵¹ Further guidance on outcome-based reviews has recently been published by DH Care Networks. See *Outcome-focused Reviews: A practical guide* (2009)

<http://www.dhcarenetworks.org.uk/Personalisation/PersonalisationResources/Type/Resource/?cid=5625>

120. Adults lacking capacity are likely to need more frequent monitoring arrangements than other service users. They may be less able to communicate their needs and wishes and there may be issues around fluctuating capacity. Regulations enabling local authorities to make direct payments to adults lacking capacity are expected to come into force in the autumn 2009. If the person lacking capacity has a direct payment or other form of personal budget, councils will wish to be satisfied that arrangements for the management of the personal budget on that person's behalf are meeting their needs and supporting the best interests of the person lacking capacity. Councils should consider involving other people known to the person lacking capacity in the review, as well as independent advocates where appropriate. The Mental Capacity Act Code of Practice specifies that Independent Mental Capacity Advocates (IMCAs) can be used in care reviews where the person concerned has no one else to be consulted.⁵²
121. The process for review should be simple and avoid duplication or unnecessary amounts of paperwork or visits. Some people may benefit from completing a review template before meeting up with the professional conducting the review, so that they have an opportunity to consider how well arrangements are working for them before discussion takes place. Self-assessment of this kind in preparation for the review can help individuals to assume more control over how they want their support to be provided.
122. For mental health service users, councils should consider the benefits of synchronising reviews for social care and for the Care Programme Approach framework.⁵³ This will enable a greater focus on outcomes for the individual based on their overall health and social care needs and not just social care factors.
123. One-off pieces of assistive equipment provided to meet agreed outcomes in the support plan do not need reviewing after initial confirmation of suitability. Major items of equipment should be reviewed as to their suitability and safety on an annual basis. The suitability and effectiveness of periodic services such as short-term breaks should be reviewed shortly after the first period and annually thereafter.
124. For those service users who remain eligible, councils should update the support plan with the agreement of the service user and any other relevant parties. For those people who are no longer eligible, councils should record the reasons for this decision and share these with the individual.

⁵² For more information, see Department of Health, Making decisions: The Independent Mental Capacity Advocate (IMCA) Service (2007) -

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073932

⁵³ Department of Health, *Refocusing the Care Programme Approach: Policy and positive practice guidance* (March 2008)

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_083647

Training and support for frontline staff

125. The vision for a personalised approach to adult social care has significant implications for the workforce of the future. Councils should therefore put in place training and development activities to enable an organisational culture that promotes independence, choice and control and to ensure that in every individual case the application of eligibility criteria is as fair, consistent and transparent as possible. Staff undertaking assessments or supporting self-assessments should be sufficiently skilled in understanding people with a range of needs so that specific groups are not marginalised. They should be able to demonstrate an ability to work towards individual outcomes, rather than following a service-led approach.
126. Training and development should be aimed at improving the skills of professionals across sectors to work in co-production with service users, enabling them to plan and manage their own support and ensuring that proportionate risk management strategies are embedded in every stage of the self-directed support process. There should also be a focus on making sure that commissioning teams are skilled in understanding the diverse requirements of those using services and their wider community, and are able to work with employers and providers to commission high quality, flexible and innovative forms of support.⁵⁴
127. Training should also involve staff from other agencies who may be involved in social care assessments and contribute to eligibility decisions, or who may be involved in subsequent support planning processes to help individuals identify and secure creative and personalised options for support.

⁵⁴ For further insight into the strategic priorities for the social care workforce, see *Working to put people first – the strategy for the adult social care workforce in England*, Department of Health (2009)

