HEALTH SELECT COMMISSION

Venue: **Town Hall, Moorgate Street, Rotherham S60 2TH**

Date: **Thursday, 13th September, 2012**

Time: **9.30 a.m.**

A G E N D A

1. To determine whether the following items should be considered under the categories suggested in accordance with Part 1 of Schedule 12A (as amended March 2006) to the Local Government Act 1972

2. To determine any item the Chairman is of the opinion should be considered later in the agenda as a matter of urgency

3. Apologies for Absence

4. Declarations of Interest

5. Questions from members of the public and the press

6. Communications

7. Minutes of previous meeting (Pages 1 - 6)

8. Health and Wellbeing Board (Pages 7 - 12)
   - minutes of meeting held on 11th July, 2012

9. Care for Our Future White Paper and Draft Care and Support Bill (Pages 13 - 35)

10. HealthWatch
    - update by Councillor Wyatt, Cabinet Member for Health and Wellbeing

11. Day Service Proposal Learning Disability Services (Pages 36 - 42)
    - report of Shona McFarlane, Director of Health and Wellbeing
    (as considered by the Cabinet Member for Adult Social Care on 23rd July, 2012)

12. Day Service Proposal - Transport Services (Pages 43 - 55)
- report of Shona McFarlane, Director of Health and Wellbeing
(report as submitted to the Cabinet Member for Adult Social Care on 23rd July, 2012)

13. Continuing Healthcare Review (Pages 56 - 75)

14. Date and Time of Future Meeting:-
- Thursday, 25th October, 2012 at 9.30 a.m.

HEALTH SELECT COMMISSION
12th July, 2012

Present:- Councillor Steele (in the Chair); Councillors Barron, Beaumont, Beck, Dalton, Goulty, Kaye, Middleton, Roche and Wootton, Victoria Farnsworth (Speak-Up) and Robert Parkin (Speak-Up).

Councillor Wyatt was in attendance at the invitation of the Chairman.

Apologies for absence were received from Councillors Burton, Hoddinott and Jim Richardson.

10. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

11. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

There were no members of the public or the press present at the meeting.

12. COMMUNICATIONS

(1) Kate Green, Policy Officer, reported that at a Joint Committee of Primary Care Trusts on 4th July, 2012, it had been approved that from 2014 the Children's Congenital Cardiac Service would be run from Newcastle, Liverpool, Bristol, Southampton and 2 in London; Leeds had not been included.

As a result of the decision, the Chair of the Regional Overview Scrutiny Committee had sent a letter to the Joint Committee expressing concern at the way the 4th July meeting had been managed administratively.

Any further developments would be reported to the Select Commission.

(2) The Chairman reported that the Select Commission had been requested to undertake a review of Council Residential Homes as a matter of urgency.

Resolved:- That Councillors Barron, Beaumont, Beck and Goulty and Robert Parkin form the Review Group.

13. MINUTES OF PREVIOUS MEETING

The minutes of the previous meeting held on 31st May, 2012, were noted.

14. HEALTH AND WELLBEING BOARD

Councillor Wyatt, Cabinet Member for Health and Wellbeing, gave the following update:-

- Minutes of the Obesity Strategy Group were to be submitted to the Board in future
- It was hoped to hold a national Obesity conference in Rotherham in the New Year

15. JOINT HEALTH AND WELLBEING STRATEGY FOR ROTHERHAM

Councillor Wyatt, Cabinet Member for Health and Wellbeing, gave the following powerpoint presentation:-

What are Health and Welbeing Strategies

- Sets the strategic priorities for collective action for the Health and Wellbeing Board to improve health and wellbeing of local people
- Based on intelligence from the Joint Strategic Needs Assessment and other local knowledge
- Supports Health and Wellbeing Boards to tackle the wider determinants of health and wellbeing – such as housing and education
- Enables commissioners to plan and commission integrated services that met the needs of their whole local community
- Service providers, commissioners and local voluntary and community organisations would all have an important role to play in identifying and acting upon local priorities

Why we need a Strategy

- Health inequalities in Rotherham worse than England average
- Deprivation higher than average and increasing
- Evidence showed bigger impact on health for those living in deprivation

What People Told Us

- Health Inequalities Summit 2011
- Comprehensive consultation with local people – they told us
- Families felt many challenges in their daily lives
- People felt trapped in poverty
- Young people had poor skills for life
- Culture of dependency had become the norm
- There were low aspirations across the Borough
- Many felt discriminated against, isolated and unsafe
- There was little common identity in Rotherham
- There was hugely untapped resources in using the skills of local people to help others

The Big Issues

- Joint Strategic Needs Assessment along with the outcomes of the summit had highlighted the 'Big Issues' that we would commit to tackle
- These were divided into 4 life stages:
  Starting Well (age 0-3)
  Developing Well (age 4-24)
  Living and Working Well (25-64)
  Ageing Well (age 65+)

What we did

- Engaged with a wide range of stakeholders
  To agree the 5 'strategic' priorities
  To agree the intended outcomes for each priority area
  Consider appropriate actions needed to achieve the outcomes

Our Priorities

- Prevention and Early Intervention
- Aspirations and Expectations
- Dependence to Independence
- Healthy Lifestyles
- Long Term Conditions
- Poverty

How we will do it

- An agreed set of actions for the next 3 years that would bring about step changes to reduce health inequalities in Rotherham
- Lead professionals for each strategic priority to be accountable for delivering actions

What Next

- Strategy would be used to develop commissioning plans for all health and wellbeing partner agencies
- Performance Management Framework would be in place to ensure the Strategy succeeded
- Annual reviewing of the Strategy to ensure we stay on the right track
- Getting feedback on the Strategy; its priorities and actions, as part of a wider consultation exercise
- Responses would be sought through the website and a Voluntary Action Rotherham even on 24th July

Discussion ensued on the presentation with the following comments made:-

- Very difficult to change a person's habits - lifelong learning and life time engagement
- Real challenge in saying it was a 3 year Strategy. Behind every priority there would be action plans, ownership and other workstreams
- Young people were leaving school with qualifications but unable to find work – had to match training to need
- Life time Strategy
- The importance of housing should be stressed – involvement with the current Housing Strategy consultation
- High levels of depression and anxiety and stress related mental health issues
- Understood the need in Year One to co-ordinate a planned shift of resources from high dependency services to early intervention and prevention but there needed to be a back up plan to ensure that no-one was lost during the transition
- Discussion required on transport to get people to work
- The Strategy and the 11 Deprived Areas would work closely together
- Need to ensure the strategic partnerships and the issues were adopted in the document
- Year One would be changing the culture of services and then in Year Two see Community Champions

– Understanding of community assets was as much about people as well as services

Resolved:- (1) That the Joint Health and Wellbeing Strategy and the process by which it had been developed be noted.

(2) That the priorities and actions set out in the Strategy be supported.

(3) That a progress report be submitted in 12 months.

16. AUTISTIC SPECTRUM DISORDER

Stephen Mulligan, Principal Educational Psychologist, submitted a report on the work of the Autism Spectrum Conditions (ASC) Strategy Group.

The Strategy Group had defined its work into 4 broad areas of activity:-

– Services and provision around ASC
– Continued professional development
– Diagnosis and assessment procedures
– Involvement and parents/child's voice and influence

The purpose of the work was to raise the attainment and improve lifelong experiences of children and young people with ASC. In order to do so effectively, children and families must be listened to and ensure their voice had influence on policy.

Recent work had highlighted a number of issues:-

– At the moment approximately 1:60 in the 0-19 age range had a diagnosis of ASC – well above the regional and national range (1,246 as at June, 2012)

– Rotherham families had said:-
Need to support families and children at home more
Schools not always well enough informed about ASC
Need to develop trust and confidence at times of educational transition

– Schools needed additional support to develop teaching skills and learning objectives

– All strategic developments relating to services for ASC children and families should be in greater partnership

– ASC Strategy Group had a clear remit and established terms of reference within the DfE response to the Green Paper

– Police of Children's Services and Adult Services relating to ASC should be closer aligned.

Discussion ensued on the report with the following issues raised/highlighted:-

- Demand Avoidance – Presently this was not recognised in Rotherham but was in other communities e.g. Nottingham. There were some members of the local community who had been diagnosed with pathological Demand Avoidance (DA). This was when a young person, when asked to do any particular instruction, had a very quick escalating response and said no. It was very challenging behaviour. An issue for ASC was communication so interventions were by a number of communication pathways. In DA, intervention was by a more behavioural approach and understanding that was the challenge for parents and school leaders

- Person Centred Reviews – something that had been developing in Rotherham for the last 4 years very successfully - engaging with families and young people to ensure their outcomes were actually closely aligned to their needs. It had started with the Specialist Schools – Hilltop, Kelford and Newman, and then into other schools with children with learning difficulties. Training had been carried out with the Robert Ogden School to improve their services to the children of Rotherham

- Young people understanding their condition was a huge step in helping them function in society

- Parents said that schools were not always well informed about Special Educational Needs

- There were a large number of young people who were being supported in school without a need for a Statement of Special Educational Needs but had learning programmes, teaching assistants, good staff, families etc.

Resolved:- (1) That the report be noted.

(2) That further work take place on:-

(a) closer alignment with health in an attempt to achieve increased compatibility with CYPS/Health records;

(b) work to review and monitor the Identification, Assessment and Intervention Plans relating to Autism Spectrum Condition (ASC);

(c) revisit the eligibility criteria for the Children's Disability Team and Adult Services.

(3) That the Review Group consist of Councillors Beaumont, Dalton, Kaye, Roche and Wootton.

17. ADULT CONGENITAL HEART DISEASE SERVICES REVIEW.

Kate Green, Policy and Scrutiny Officer, reported that the NHS had undertaken a national review of services for people with congenital heart disease. The report submitted outlined how the review had been undertaken and a proposed model for improving the way in which services were delivered.

The NHS was seeking feedback on the document and their proposed model by 27th July, 2012.

Next year the NHS would produce and publicise options for the way forward on which there would be a formal consultation process.

Resolved:- That any comments on the proposed model be forwarded to Kate Green and a response submitted in accordance with the 27th July, 2012, deadline.

18. DATE AND TIME OF FUTURE MEETING:-

Resolved:- That a further meeting be held on 13th September, 2012, commencing at 9.30 a.m. in the Rotherham Town Hall.

HEALTH AND WELLBEING BOARD
11th July, 2012

Present:-

Members

Councillor Wyatt	**in the Chair**
Karl Battersby	Strategic Director, Environment and Development Services, RMBC
Helen Dabbs	RDaSH
Councillor Doyle	Cabinet Member for Adult Social Care
Chris Edwards	Chief Operating Officer, Clinical Commissioning Group/NHS Rotherham
Dr. Phil Foster	National Commissioning Board
Brian James	Rotherham Foundation Trust
Shona McFarlane	Director of Health and Wellbeing, RMBC
Dr. John Radford	Director of Public Health
Janet Wheatley	Voluntary Action Rotherham

Officers:-

Claire Burton	Commissioning Officer, RMBC
Kate Green	Policy Officer, RMBC
Dave Roddis	Performance and Quality Manager, RMBC
Fiona Topliss	Communications Officer, NHS Rotherham
Dawn Mitchell	Democratic Services

Apologies for absence were received from Chrissy Wright, Tom Cray, Martin Kimber, Councillor Lakin, Joyce Thacker, David Tooth

S8. DR. PHIL FOSTER

The Chairman welcomed Dr. Phil Foster, representing the National Commissioning Board, to his first meeting of the Health and Wellbeing Board.

Agreed:- That a report be submitted to the next meeting setting out the duties of the National Commissioning Board.

S9. MINUTES OF PREVIOUS MEETING

Agreed:- That the minutes be approved as a true record.

With regard to Minute S2 (Joint Health and Wellbeing Strategy), it was clarified that there would be continual consultation and refinement. The priorities and outcomes were the outcome of the various consultation activities that had already taken place and would be fed back to those previously involved as a reality check to ensure they were correct for Rotherham.

S10. COMMUNICATIONS

(a) Obesity Strategy Group
It was noted that minutes of the above Group would be submitted to the Board in future.

It was also reported that a national event was hopefully going to be held in Rotherham in the New Year as part of Obesity Week.

(b) Carnegie Weight Camp
A visit to the Camp was to take place on 10th August, 2012.

(c) Sub-Groups – Tobacco Control Alliance, Warm Homes etc.
Agreed:- (1) That an annual report be submitted by the Board's Sub-Groups.

(d) Active Always 2012 Brochure
A copy was circulated for information.

(e) Obesity Observatory
Information from the above was circulated on the correlation between the number of fast food outlets in deprived areas.

(f) Report Writers
A comment had been received from a member of the public regarding the use of jargon and acronyms.

It was suggested that a glossary of terms be included on the Board's website.

(g) Visit
John Wilderspin, Department of Health, Health and Wellbeing Boards Implementation, was to attend the Board meeting to be held on 5th September, 2012.

(h) Rotherham Show
Discussion ensued as to whether there should be a Clinical Commissioning Group presence at the Show to promote awareness and also use it as an opportunity to publicise the Health and Wellbeing Strategy.

Agreed:- (2) That a sub-group meet to co-ordinate a presence at the show.

S11. HEALTH AND WELLBEING CONSULTATION

Kate Green, Policy Officer, reported that it was the intention to consult during July and August with a view to having a final Strategy by September. The consultation would:-

- Ask whether the outcomes and priorities in the Strategy were correct based on the intelligence gathered
- A web page was to be set up on the Council site containing the Strategy together with the Joint Strategic Needs Assessment and all supporting documents
- There would be 2 questions on the web page - (1) were these priorities right for Rotherham? (2) did people feel the actions within the Strategy were right to achieve the strategic outcomes? Responses would be made directly through the website
- An event, hosted by Voluntary Action Rotherham, on 24th July to present the Strategy to the voluntary and community sector and ask them how they could contribute to delivering the Strategy

- All those involved in the 2 workshops/involved in the health inequality consultation would received feedback
- A press release to be issued

Agreed:- (1) That the report be noted.

(2) That Board members be notified when the website went live.

S12. HEART TOWN

The Board received, for information, a position statement on the Heart Town activity together with other work planned.

S13. HOUSING CONSULTATION: - BRIEFING PAPER

The Board noted a briefing note on the consultation process that was underway on the Housing Strategy.

It was intended to publish by November, 2012, a 30 year Housing Strategy with part 1 focusing on the next 3 years i.e. 2012-15. The draft Strategy and an accompanying on-line questionnaire was available at www.rotherham.gov.uk/housingstrategy.

The Chairman had commented that it needed to reflect the Health and Wellbeing Strategy and consider the contributions housing made to the health outcomes.

Agreed:- (1) That the report be noted.

(2) That each organisation respond to the consultation independently.

S14. ROTHERHAM LSP SUMMIT - 26TH SEPTEMBER, 2012

It was noted that the Local Strategic Partnership was to hold a summit on 26th September, 2012.

S15. HEALTH AND WELLBEING BOARD UPDATE

Kate Green, Policy Officer, presented an overview and update on progress for the year one priority actions as set out in the Board's work plan for 2011/12.

Key activity in year one included:-

- Completed refresh and sign-off of the Rotherham Joint Strategic Needs Assessment
- Rotherham Health Inequalities Summit
- Development of a Joint Health and Wellbeing Strategy

It was proposed that a structured questionnaire be prepared for Board members the results of which would form the basis of a reflective session at the September meeting.

Agreed:- (1) That the progress made on the year one work plan be noted.

(2) That a structured questionnaire on the effectiveness of the Board during its first year of operation be circulated and returned by 8th August, 2012.

(3) That an analysis of the feedback from the questionnaire be submitted to the September Board meeting.

S16. PLANNING AND HEALTH

Karl Battersby, Strategic Director of Environment and Development Services, presented a report on the work completed so far in conjunction with Health in developing Planning Policy to ensure the best outcomes for health and future determination of planning applications. The report included:-

National Planning Policy Framework (NPPF)
- Required Planning to promote healthy communities by the provision of safe and accessible developments
- Work with Public Health leads to take account of health status and needs of the population
- New developments should include shared space and community facilities, opportunities for sport and recreation

Rotherham's Local Plan Core Strategy
- Supported the provision of local health facilities
- Supporting strategies for improvements to air quality and promoting a healthier lifestyle through walking/cycling and the provision of open spaces and recreation facilities
- Planners required to assess the amount and type of infrastructure required to support areas of growth identified within the Core Strategy
- Health colleagues fully involved in drawing up the Borough's Infrastructure Delivery Plan
- Health to be fully involved in the development of a charging scheme for developers which would replace the majority of Section 106 obligations

Public Health Agenda
- Stronger partnership working expected by the Government from April, 2013
- Spatial planning expected to make significant contributions to improving health and reducing inequality

Determination of Planning Applications
- Usefulness of establishing criteria for consultation and a point of contact for planning applications for larger residential developments or development which may have an impact on NHS services
- Harmful effects to human health could be considered as a material planning consideration
- Opportunity to develop Health Impact Assessment Guidance for developers – not a statutory requirement when considering a planning application but could be built into the requirements in a planning performance agreement

Agreed:- (1) That engagement take place with the Head of Health Improvement, Public Health, when developing policies for sites and policies

(2) That liaison take place with the NHS to establish contact and criteria for notification/consultation on planning applications to ensure their views were taken into consideration on appropriate applications

(3) That liaison take place with the NHS with regard to drawing up charging schedule for infrastructure delivery.