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_098481

Monitoring arrangements

128. Councils should ensure that they audit and monitor their performance with regards to the fair determination of eligibility for social care. In particular, they should be able to monitor:
- The extent to which different groups, including carers, are referred to them for assessment, which groups receive an assessment and, following assessment, which groups go on to receive services;
 - The outcomes experienced by all those going through the process, including those people with ineligible needs who are signposted to other sources of help;
 - Equality of access to ensure that all individuals are treated fairly regardless of their ethnicity, gender, disability, age, religion or belief, sexual orientation or any other factors that may leave them vulnerable to discrimination;
 - Quality of assessment and the eligibility decisions of their staff;
 - Which presenting needs are evaluated as eligible needs and which are not;
 - Service effectiveness with reference to support plans and reviews;
 - Speed of assessment and subsequent service delivery;
 - Timing and frequency of reviews;
 - The extent to which residents of different geographical areas within the council's boundary receive an assessment and which go on to receive services.
129. Once information has been collected and analysed, it should be shared with a range of interested parties including service users, elected members, and other local agencies. This information should also feed into Joint Strategic Needs Assessments and local commissioning strategies.
130. While the primary responsibility for monitoring fair access to services lies with councils, the Care Quality Commission (CQC) will also monitor outcomes in carrying out periodic reviews of local authorities. In particular, they will publish their assessments to provide an independent account of how well councils are working with local partners to improve outcomes for people in vulnerable circumstances and in need of social care.
131. CQC, in conjunction with other inspectorates as part of the Comprehensive Area Assessment process (CAA), will:
- Check on trends in the setting of eligibility bands by councils and how this impacts on people, continuing the work of CSCI;
 - Check the overall balance and impact of the range of support that is available to people to promote their independence, health and well being;
 - Specifically look at universal accessibility to services such as housing and leisure, the availability of targeted interventions such as intermediate care, support for third sector agencies in providing preventative services, the availability of information and advice and the extent to which self-directed support is offered and taken up;
 - Gauge the quality of life being achieved in areas, including the extent to which all groups of citizens feel that they have a voice, through surveys and other evidence;

- Identify areas for development and good practice by means of outcome grades through CQC, and red and green flags highlighting concerns about prospects for improvement or promising innovation that others can learn from through CAA.

132. In addition, through its powers of inspection of councils and regulation of personal care services, CQC will be able to shed detailed light on practice on the ground and how it affects people. This will include inspection of how councils commission services for their citizens. CQC may take action if the council is failing to discharge any of its adult social care functions to an acceptable standard, informing the Secretary of State and recommending any special measures that it considers the Secretary of State should take.

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**ADULT SERVICES SCRUTINY COMMITTEE
9 SEPTEMBER 2009**

**FAIR ACCESS TO CARE SERVICES CONSULTATION –
REVISED ELIGIBILITY CRITERIA**

1. Purpose

- 1.1 The revised guidance for the eligibility criteria to adult social care was published in July 2009 and is at consultation stage. This is also referred to as FACS (Fair Access to Care Services). This paper provides a summary for the members of this scrutiny committee and outlines the high level impact of the revised guidance for consideration and discussion.

2. Introduction and Background

- 2.1 The FACS (Fair Access to Care Services) framework was introduced 6 years ago, in order to deliver a fair and transparent system for the allocation of social care services. The principle behind FACS was that there should be a single process to determine eligibility for social care support. The key purpose of the framework was to enable Local Authorities to link need for social care support in a way that is fair and proportionate to the impact it will have on individuals and the wider community, taking into account local budgetary considerations. These guiding principles still hold firm within the revised guidance.
- 2.2 Nearly all Local Authorities apply the threshold of eligibility at the two highest levels: substantial and critical (as does Oxfordshire). This has led to concerns that people with lower levels of care and support needs are being ignored by local authorities (in Oxfordshire we have a range of services such as luncheon clubs and day services which assist people who do not meet our eligibility criteria). It is not clear that having restricted eligibility levels necessarily leads to reduced spending on adult social care in the long run, as lack of support at an early stage may prevent or slow down the development of more complex needs.
- 2.3 Revised guidance, and the recently published Care and Support Green paper set out key themes (outlined below) that will require investment and development to ensure that councils are well placed to meet the challenges of and expectations facing the current system. All of this is consistent with the agenda set out in 'Putting People First' and is at the heart of our strategy for adult social care in Oxfordshire.

Universal services – the general support available to everyone within the community including transport, leisure, education, employment, health, housing, community safety and information and advice.

Early Intervention and prevention - helping people live at home independently, preventing them from needing social care for as long as possible and potentially creating future cost efficiencies.

Choice and control – giving people a clear understanding of how much is to be spent on their care and support and allowing them to choose how they would like this funding to be used to suit their needs and preferences.

Social capital – fostering strong and supportive communities that value the contribution that each of their citizens can make.

- 2.4** Emphasis now is on the overall wellbeing of the community and the development of universal services, which will be vital to those who do not meet the eligibility criteria but who still need a certain level of support to maintain their independence and wellbeing.