S17. RNIB

The Board noted a flyer from the RNIB entitled "Eye health and sight loss: local planning for the future".

S18. HEALTHWATCH CONSULTATION

Further to Minute No. S5 from the previous meeting, Claire Burton, Commissioning Officer, submitted the proposed consultation survey for the development of Healthwatch Rotherham and a survey to local community forums, networks and partnerships and voluntary and community sector organisations.

It was proposed that the 2 surveys be sent to members of the public and health and social care service users initially via an online survey on the Council website with a link from the Health and Wellbeing Board webpage. It would also be sent to a representative sample of health and social care service users. Voluntary and community sector networks and community interest groups would receive it via e-mail.

The surveys included a draft 'vision' for Healthwatch Rotherham. It was proposed that the vision be consulted on before final agreement to ensure it was representative of Rotherham people's aspirations for their local Healthwatch.

Agreed:- (1) That the vision for Healthwatch Rotherham be agreed for further consultation.

(2) That the submitted consultation plan and surveys be agreed.

(3) That a further report on the findings of the consultation be submitted to a future meeting.

S19. ANY OTHER BUSINESS

Dr. Polkinghorn reported that the General Medical Council had produced guidance entitled "Protecting Children and Young People". The document was available on the GMC website (www.gmc-uk.org).

S20. DATE OF NEXT MEETING

Agreed:- That a further meeting of the Health and Wellbeing Board be held on 5th September, 2012, commencing at 1.00 p.m. in the Rotherham Town Hall.

1.	**Meeting:**	**Health Select Commission**
2.	**Date:**	**13th September, 2012**
3.	**Title:**	**Care for our Future White Paper and Draft Care and Support Bill**
4.	**Directorate:**	**Resources**

5. Summary

The Government have published their vision for a reformed care and support system in a white paper and draft Bill; which is currently being consulted on.

This report summarises the key headlines from both documents and outlines the themes and questions in relation to the Bill which the Government is seeking views on.

The consultation is in an online format, therefore it is being proposed that a separate group of scrutiny members, from both the Health and Lives commissions, be established to look at this in detail and respond accordingly.

6. Recommendations

That the Health Select Commission:

- **Agrees to establish a sub-group to consider the consultation and submit a formal response by 19 October 2012**

- **Agrees to issue an invitation to join this group to members of the Improving Lives Select Commission**

7. Proposals and details

White Paper

The Government have published their white paper for adult social care in England; Caring for Our Future: Reforming Care and Support, which sets out a new vision for a reformed care and support system.

The measures in the white paper have been categorised using five outcome statements from people who use services and carers:

1. "I am supported to maintain my independence for as long as possible"
2. "I understand how care and support works and what my entitlements and responsibilities are"
3. "I am happy with the quality of my care and support"
4. "I know the person giving me care and support will treat me with dignity and respect"
5. "I am in control of my care and support"

The key actions under these themes include:

- Stimulating the development of initiatives that help people share their time, talents and skills with others in their community
- Developing and implementing new ways of investing in supporting people to stay active and independent
- Establishing a new capital fund, worth £200 million over five years, to support the development of specialised housing for older and disabled people
- Establishing a new national information website, to provide a clear and reliable source of information on care and support, and investing £32.5 million in better local online services
- Introducing a national minimum eligibility threshold to ensure greater national consistency in access to care and support, and ensuring that no-one's care is interrupted if they move
- Extending the right to an assessment to more carers
- Working with a range of organisations to develop comparison websites that make it easy for people to give feedback and compare the quality of care providers.
- Ruling out crude 'contracting by the minute', which can undermine dignity and choice for those who use care and support
- Consulting on further steps to ensure service continuity for people using care and support, should a provider go out of business
- Placing dignity and respect at the heart of a new code of conduct and minimum training standards for care workers
- Training more care workers to deliver high-quality care, including an ambition to double the number of care apprenticeships to 100,000 by 2017
- Appointing a Chief Social Worker by the end of 2012
- Legislating to give people an entitlement to a personal budget
- Improving access to independent advice to help people eligible for financial support from their local authority to develop their care and support plan
- Developing, in a small number of areas, the use of direct payments for people who have chosen to live in residential care, to test the costs and benefits
- Investing a further £100 million in 2013/14 and £200 million in 2014/15 in joint funding between the NHS and social care to support better integrated care and support.

Draft Care and Support Bill

The draft Bill, which in large accepts the recommendations of the recent Law Commission review, aims to bring together all the underlying rights and powers that underpin the national legislative framework for social care which has been set out in the white paper.

The draft Bill includes the following key provisions:

- **new statutory principles which embed the promotion of individual wellbeing** as the driving force underpinning the provision of care and support;
- **population-level duties on local authorities** to provide information and advice, prevention services, and shape the market for care and support services. These will be supported by duties to promote co-operation and integration to improve the way organisations work together;
- **clear legal entitlements to care and support,** including giving carers a right to support for the first time to put them on the same footing as the people for whom they care;
- **set out in law that everyone, including carers, should have a personal budget** as part of their care and support plan, and give people the right to ask for this to be made as a direct payment;
- **new duties to ensure that no-one's care and support is interrupted when they move home** from one local authority area to another; and
- **a new statutory framework for adult safeguarding,** setting out the responsibilities of local authorities and their partners, and creating Safeguarding Adults Boards in every area.

The Government is seeking views on the draft Bill through an online consultation. Comments can be posted on the website either clause by clause or under specific topic headings as follows:

Q 1. Role of the local authority (refers to clauses 2-7)
Do the opening clauses sufficiently reflect the local authority's broader role and responsibilities towards the local community?

Q 2. Individual rights to care and support (refers to clause 17 and 19)
Does the draft Bill clarify individual rights to care and support in a way that is helpful?

Q 3. Grouping carers (refers to clauses 9 – 33)
The law for carers has always been separate to that for the people they care for. Is it helpful to include carers in all the main provisions of the draft Bill, alongside the people they care for, rather than place them in a separate group?

Q 4. The wellbeing principle and care and support planning
Does the new well-being principle, and the approach to needs and outcomes through care and support planning, create the right focus on the person in the law?

Q 5. Portability of care (refers to clauses 31-33)
Do the "portability" provisions balance correctly the intention to empower the citizen to move between areas with the processes which are necessary to make the system fair and workable?

This report is recommending that to ensure a good discussion in relation to the specific sections within the Bill and to support Members in submitting a formal response, a separate group of Members is convened to look at this outside of the Health Select Commission meeting. This meeting will enable a detailed look at the Bill and clauses, with opportunity to seek clarification on what the specific implications are for Rotherham. It is also suggested that an invite goes out to the Improving Lives Select Commission to ensure a coordinated response.

A set of factsheets have been produced by the Department of Health on key aspects of the Bill, to help in understanding the proposals and in forming a response to the consultation (attached to this report).

Deadline for responding to the consultation is 19 October 2012.

8. Finance

There are no direct financial implications associated with this report, although the proposals in the Bill will have implications for Rotherham and therefore need to be considered when forming a response to the consultation.

9 Risks and Uncertainties

The proposals set out in the white paper and draft Care and Support Bill have implications for service delivery and financial arrangements in Rotherham.

Forming a group to consider these in more detail will help in understanding these implications, allowing for an informed response to be submitted and enabling scrutiny members to support the implementation of the proposals going forward.

10 Policy and Performance Agenda Implications

The implications of white paper and Bill will need to be taken into consideration in respect of the Joint Health and Wellbeing Strategy, the Rotherham Carers' Charter and Joint Action Plan for Carers (currently being developed).

11 Background Papers and Consultation

Caring for our Future: reforming care and support white paper
http://www.dh.gov.uk/health/2012/07/careandsupportwhitepaper/

Draft Care and Support Bill
http://www.dh.gov.uk/health/2012/07/careandsupportbill/

DH Factsheets (attached)
http://www.dh.gov.uk/health/2012/07/cs-bill-factsheets/

LGiU Policy Briefing – Draft Care and Support Bill (attached)

12 Contacts

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FACTSHEET 8

The draft Care and Support Bill – Health Research Authority (HRA)

"There was widespread acknowledgment that the Government's speed in setting up the Health Research Authority has been important in demonstrating its commitment to support the life science sector in the UK"

(Academy of Medical Sciences, Cancer Research UK and Wellcome Trust joint meeting report on transforming the regulation and governance of health research in the UK , Feb 2012).