3. Aims of the revised guidance

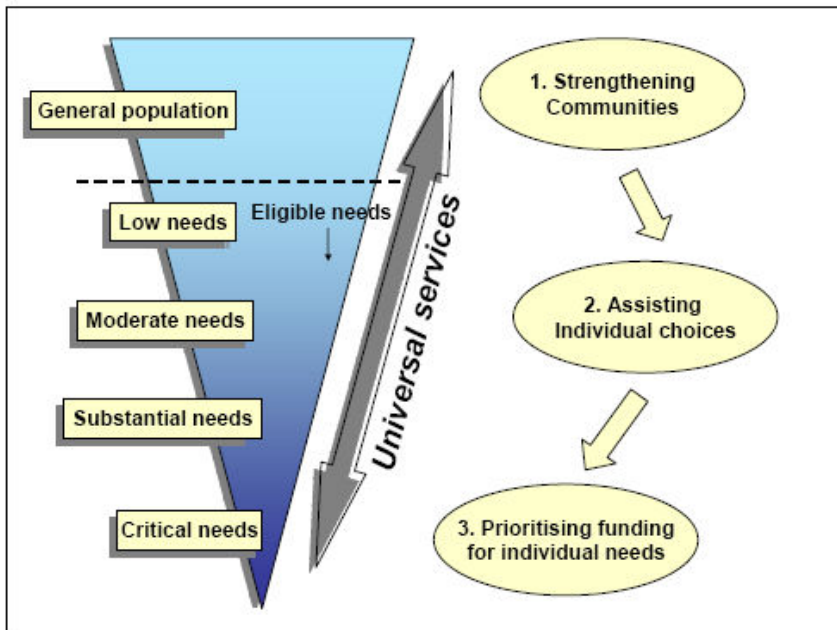
- 3.1** The aim of the guidance is to assist local authorities to establish eligibility criteria that are fair, transparent and consistent, accounting for the needs of their local communities as a whole and individuals' need for support.
- 3.2** The revised guidance also aims to broaden the eligibility criteria and ensure that it is firmly situated within the context of personalisation of social care and generally within a broader theme of public service reform.
- 3.3** There is recognition that the Care and Support Green paper out for consultation may have potential implications for how social care eligibility is determined in the future, including reconsideration of the balance between national and local responsibilities for assessment. The revised guidance reflects on the current responsibilities held by Local Authorities and is therefore an interim measure.
- 3.4** Councils need to base their approach on achieving outcomes rather than providing specific services, and people with similar needs should expect similar outcomes. The assessment should be based on the individual's needs, following which planning for support should be undertaken to identify what outcomes the individual would like to achieve, and how they might use the resources available to them to do so.
- 3.5** Councils should ensure that in applying eligibility criteria to prioritise individual need they are not neglecting the needs of their wider population. Eligibility should be explicitly placed within a much broader context whereby public services are well placed to offer **all** individuals some level of support.

3.6 The guidance expects the assessment process to pay heed to various current legislation when assessing individuals' needs (Mental Capacity, Carers and Disabled Children Act 2000, s71 of the Race Relations Act 1976, s49A of the Disability Discrimination Act 1995, S76A of the Sex Discrimination Act 1975, The Children Act 1989, to name a few)

4. Eligibility for social care

4.1 Councils need to consider the needs of their wider population and to put into place strategies which will reduce the number of people entering the social care system in the first place. Before determining eligible needs councils should consider whether an individual might benefit from a short period of re-ablement or intermediate care before an assessment of longer term need is undertaken.

4.2 The most effective community support systems are where all citizens can expect some level of support and those with the greatest needs access additional help.



5. Setting eligibility criteria

5.1 Councils' responsibilities in providing community care services are principally set out in the following legislation:

- National Assistance Act 1948
- Health Services and Public Health Act 1968
- Chronically Sick and Disabled Persons Act 1970
- National Health Service Act 2006
- Mental Health Act 1983.

5.2 In setting eligibility criteria, the local authority should take account of local resources, local expectations and local costs.

5.3 Although the final decision remains with the council, they should provide clarity and transparency and consult with service users, carers and other relevant local bodies. Eligibility criteria should be made readily available and accessible to service users, the public more generally, and other relevant local bodies. Councils should review their eligibility criteria in line with usual budget cycles.