Context

In March 2011, the Government announced the creation of the Health Research Authority (HRA) to streamline the regulation of research. The HRA was established as a Special Health Authority (SpHA) in December 2011 as an interim measure ahead of primary legislation to establish it as a Non Departmental Public Body (NDPB), as soon as Parliamentary time allows.

What will the draft Bill do?

The draft Care and Support Bill abolishes the HRA as a SpHA and **establishes it as a statutory NDPB**, giving it greater independence and stability.

As a NDPB, the HRA's ability to fulfil its **key purpose of protecting and promoting the interests of participants, potential participants and the general public in health and social care research** would be strengthened. The HRA's independence as a NDPB would support it to promote the interests of those people by facilitating the conduct of good quality, ethical research.

The HRA will have clear functions. These include all the functions the SpHA currently undertakes, for example functions relating to Research Ethics Committees (RECs). They also include the function of approving the exceptional processing of confidential patient information for research purposes, a responsibility which will be transferred from the Secretary of State to the SpHA by April 2013.

The intention is for a smooth transition from the existing SpHA to the new NDPB. The HRA would continue work that has already started, through cooperation with other bodies, to **create a unified approval process for research**. In meeting its duty to promote the coordination and standardisation of practice, the HRA would continue to promote consistent, proportionate standards for compliance and inspection.

In this way, the HRA would continue to have a role as part of a national system of research governance, **promoting a proportionate approach among all those involved in research**, including for example, NHS providers. The HRA could continue to reduce duplication in approval processes for research and publish guidance on the landscape for regulation, governance and inspection.

Other functions conferred directly on the HRA would complement its role in relation to RECs. These include the responsibility, currently held by the Secretary of State, as a member of the UK Ethics Committee Authority (UKECA).

The HRA would also be able to take on functions beyond the health service in England, for example, those relating to social care and, subject to the outcome of consultation and secondary legislation, the regulation of embryo research. To enable a harmonised approach to research regulation across the UK to continue, the HRA would have powers to undertake certain functions on behalf of Wales, Scotland and Northern Ireland by agreement. The HRA would also be under a duty to cooperate with the devolved authorities with a view to streamlining regulation of the ethics of research.

Case study 1 – Protecting the interests of patients and the public in health research

The HRA SpHA runs a National Research Ethics Service (NRES) which reviews over 6,000 applications per year through its 80 research ethics committees (RECs) with 1,200 voluntary members. Research is core to NHS and other care services, helping them improve the current and future health and well-being of the people they serve. However, research sometimes involves a degree of risk, so regulation provides participants, potential participants and the public with assurance that there are appropriate safeguards in place.

A REC is a group of people appointed to review whether research proposals are ethical. Research must conform to recognised ethical standards, which include respecting the dignity, rights, safety and well-being of those who take part. Each REC includes members of the public and people with specific knowledge who can help the committee understand particular aspects of research proposals. RECs help ensure that any risks of taking part in a research project are kept to a minimum and explained to participants in full. All REC members are given training to understand research ethics and the committees are independent of the researchers, the organisations funding the research, and the organisations where the research will take place.

Strengthening the HRA's independence by establishing it as an NDPB will increase public confidence in the protection NRES currently provides, ensuring that the HRA acts, and is seen to act, in the interests of patients and the public whose interests it must protect, and is free from political influence.

Case study 2 – Promoting the interests of patients and the public in health research

The HRA can help research begin more quickly by streamlining approvals through unifying processes, making regulation more proportionate, standardising expectations and removing duplication. NDPB status will additionally assist the HRA to realise benefits for patients by facilitating good-quality, ethical research studies that improve care, give earlier access to potential new treatments, and increase knowledge. This will increase opportunities to participate in research by making this country a more attractive place for international companies to do research, encouraging investment in the UK and enabling patients and the public here to benefit. The stability of an NDPB can reassure funders that work to streamline the health research environment will continue and is not subject to a change of government, giving them the confidence to invest in our economy for the long-term.

The HRA can make it easier for research to be high quality, so studies increase knowledge, using and adding to what is already known. It is not always easy for researchers to find what evidence already exists when different names are used for the same study, and some research results are not published. Simple new mechanisms could make it easier to identify research studies through a unique identification system and standards for study titles, as well as making it easier to access the current evidence by ensuring studies are published. With NDPB status, the HRA would have the authority to put in place mechanisms that will ensure participation and investment is in research that explores unanswered and important questions and which, if answered, could make a real difference to the future of health and care.

FURTHER INFORMATION

- HRA website for information about the Special Health Authority: **http://www.hra.nhs.uk**
- Academy of Medical Sciences research regulation report: **http://www.acmedsci.ac.uk/p47prid88.html**
- The Plan for Growth: **http://cdn.hm-treasury.gov.uk/2011budget_growth.pdf**
- Consultation on proposals to transfer functions from the HFEA to HTA: **http://www.dh.gov.uk/health/files/2012/06/Consultation-on-proposals-to-transfer-functions-from-the-Human-Fertilisation-and-Embryology-Authority-and-the-Human-Tissue-A.pdf**

2900021 Produced by Williams Lea for the Department of Health

FACTSHEET 1

The draft Care and Support Bill – Assessments and eligibility

Department of Health

"...A move to outcome and needs based assessment would put the individual and their views, needs and wishes at the centre of the work, as the setting of outcomes is both a personal and subjective process"

(Joseph Rowntree Foundation)

This factsheet describes how the draft Bill sets out the process of assessing an adult's needs for care and support, and how a local authority decides whether a person is eligible for ongoing public care and support.

What is the assessment process?

An **assessment** is the process of considering a person's circumstances and making a decision about whether they need care and support to help them live their day-to-day lives.

The assessment for care and support will usually be carried out by a social worker, and will consider a number of factors. It will look at what needs the person has (for instance, a need for help with getting dressed or support to get to work) and consider the person's other circumstances (for example, whether they live alone or someone supports them). This will help to get a full picture of the person and what needs they may have.

Not all of the needs which a person has will require or be met by public care and support. After carrying out the assessment, the local authority will then consider whether any of the needs identified are eligible for support. The local authority uses an **eligibility framework** to decide which needs are eligible to be met by public care and support.

At the moment, this decision is made by the local authority, and so the needs which are 'eligible' can vary between areas.

Why do we need to change the law?

An assessment is not just a gateway to care and support, but an important process in its own right. Talking with people to understand their needs, and how they can meet them, will support them to maintain their independence for longer and make better choices about their care.

Local authority responsibilities for assessments are currently set out in a number of statutes. The law needs to be brought together and simplified so the duties are more understandable. At the moment they focus on identifying a service to be provided, rather than on the needs of the person. We want a system which is built around the individual, and need to ensure that assessments focus on needs and what the person wants to achieve, not just what service they might receive.

The eligibility framework at the moment is set out in guidance, and there are different tests for different types of care and support, which can be confusing and arbitrary.

What does the draft Bill do?

The draft Bill creates a single, clear duty on local authorities to carry out assessments in order to determine whether an adult has needs for care and support. The assessment:

- must be of the adult's needs and the outcomes they want to achieve;
- must be provided to all people who appear to have some need for care and support, and therefore should not consider unrelated factors such as a person's finances;

- must also not consider whether the local authority thinks the person will be eligible for services; and,
- must be carried out with involvement from the adult and, where appropriate, their carer or someone else they nominate.

After conducting the needs assessment, the local authority is then required to determine whether the person has eligible needs, using the eligibility framework set out in regulations. These regulations will set out a national threshold for eligibility which is to be consistent across all areas in England.

The determination of eligible needs is critical to establishing whether the adult has a legal entitlement to care and support provided by the local authority. Factsheet 3 provides more detail on how that entitlement has been designed.

Taken together, the assessment and eligibility clauses will make the system and the duties of the local authority much clearer, benefitting both care and support users and professionals.

This factsheet relates only to adults who need care and support. Factsheet 4 explains the equivalent provisions for carers.

FURTHER INFORMATION

- Statutory guidance on assessment and eligibility: *Prioritising Need in the Context of Putting People First* (February 2010)
- *A vision for adult social care: capable communities and active citizens* (November 2010)
- See also *factsheet 3* on the approach to the core entitlement to care and support, and *factsheet 5* on carers' assessments and eligibility.

2900021 Produced by Williams Lea for the Department of Health

FACTSHEET 2

The draft Care and Support Bill – Charging and financial assessments

Department of Health

"All councils should have transparent charging policies … service users, carers and the public should understand the purpose of local charging policies and the criteria used to determine levels of charging for particular services"
(Standing Commission on Carers)

This factsheet describes the provisions in draft Bill which create a clear, consistent and fair system for assessing what people can afford to pay for care and support.

What is the charging process?

Care and support is not a free, universal service. Whilst some types of care and support are provided free (for instance, information and advice), many types will be subject to a **charge** that the person will have to pay. People will only be asked to pay what they can afford. Sometimes the person will pay the full cost of providing the care and support; sometimes the cost will be shared between the person and the local authority.

The local authority decides what a person can afford to pay by carrying out a **financial assessment**. The local authority will consider a person's financial resources (such as their income, or any assets they own like investments or a house), and calculate how much they can afford to contribute towards the cost of their care and support.

When a person owns their own home, in certain circumstances, they may want to enter into a **deferred payment** agreement with the local authority. This is an arrangement where the person does not sell their home, during their lifetime, to pay the charges for their care. Instead, the local authority pays a larger share of the costs, and recovers the money at a later date.

Why do we need to change the law?

Charging for care and support is not new. People have always had to pay for, or contribute towards, the costs of care and support. However, the care and support charging rules have grown up in a piecemeal way over a number of years. The current law spans across a number of different Acts and sets of regulations and is hard to follow.

The various rules have also created separate systems for charging, depending on what type of care and support someone receives. There are different charging arrangements for care homes and for other types of care and support, based on different pieces of legislation. This makes the system even more confusing, and potentially unfair in that it treats people, and their financial resources, differently based only on the care they receive.

The new legal framework for adult care and support should set out a clear approach to charging. As a core part of the system, this needs to be easily understood so that people know when they have to contribute towards costs, and decisions are fair and transparent.

What does the draft Bill do?

The draft Bill creates a comprehensive and consistent framework for care and support charging.

After completing a needs or carer's assessment, and deciding whether the adult has eligible needs, the local authority will then think about what type of care and support they might benefit from to meet those needs.

The draft Bill gives local authorities the power to charge for any type of care and support. However, local authorities may not charge for those services which regulations say must always be provided free.

If the local authority thinks that the adult's needs might call for a type of care and support for which it charges, it must then carry out a financial assessment of the adult to determine whether or not they can afford to pay the charge (clause 15). The rules on financial assessments, including how to calculate a person's income and capital (their assets, such as a property) will be set out in regulations, so that this is determined in the same way for everyone.

These regulations will also set a "**financial limit**". If the adult's total finances (as calculated in the financial assessment) are above this limit, then the local authority will not be required to contribute towards the cost of their care and support and the person will have to pay the full cost. If they have less than this, then they will still pay for some of the cost (depending on the amount of their finances) but the local authority will also contribute.

When the adult does not pay the full cost, but contributes towards their care and support costs, they must still be left with a certain amount of money for themselves after the local authority has charged them. This amount may also be set out in the regulations, so it can be included in the calculations.

The draft Bill also provides for **deferred payment** arrangements. These can be offered in certain circumstances where an adult owns their home, which will be set out in regulations. Under these arrangements, the local authority pays the adult's care charges on condition that they are repaid at a later date. The local authority secures repayment of the charges by placing a legal charge on the adult's interest in their home.

The new provisions also allow local authorities to charge interest on deferred payments arrangements for the first time. This is to allow local authorities to recoup their costs of operating such agreements. The situations in which interest can be applied, and the interest rate, will be detailed in regulations.

The Government plans to ensure that all people who own their own home and receive care and support from the local authority are offered the option of a deferred payment arrangement in the future.

These new provisions have been created to be fair and consistent, but also flexible enough to adapt to any changes in the arrangements for funding care and support over time.

FURTHER INFORMATION

- Statutory guidance on charging for care home placements: *Charging for Residential Accommodation Guide* (April 2011)
- Statutory guidance on charging for other services: *Fairer charging policies for home care and non-residential services* (September 2003)
- Regulations on charging: *National Assistance Act (Assessment of Resources) Regulations* 1992
- See also *factsheet 1* on assessments and eligibility, *factsheet 3* on how charging relates to the core entitlement to care and support, and *factsheet 5* on the law for carers.

2900021 Produced by Williams Lea for the Department of Health

FACTSHEET 3

The draft Care and Support Bill – Who is entitled to care and support?

Department of Health

"For far too long people's needs assessments have been driven by the service on offer or that can be provided in a particular area… such an approach fails to recognise the richness and complexity of people's lives and fails to support or promote truly person-centred care"
(Care Quality Commission)

This factsheet describes how the draft Bill provides for adults' core entitlements to care and support.

Why do entitlements matter?

Legal entitlements impose clear obligations that must be followed. Where they are not followed they provide people with the possibility of redress including through the courts if necessary. It is critical to the outcomes and experience of people who need care and support for the law to set out when people will be provided with care and support by the local authority. The law needs to be clear about who should receive care and support, and in what circumstances, to ensure that this happens fairly and consistently.

Why do we need to change the law?

At present, there are several different entitlements for different types of care and support, spread across a number of Acts of Parliament and dating back over 60 years. The law is confusing and complex.

As well as being hard to understand what an adult is entitled to in particular cases, there are many anomalies which make the current entitlements inconsistent. For example, the biggest difference is in the way that residential accommodation is treated, which has a different legal test compared to other types of care and support, and means that the entitlement is not the same.

We want to reform the law to design a more simple, modern legal framework for 21st Century care and support.

- We want to ensure that the law focuses on the needs of people. The existing law creates duties to provide particular services, and that leads to a service-led approach to assessment and support planning. We want to change this, so that the person is at the centre of the process.
- The existing law is multi-layered and very complicated. We want to clarify the position in law, so that people can better understand how the system works, and decisions about them are more transparent.
- To be fairly and consistently applied, we want to remove the many existing anomalies in the law, which deal differently with particular groups of people. We want there to be a single route for determining entitlement, which works for all groups of people in all circumstances, without artificial dividing lines between people on the basis of a particular service or where they receive it.

All of this requires some significant changes to the current legislation.

What does the draft Bill do?

The draft Bill creates a single, consistent route to establishing an entitlement to care and support for all adults. It also creates the first ever entitlement to support for carers, on a similar basis (see also *factsheet 5*).

The draft Bill is also clear about the steps which must be followed which lead to this entitlement, to help people understand the process. It follows the person's journey in the care and support system, through an assessment of their needs and a decision about whether their needs are eligible, and including a financial assessment

where necessary. After this process of assessment is finished, the determination can then be made about whether the adult is entitled to care and support.

The core entitlement in the draft Bill is for an adult's eligible needs to be met by the local authority, subject to their financial circumstances. Their "eligible" needs are those which are determined after an assessment (see *factsheet 1*). Having an entitlement "to meet needs" rather than those in the past to provide a particular service (for example, a care home), means that there is more flexibility to focus on what the person needs and what they want to achieve, and to design a package of care and support that suits them. It means that the person is not judged to need a service too soon, before a proper care and support planning process has taken place (see *factsheet 4*).

An adult will still be able to receive the same types of care and support as now. Where their needs can be best met in a care home, that is what should be arranged.

The draft Bill says clearly when an adult will be entitled to have their needs met:

- The adult must have "eligible" needs;
- The adult must be "ordinarily resident" in the local authority area (which means they are living and settled there as their home).

If the adult is going to receive a type of care and support which is provided free of charge, then there are no more requirements, and the adult is entitled to have their needs met in this way (see *factsheet 2* on charging).

If, however, the adult is going to receive one or more types of care and support for which the local authority does make a charge, then one of three conditions also needs to be satisfied. Either:

- The adult cannot afford to pay any charge for their care and support – the amount involved will be set out in regulations – this ensures people without the means to pay do not go without care; or
- The adult does not have mental capacity and has no one else to help them – this ensures people who can not arrange care themselves do not go without; or
- In any other cases, the adult asks the local authority to meet their eligible needs – this entitles anyone, regardless of their finances, to get the local authority to arrange their care and support for them. It ensures that people who are uncertain about the system or lack confidence to arrange their care do not go without. They will still need to pay for their care and support.