6. Determining eligibility in respect of individuals

6.1 The council has a duty to carry out an assessment of a person's need for services under the Community Care Act 1990. Councils must not exempt any person who approaches or is referred to them for help from the process to determine eligibility for social care, regardless of their age, circumstances or the nature of their needs. (Councils should avoid being too rigid in their categorisation of "client groups" – needs should be considered on an individual basis).

6.2 As part of the assessment, information about an individual's presenting needs (not their eligible needs) should be established and recorded. 'Presenting needs' require individuals to be assessed and not screened out of the assessment process. The Audit Commission and the Commission for Social Care Inspection (CSCI) found that local authority officers were deciding which category of eligibility people fell into before offering them an assessment. The NHS and Community Care Act 1990 require that, having conducted the assessment, councils must decide whether the person's needs call for the provision of any community care services. Councils can then use the eligibility framework to identify eligible needs, according to the risks to independence and wellbeing both in the intermediate and longer term.

6.3 Once eligible needs are identified these needs should be met in a way that supports the individual's aspirations and the outcomes they want to achieve. There is no proposed change to the four eligibility bands: Critical, Substantial, Moderate and Low.

Critical - when

- life is, or will be, threatened; and/or
- significant health problems have developed or will develop; and/or
- there is, or will be, little or no choice and control over vital aspects of the immediate environment; and/or
- serious abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out vital personal care or domestic routines; and/or
- vital involvement in work, education or learning cannot or will not be sustained; and/or
- vital social support systems and relationships cannot or will not be sustained; and/or
- vital family and other social roles and responsibilities cannot or will not be undertaken.

Substantial – when

- there is, or will be, only partial choice and control over the immediate environment; and/or
- abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out the majority of personal care or domestic routines; and/or
- involvement in many aspects of work, education or learning cannot or will not be sustained; and/or
- the majority of social support systems and relationships cannot or will not be sustained; and/or
- the majority of family and other social roles and responsibilities cannot or will not be undertaken.

Moderate – when

- there is, or will be, an inability to carry out several personal care or domestic routines; and/or
- involvement in several aspects of work, education or learning cannot or will not be sustained; and/or
- several social support systems and relationships cannot or will not be sustained; and/or
- several family and other social roles and responsibilities cannot or will not be undertaken.

Low - when

- there is, or will be, an inability to carry out one or two personal care or domestic routines; and/or
- involvement in one or two aspects of work, education or learning cannot or will not be sustained; and/or
- one or two social support systems and relationships cannot or will not be sustained; and/or
- one or two family and other social roles and responsibilities cannot or will not be undertaken.

6.4 Councils should prioritise needs that have immediate and longer term critical consequences for independence and wellbeing, ahead of needs with substantial consequences.

6.5 Councils should consider that people at all levels of need, regardless of whether they have eligible needs or fund their own care, may be able to reduce or even eliminate their dependency on social care with the right type of tailored intervention.

7. Applying eligibility criteria fairly and consistently

7.1 Presenting needs should be explored with individuals to identify what outcomes they would like to be able to achieve against the social care outcomes of:

- exercising choice and control
- health and wellbeing
- personal dignity and respect
- quality of life
- making a positive contribution
- freedom from discrimination
- economic wellbeing

As well as the seven outcomes the assessment must consider freedom from harm, abuse and neglect, taking wider issues of housing and community safety into account.

7.2 Councils should not assume that low level needs will always be equated with low level services or that complex or critical needs will always require more complex/costly services. Needs should be considered over a period of time and not just at a single point and the benefit of a period of re-ablement or intermediate care should always be considered.

7.3 In addition to people with long term or fluctuating conditions other groups of people with disabilities should not be overlooked – e.g. blind and partially sighted; autism spectrum conditions. People who access specialist services (Mental health /Learning Disabilities) should also expect to receive an assessment of eligibility for mainstream support.

8. Response to first contact and assessment

8.1 Decisions about who gets local authority support should be made after an assessment which should be proportionate to the individuals' presenting needs and circumstances. In emergency/crisis situations councils should provide an immediate response. After this initial response, more information should be given as to when a fuller assessment will follow, and that support may be withdrawn or charged as a result of this assessment.