FURTHER INFORMATION

- Statutory guidance on eligibility: *Prioritising Need in the Context of Putting People First* (February 2010)

Some of the key existing entitlements:

- for care homes: *Section 21 NAA 1948*.
- for other types of care and support: Section 29 NAA 1948, Section 45 HSPHA 1968, Section 2 CSDPA 1970, Schedule 20 to NHSA 2006.

2900021 Produced by Williams Lea for the Department of Health

FACTSHEET 4

The draft Care and Support Bill – Personalising care and support planning

Department of Health

"It is essential that personal budgets are recognised [in the law]. To leave this significant policy development without statutory basis would leave local authorities uncertain of their legal obligations and individuals uncertain of their entitlements"
(Law Commission)

This factsheet describes how the draft Care and Support Bill makes provisions to ensure that people have maximum control over how their needs are met.

What is care and support planning?

Everyone's needs for care and support are different, and need to met in different ways. The **care and support planning** process is there to help decide the best way to meet the person's needs. It considers a number of different things, such as what needs the person has, what they want to achieve, what they could do by themselves or with the support they already have, and what types of care and support might be available to help them.

The planning process takes place between the person, any carer they have and the local authority, to decide how to meet needs. As part of the process, the local authority will tell the adult about their **personal budget**. This is the amount of money which the local authority has calculated to be the cost of arranging care and support to meet their needs, and it includes any amount which the local authority is going to pay itself towards those costs (which might be all, or none, of them). The personal budget helps the adult to decide how much control they want to have over arranging their care and support.

Using the information from the personal budget, the adult can ask the local authority to make a direct payment. This is a payment of money from the local authority to either the person needing care and support, or someone else acting on their behalf, to pay for the cost of arranging their own support. The local authority could make a **direct payment** instead of arranging any services itself, if the adult asks them to do so. This ensures the adult can take full control over their own care.

Why do we need to change the law?

Of all the things above, only direct payments have a place in law at the moment. Care and support planning and personal budgets, although critical to the way social care is provided, have only been set out in guidance.

We want the new legal framework to focus on the person and their needs, their choices and their aspirations. It should put them in control of their lives and the care and support they receive. The care and support planning process is the crucial way of making this happen, by providing clear statutory rights to plans for people who use services and carers.

Personal budgets also need a clear place in the statute. They are key to personalising care and support, and their absence of a legal requirement to provide them makes it more difficult to bring them to all people. Whilst some local authorities are already making great strides in this area, legislation is required to make personalised care standard practice.

What does the draft Bill do?

Having established whether the local authority has a duty to meet care and support needs, or is choosing to meet needs under a power, the draft Bill sets out what must happen next to help the adult make decisions about how their needs should be met.

There is a new duty on the local authority to provide a care and support plan (or a support plan in the case of a carer). In providing this plan, they must then work with the adult to help them to decide how to meet their needs, and produce a plan which sets out the detail of what was agreed. As part of this planning process, the local authority must tell people about their ability to take a direct payment for some or all of their needs.

One of the core requirements of a care and support plan is a personal budget for the adult and, for the first time, the draft Bill creates a legal entitlement to a personal budget. This is to help people to understand the costs of meeting their needs and find out what public funding is available to help them. This is complemented by a right to request a direct payment to meet some or all of those needs, to maximise the control people have over how that money is spent.

Even in the instances when assessments have determined that adults do not have eligible needs, the local authority can advise people about what needs they do have, and how to meet them or prevent further needs from developing. The draft Bill requires local authorities to give information to people to help them support themselves better in these circumstances.

Completing the planning process and putting in place care and support arrangements does not mean the end of the local authority's responsibilities. The local authority has a duty to review the plan to ensure that the adult's needs and outcomes continue to be met over time.

CASE STUDIES

Isaac has a personal budget which he uses to manage his complex needs. Part of his budget is used for gym membership, so he gets more exercise that could help his recovery.

"I decided to apply for a personal budget and thought about how I would use it as part of my recovery. I have a number of conditions, bi-polar affective disorder, borderline personality disorder, HIV, epilepsy, asthma and other conditions as well. I've started a blog for disabled people, to be seen in a positive light, rather than not being able to do stuff. Although I'm disabled I don't want to be labelled. So I'll definitely do stuff I want to do, rather than maybe attending a day centre or doing a course that wouldn't really suit me."

Lewis, who has learning disabilities, lives with his family but wants more independence. His family have built him his own flat as an extension to the family home.

Lewis's social worker explains: "Lewis left college about a year ago. Lewis was quite clear when we did the assessment for him that we wasn't interested in going to go to the County Council's day service but he wanted to have more choice and control over what he did. Lewis has experienced a range of activities some that he's decided not to continue with and some that he has. He's also doing some voluntary work at a local museum, and also has some one to one support where he goes out one day a week to do some physical activity at the gym."

FURTHER INFORMATION

- Statutory guidance on care and support planning: *Prioritising Need in the Context of Putting People First* (February 2010)
- *A vision for adult social care: capable communities and active citizens* (November 2010)
- See also *factsheet 3* on establishing the core entitlement to care and support, and *factsheet 5* on the law for carers.

2900021 Produced by Williams Lea for the Department of Health

FACTSHEET 5

The draft Care and Support Bill – The law for carers

Department of Health

"There should be a transparent system by which carers are able to see whether they are entitled to support from local authorities for services they provide to the cared-for. The current state of the law in this area is confusing and left to chance too much"
(Garden Court Chambers)

For the first time, carers will be recognised in the law in the same way as those they care for. This factsheet describes how the draft Bill sets out carers' legal rights to assessments and to public support to help them in their caring role.

Who is a carer?

A carer is anyone who is helping another person, usually a relative or friend, in the activities of their day-to-day life. This is not the same as someone who provides care professionally, or gives their time to care through a voluntary organisation.

The draft Care and Support Bill relates in the main to adult carers – people over the age 18 who are caring for another adult. This is because young carers (aged under 18) and adults who care for children are usually provided for under children's legislation. However, there are some clauses in the draft Bill to support these people better as they reach the age of 18 years.

Why do we need to change the law?

The existing law for carers is split across three main Acts of Parliament, all of which mix provisions for carers of all ages. It is complicated, and makes it difficult for carers to understand their entitlements and to access the support they need to help them balance their caring role, and improve their health and wellbeing.

The existing law looks at carers in isolation, separate to the law for the people they care for. This reinforces the idea that carers are outside the mainstream of care and support.

The current law also treats carers differently to the people that they support. Carers do not have a legal right to receive public support – local authorities only have a power to provide carers' services. This means that, where local authorities provide carers' services, the access to them, and the variety of support on offer, varies considerably.

Carers' rights to an assessment are also different, and less generous than those of the people they support. The way support is provided in practice is not fair or consistent.

What does the draft Bill do?

Assessments

The draft Bill creates a single duty for local authorities to undertake a 'carer's assessment'. This replaces the existing law, and removes the requirement that the carer must be providing "a substantial amount of care on a regular basis". This will mean more carers are able to access an assessment, and that the duty is comparable to that for the people they support (see *factsheet 1*).

The aim of this assessment is to consider the impact of caring on the carer and to determine whether the carer has support needs and what those needs may be. It must also consider other important issues, such as whether the carer is able or willing to carry on caring, or whether they want to work.

If both the carer and the person they care for agree, a joint assessment of both their needs can be undertaken.

Eligibility

When the assessment is complete, the local authority must determine what their support needs are, and whether those needs are 'eligible' for public support.

The local authority must use an eligibility framework, to be set out in regulations. These regulations will provide a new framework for determining eligible needs for carers, alongside the approach for the people they care for.

After deciding whether the carer has eligible needs, the local authority and the carer will then need to think about what type of support the carer might benefit from. This might include helping the carer to take a break from their caring responsibilities, such as getting help with housework or gardening, buying a laptop to keep in touch with family and friends, or becoming a member of a gym so they can look after their own health and wellbeing.

It may be the case that the best way to meet a carer's needs is by providing care and support directly to the person that they care for, for example by providing replacement care to allow the carer to take a break. The draft Bill makes clear that it is possible to do so.

Charging and financial assessment

In recognition of the contribution that carers make to the local community, in most cases local authorities will not charge for providing support to carers. However, local authorities do have a power to charge for support, and might do so in some circumstances. If the local authority does decide to require a charge, then it must carry out a financial assessment to determine whether the carer can afford to pay (see *factsheet 2*).

If supporting a carer involves providing care to the person cared for, and the local authority chooses to charge for that type of care, then the authority must carry out a financial assessment on the person who is cared for. This is because the care would be provided to that adult directly, and not to the carer.

Clear entitlements to support

The draft Bill creates a new duty for local authorities to meet carers' eligible needs for support. This is equivalent to the duty to meet the needs of the adult needing care (see *factsheet 3*). This provides carers with their first ever legal entitlement to public support, on the same legal footing as the people for whom they care.

The key conditions for a carer's entitlement is that they have assessed eligible needs, and that the person for whom they care is ordinarily resident in the local authority area.

Support planning

After determining whether the local authority must meet a carer's needs, it must then help the carer to decide how they want their needs to be met. This process of support planning is also set out in the draft Bill for the first time (see also *factsheet 5*).

Carers should receive a personal budget, to show them the costs of meeting their needs, and how much public money is available to them. They will then have a right to request that the local authority make a direct payment to them, to give them control over how their support is provided. All of these provisions apply equally to carers as to the people they care for. They must also have regular reviews to ensure their needs continue to be met.

Young carers

Children under the age of 18 who care for adults will be provided with children's services, rather than adult care and support. However, when they reach the age of 18, the responsibility for their support will switch to adult services.

The draft Bill includes new provisions to enable adult social care to take part in transition planning before the 18th birthday, by assessing a young carer early, on their request. There is also a new duty to continue any children's services which a young carer is receiving past the age of 18, if adult care and support is not in place. This will ensure there is no gap in support at this important time.

Parent carers

It is also important that parent carers can access the support they need. There may be some types of support which are only available through one route, for instance an adult carers' centre. In the current law, parent carers are assess under children's law alongside the child they care for, which means that they may not always be able to get some services.

The draft Bill includes provisions which mean that adults caring for children can be assessed under adult law, and the local authority may meet their needs under adult legislation, as well as through children's services.

FURTHER INFORMATION

- Statutory guidance on assessment and eligibility: *Prioritising Need in the Context of Putting People First* (February 2010)
- *Recognised, valued and supported: next steps for the Carers Strategy* (November 2010)
- See also *factsheet 1* on assessments and eligibility, and *factsheet 2* on charging and financial assessments, *factsheet 3* on the core entitlements to care and support, and *factsheet 5* on care and support planning.

2900021 Produced by Williams Lea for the Department of Health

FACTSHEET 6

The draft Care and Support Bill – Protecting adults from abuse or neglect

"The existing legal framework for adult protection is neither systematic nor co-ordinated, reflecting sporadic development of safeguarding policy over the last 25 years"
(Commission for Social Care Inspection)

This factsheet describes how the draft Bill sets out the first statutory framework for adult safeguarding, to set out local authorities' responsibilities, and those of their local partners, to protect adults at risk of abuse or neglect.

What is "safeguarding"?

"Adult safeguarding" is the term that describes the function of protecting adults from abuse or neglect. This is an important shared priority of many public services, and a key responsibility of local authorities.

Safeguarding relates to the need to protect certain people who may be in vulnerable circumstances. These are adults in need of care and support who may be at risk of abuse or neglect, due to the actions (or lack of action) of another person. In these cases, it is critical that local services work together to identify people at risk, and put in place interventions to help prevent abuse or neglect, and to be protect people.

Why do we need to change the law?

Although protecting adults from abuse and neglect has been a priority for local authorities for many years, there has never been a legal framework for adult safeguarding. This has led to an unclear picture as to the roles and responsibilities of individuals and organisations working in adult safeguarding. Strengthening safeguarding arrangements is a key priority for this Government.

Public services and Government have a clear responsibility to ensure that people in the most vulnerable situations are safe. The Government is committed to preventing and reducing the risk of abuse or neglect to adults in vulnerable situations, whilst supporting people to maintain control over their lives, and in make informed choices without coercion.

To do this, there need to be greater incentives and clarity about the way in which public services collaborate and work together. New legislation is needed to provide a clear framework for organisations and to set out their responsibilities for adult safeguarding.

What does the draft Bill do?

Safeguarding Adults Boards

Safeguarding is everyone's business, and it is important that organisations work collaboratively to protect people and put in place shared strategies. This proposed legislation requires the local authority to establish a Safeguarding Adults Board (SAB) in their area to develop shared strategies for safeguarding and report to their local communities on their progress.

The provisions in the draft Bill set out the SAB's core membership, which should include the local authority, the NHS and the police. Core members should meet regularly to discuss and act upon local safeguarding issues. The SABs obligations will be set out in guidance. Legislation will put SABs on a strong statutory footing, better equipped both to prevent abuse and to respond when it occurs.

One of the key challenges around effective safeguarding work is the high number of different organisations and agencies involved. A strong multi-agency and multi-disciplinary approach is therefore essential, as each agency has different roles in preventing and protecting against abuse. Safeguarding Adults Boards will be able to determine their own strategic plan, with the local

community, to determine how best the Board and its members should work to help and protect adults in vulnerable situations from abuse and neglect. The Board must publish this safeguarding plan and report annually on its progress against that plan, to ensure that agencies activities are effectively coordinated.

Safeguarding enquiries by local authorities

This proposed legislation will require local authorities to make enquiries, or to ask others to make enquiries, where they reasonably suspect that an adult in their area with care and support needs is at risk of abuse or neglect. The purpose of the enquiry is to establish what, if any, action is required in relation to the case.

The draft Bill does not provide powers for local authorities to enter a person's property or take other similar action to carry out the enquiry. However, we are aware of the strong feeling from some that a specific power of entry would give an opportunity to ensure that people who are unable or unwilling to ask for help can have their voices heard.

We are holding a separate consultation exercise to look at whether a specific power of entry is required alongside the duty to make enquiries.

Safeguarding adults reviews

Safeguarding Adults Board will have to arrange for a safeguarding adults review to take place in certain circumstances, where an adult dies or there is concern about how one of the members of the SAB conducted itself in the case. The aim of a review is to ensure that lessons are learned from such cases; not to allocate blame, but to improve future practice and partnership working, to minimise the possibility of it happening again.

What will this mean in practice?

A care and support system that is built upon the protection and promotion of people's human rights will lower the risk of people experiencing neglect or abuse. Whilst the reforms in the draft Care and Support Bill will set out a clear framework within which organisations must act, we also believe that safeguarding is everyone's responsibility. We all need to be vigilant, and to be able to recognise and report abuse. Care and support organisations must ensure they are meeting their own responsibilities for keeping people safe.

FURTHER INFORMATION

- Statutory guidance on adult safeguarding: *No Secrets: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse (March 2000)*
- Consultation on new safeguarding intervention power for local authorities *Consultation on a new safeguarding power* (July 2012)

2900021 Produced by Williams Lea for the Department of Health

FACTSHEET 7

The draft Care and Support Bill – Health Education England

"We have a great opportunity to shape a future healthcare workforce that can improve healthcare outcomes, building services around the needs of patients and communities. HEE will lead the new system to support healthcare providers and professionals as they identify the critical workforce challenges and ensure services have the right people with the right skills and behaviours, where and when they are needed."

(Ian Cumming, Chief Executive, Health Education England)

Context

A new national body – **Health Education England (HEE)** – was established as a Special Health Authority (SpHA) in June 2012. As a SpHA, HEE is accountable to the Secretary of State for providing national leadership for education and training.

Across England, new governing bodies of **Local Education and Training Boards (LETBs)** will take on responsibility for the education and training functions of the Strategic Health Authorities (SHAs) and their postgraduate deaneries from 1 April 2013. The governing bodies of the LETBs will be set up as committees of the HEE SpHA.

The Secretary of State has the power to instruct SpHAs on what functions they exercise and how they exercise them through legal directions.

What does the draft Bill do?

The draft Care and Support Bill abolishes HEE as a SpHA and **establishes it as a statutory non-departmental public body** to ensure that it has clearly defined duties and powers enshrined in primary legislation. This will strengthen its independence and ensure political impartiality in its decision making, whilst retaining accountability to the Secretary of State and Parliament. HEE will be required annually to review its priorities and the outcomes it expects to be achieved.

HEE's role is framed by two key duties. Firstly, HEE must exercise on behalf of the Secretary of State the **duty to exercise certain functions to secure an effective system for education and training for healthcare workers**. This means that HEE is responsible for the planning, commissioning and quality management of education and training activity across the NHS and public health system. The draft Bill refers to 'care workers' meaning those within HEE's remit.

Secondly, HEE must ensure that a **sufficient number of healthcare workers**, including professionals such as doctors and nurses, is available with the right skills and behaviours to deliver health services in England. In carrying out this duty, HEE will need to consider national outcomes and priorities, and other factors impacting on workforce supply and demand.