8.2 After an assessment of presenting needs a financial assessment should be carried out promptly and written information about any charges payable and how these have been calculated should be sent to the individual.

8.3 Where eligible support needs have been identified an appropriate support plan can then be put together with the individual.

8.4 From their very first contact with the council, the individual must be given as much information as possible about the assessment process, which must be collaborative and transparent, and understandable for the person seeking support.

8.5 Information about access, eligibility and social care support must be available in a range of formats and languages.

8.6 Councils have a duty under the Community Care Assessment Directions 2004 to consult the person being assessed and their carers where appropriate; to take all reasonable steps to reach agreement and to inform the person about the payment (if any) that they will be required to contribute. (Many recipients of adult social care make a financial contribution to pay for those services). The assessment

process should be person centred throughout, as individuals are the experts on their own situation. Councils may wish to consider those who can do an assessment of their own needs prior to the council doing so.

8.7 Assessment should be co-ordinated and integrated across local agencies relevant to the agencies concerned. (The Government has recently consulted on the Common Assessment Framework (CAF) with the aim of promoting more person-centred assessments and the sharing of assessments.

8.8. When a service user moves from one area to another account should be taken of the previous assessment. If the new council decides something substantially different they should produce a clear and written explanation to the service user.

9. Carers

9.1 During assessment no assumptions should be made about the level or quantity of support available from carers. Under the Community Care Directions 2004, carers are entitled to be consulted during assessment if councils think this appropriate. This act also sets out that councils should take into consideration whether or not the carer is undertaking or wishes to undertake education, training or leisure activity and the impact that their caring role might have on this. Councils may consider providing support to a carer to meet their own needs.

10. Assisting individuals not eligible for social care support

10.1 The Commission for Social Care Inspection (CSCI) now the Care Quality Commission (CQC), in their annual report on the state of adult social care highlighted the tendency of some local authorities to regard people funding their own care as outside of their responsibility. Furthermore the report identified a common perception that people funding their own care are capable of making their own arrangements, when in fact they may be highly isolated and vulnerable. The revised guidance emphasises that councils must consider how they work to support high quality outcomes for all their citizens, whether they are funding their own care or not.

10.2 Where councils do not offer direct help following assessment, or where support is withdrawn following a review, the reasons for such decisions should be put in writing. If individual circumstances change then a re-assessment should happen.

10.3 The CSCI report "*Cutting the cake fairly*" noted that 35% of people who don't meet eligibility criteria struggle to manage without help and councils need to intervene.

10.4 Councils need to consider how to support and address the needs of the wider population and how to support the development of universal and open-access services. 'Putting People First' identified the need for 'a universal information, advice and advocacy service for people needing services and their carers irrespective of their eligibility for public funding'.

11. Review process assessment of needs

11.1 Service users with similar eligible needs should receive support packages that are capable of achieving broadly similar outcomes. Person-centred support planning should be considered for those who privately pay and who are seeking informal support to assist.

11.2 Councils should ensure that there is an effective risk management strategy in place that is embedded at every level of the organisation to ensure that the assessment process offers choice and control to the individual.

11.3 Reviews should focus on outcomes rather than services and should follow the assessment process. Frequency of reviews should be proportionate to the circumstances of the individual but there should be an initial review within 3 months. Thereafter, reviews should be at least annually. They should be carried out flexibly and with regard to what works best for the individual. Adults lacking capacity are likely to need more frequent monitoring arrangements than other service users. The process should be simple and avoid duplication or unnecessary amounts of paperwork or visits.

11.4 For mental health users, councils should consider synchronising reviews for social care with the Care Programme Approach Framework.

12. Commissioning

12.1 Effective commissioning is vital to the success of social care reform and the personalisation of care services. The Government's expectation is that by 2011 all councils will have:

'a commissioning strategy, which includes incentives to stimulate development of high quality services that treat people with dignity and maximise choice and control whilst balancing investment in prevention, early intervention/re-ablement and providing intensive care and support for those with high-level complex needs' (Transforming adult social care LAC(DH) 2009)

12.2 Some services will be commissioned for people that meet the eligibility criteria whilst others will be commissioned to meet the needs of the wider population and should be made available to all regardless

of their eligibility. Extending choice and control through personal budgets must be accompanied by commissioning strategies that put people at the centre and services should be more flexible and outcome-focused.

- 12.3** All councils and Primary Care Trusts (PCTs) must have commissioning plans for the areas of service they are responsible for which should be diverse and innovative, have a greater focus on prevention, early intervention and support for self-care. The sharing of strategic needs information using the Joint Strategic Needs Assessment (JSNA) produced jointly by the Primary Care Trust and the local authority will assist in commissioning.

13. Effective service and market development

- 13.1** At the heart of the vision in the Green Paper and Putting People First is 'a locally agreed approach utilising all relevant community resources especially the voluntary sector so that prevention and early intervention and enablement become the norm'.

- 13.2** CSCI showed that raising the eligibility thresholds without putting in place adequate preventative strategies often leads to a short term dip in the number of people eligible for social care followed soon after by a longer-term rise. Eligibility criteria should not be used to restrict the number of people receiving support to those with the highest need, they should adopt a strong preventative approach embedded at every level of the social care system. The approach suggested includes:

13.3 *Place shaping and promotion of wellbeing through universal services*

- 13.3.1** Universal services extend beyond the parameters of social care and only a minority of social care services will be funded through social care. Many will be reliant on community based provision such as luncheon clubs, physical recreation and leisure pursuits, community safety, housing related support and transport.

- 13.3.2** Services work best when cross Directorate and other stakeholder working is in place to ensure that everyone can get the information, advice and support needed to be able to access them at the right time and in the right place.

13.4 *Targeted interventions*

- 13.4.1** Councils are encouraged to target people with specific health conditions, or those with low level support needs, for appropriate targeted interventions using predictive tools. Investment in re-ablement services, therapy and intermediate care may also be advantageous as will extending technology services.

13.5 *Integrated services and joint planning*

13.5.1 The Social Care Green paper sets out an ambition for individuals to be placed at the centre of a system which brings together health, housing and social care services and facilitates better integration between social care and other public services.

13.5.2 It is suggested that many components of a council's preventative strategy can be implemented without significant additional resources; others will require the reshaping of existing resources, for example, through the Social Care Reform Grant. Councils should publish their eligibility criteria and their strategy for prevention and early intervention addressing the issues above.

13.6 Training and development activities should be put in place to enable an organisational culture that promotes independence, choice and control and to ensure that in every individual case the application of eligibility criteria is fair, consistent and transparent. Staff undertaking assessments should be sufficiently skilled in understanding people with a range of needs so that specific groups are not marginalised. Assessment staff should be able to demonstrate an ability to work towards individual outcomes rather than a service led approach.

13.7 Fair determination of eligibility for social care should be monitored and audited.

Once monitored and audited it should be shared with interested parties including service users, elected members and other local agencies. It should feed into the JSNA and commissioning strategies.

The CQC, in conjunction with other inspectorates, as part of the Comprehensive Area Assessment process, will check on trends in the setting of eligibility bands by councils and how this impacts on people. Continuing the work of CSCI they will check the overall balance and impact of the range of support that is available and in particular, look at universal accessibility and gauge the quality of life being achieved in areas.

14. High level impact of the revised guidance

14.1 Implementation of the revised guidance will have some impact in Oxfordshire. Whilst there are no plans to revise the local eligibility, the fact that we have to implement and consider the needs of the whole population, means that there will be changes required in some current practice around assessment, sign posting and recording. Outlined below is the high level impact of implementation. At this stage further impact has not been analysed and costed, as the guidance is at consultation stage.

- 14.2** All citizens can expect some level of support from their Local Authority whether they are FACS eligible or not. This will result in more emphasis on defining what universal services are provided locally and how they are accessed.
- 14.3** There will be much more emphasis on early intervention and prevention - including shifting funding to these services, as these should no longer be seen as add ons but mainstream activities.
- 14.4** Targeting of specific communities with specific health conditions. This will require skills in the use of predictive tools and really well developed understanding of the needs of local population (JSNA). Further investment in re-ablement services, therapy, intermediate care and extending technological services, including telehealth is, strongly promoted.
- 14.5** The assessment process should happen first, and should include carers. A financial assessment should happen promptly after the assessment. There will be a need to better resource initial contact so that we are able to provide an immediate response, proactive sign posting and follow up and support in emergencies and crises.
- 14.6** All of these developments are consistent with the strategies that are already in place.

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