HEE will be expected to **secure continuous quality improvement** in education and training for healthcare workers so as to improve the quality of health services. It will also be required to promote research and the NHS Constitution.

The draft Bill requires HEE to **establish the governing bodies of LETBs as committees of the NDPB**. All providers of NHS funded services will be required to be a member of a LETB and to co-operate with the governing body of their LETB to enable it to deliver its functions.

The governing body of a LETB will develop local workforce plans to inform the education and training that they will commission. HEE will review LETB plans to ensure they meet national priorities and outcomes. Each governing body must keep under review and seek to improve the quality of education and training that is provided. It will report its findings to relevant bodies such as the professional regulators.

Transition to the new education and training system in 2012/13

- It is critically important that a safe transition to the new arrangements is achieved, including continuity for trainees currently in the system and the retention of expertise and experience.
- The work of SHAs and postgraduate deaneries will continue to the end of March 2013 and SHA and deanery staff will transfer to HEE to ensure continuity and secure essential skills and knowledge for the future.
- In its first year as a SpHA, HEE will focus on:
  - Building organisational capacity and capability, including strong governance and financial control;
  - Conducting a rigorous authorisation process to establish the governing bodies of LETBs as committees of the HEE SpHA;
  - Developing excellent relationships and partnerships; and
  - Setting the strategic education outcomes and priorities for 2013/14, taking account of the Education Outcomes Framework.
- Locally, providers of NHS funded services are working with HEE and their SHA cluster to develop LETBs. The authorisation process led by HEE will test the capability and vision for continuous improvement of the LETB and its governing body. The evidence collected will then inform HEE's understanding of the development and support needed in the future.

Education Outcomes Framework

- Setting clear outcomes for the education and training system will enable the allocation of education and training resources to be linked to quantifiable outcomes for quality. Work is currently underway to develop an Education Outcomes Framework which will set expectations across the whole education and training system. It will ensure that investment in developing the health and public health workforce supports the delivery of excellent healthcare and health improvement.
- The Education Outcomes Framework will strengthen the focus on:
  - The delivery of excellent education;
  - The development of competent and capable staff;
  - NHS values and behaviours;
  - The development of flexible staff, receptive to research and innovation; and
  - Widening participation.
- A suite of quality indicators and metrics are being developed to support the Education Outcomes Framework.

FURTHER INFORMATION

- Liberating the NHS: Developing the Healthcare Workforce – A consultation on proposals; and Liberating the NHS: Developing the Healthcare Workforce – A summary of consultation responses **http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_129428**
- *Liberating the NHS: Developing the Healthcare Workforce: – From Design to Delivery* **www.dh.gov.uk/health/2012/01/forum-response/**
- Health Education England SpHA: **http://www.hee.nhs.uk**
- Introduction to HEE document: **http://www.hee.nhs.uk/2012/06/22/introduction/**

2900021 Produced by Williams Lea for the Department of Health

CABINET MEMBER FOR ADULT SOCIAL CARE
23rd July, 2012

Minute No. 18

Janine Moorcroft, Service Manager, Adult Community Services, presented a report on proposals for a review of the Learning Disability Day Care Services to achieve the £150,000 savings target. The report also outlined the need for further work in respect of the longer term personalisation of Learning Disability Day Care Services ensuring they aligned to local and national strategic direction and providing value for money.

At present there were 3 Adult Learning Disability Day Care Services in Rotherham – Addison Resource Centre with a small outreach service at Kiveton, Oaks Day Service and Reach Day Care Service with an outreach service at Maltby. Traditionally customers with complex needs had attended the Reach Day Care Service resulting in the Oaks and Addison Centres being able to diversify their services.

The Autumn Service provided day care services to older people with a Learning Disability Service in Rotherham at Park Hill Lodge, Maltby, and Charnwood, Swinton, where Services for older people with social needs and older people with learning disabilities were delivered jointly.

275 customers attended the Adult Learning Disability Day Care Services, 65% of which attended 5 days a week – 58% more than in Older People's Services; the majority of older people attended only 1 day per week. Local demographics and identification of future transitional customers from Children and Young People's Services suggested that demand would increase over the next 5 years.

The options for consultation with customers were:-

– Relocation of Autumn Service - Day Care Services for Older People with a Learning Disability
  Service delivered at Charnwood, Swinton and a small outreach centre at Park Hill Lodge, Maltby. It was proposed that those who attended Park Hill Lodge were transferred to Copeland Lodge, Thurcroft.

– Cease catering arrangements currently provided at Addison and Oaks Day Service
  Demand for catering services had been low as a result of people making the choice to bring in their own meals. It was proposed that the dining hall space and kitchen facilities be maximised by customers to develop basic catering skills which would benefit them in moving forward into employment and towards independent living. It was suggested that customers provide their own packed lunch including those who attended from respite provision and were in receipt of a free meal.

Day Care Services had operated with vacant posts since the Corporate recruitment freeze. It was proposed that the vacant posts be disestablished and contribute to the savings target. There were also inconsistencies in the Service in relation to the number of posts within Centre establishments on different gradings. Consultation

with staff would be initiated with a view to changing current staffing structures to achieve greater consistency and flexibility across services.

It was proposed that a 12 weeks consultation exercise be undertaken with all stakeholders commencing on 23rd July to 15th October, 2012.

Discussion ensued on the report with the following comments made:-

- Discrepancy in the number of customers for Addison and Oaks
- Relocation of Autumn Service – should be amended to read "relocation to other premises will release additional transport savings"
- If a client forgot their packed lunch there would still be facilities on site to make sandwiches
- Further discussion required regarding Light Bites

Resolved:- (1) That the report be noted.

(2) That the 12 weeks consultation programme with customers, as set out in the report, be approved.

(3) That a further report be submitted outlining the longer term strategy for Learning Disability Day Services.

(4) That upon completion of the consultation, a report be submitted to Cabinet for co

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1	**Meeting:**	**Cabinet Member for Adult Social Care**
2	**Date:**	**23rd July 2012**
3	**Title:**	**Day Service Review Proposals – Learning Disability Services**
4	**Directorate:**	**Neighbourhoods and Adult Services**

5 **Summary**

RMBC provides a range of day care services for adults and older people with a learning disability. The Cabinet Member for Adult Social Care report 'Day Services Review' dated 13 February 2012 outlined savings targets for RMBC day care services which included a £150,000.00 savings target for Learning Disability day care services.

This report identifies options to achieve the £150,000 savings target for Learning Disability day care services and outlines the need for further work in respect of the longer term personalisation of Learning Disability day care services; ensuring they align to local and national strategic direction and are providing value for money.

6 **Recommendations**

- **Note the background and history to this report.**
- **Agree to the proposals to achieve in year savings.**
- **Agree to the commencement of the 12 week consultation programme with customers in line with the recommendations within this report.**
- **Agree to accept a follow up report outlining the longer term strategy for Learning Disability Day Services.**

7 Proposals and Details

7.1 Background

The net annual spend on buildings based day services in Rotherham is £4.2m. Learning Disability day care services represent 68% of this spend; £2.87 million.

At present there are three adult Learning Disability day care services in Rotherham; Addison Resource Centre at Maltby, with a small outreach service at Kiveton, Oaks Day Service at Wath, and Reach day care service based at Badsley Moor Lane with an outreach service at Maltby (Maple Avenue). Traditionally customers with complex needs have attended the Reach day care service and as a result Oaks and Addison Centres have been able to diversify their services; exploring employment and educational opportunities with their customers.

The Autumn Service provides day care services to older people with a learning disability in Rotherham. This service is provided at Park Hill Lodge in Maltby and at Charnwood in Swinton, where services for older people with social needs and older people with learning disabilities are delivered jointly.

The table below shows the number of customers accessing Learning Disability day care services in Rotherham:

Day Service	Number of customers	Number of customers attending:					
		5 days	4 days	3 days	2 days	1 day	Weekend
Addison	129	61	17	19	19	12	0
Oaks	97	63	14	12	8	0	0
REACH	49	40	2	3	3	1	0
Autumn	37	14	6	11	4	2	0

275 customers attend our adult learning disability day care services. 65% of which attend 5 days a week; 58% more than in older people's services. The majority of older people attend only one day per week; 76%. Local demographics and identification of future transitional customers from Children and Young People's Services suggest that demand will increase over the next 5 years and it is unlikely current service delivery will be able to meet this need.

A separate report will be produced to identify how Learning Disability day care services will transform in the future to meet demand, customer need and align with strategic objectives. It is envisaged that services will become more fluid enabling a throughput of customers; reducing dependency on statutory services and increasing independence through employment and education.

This report outlines options which will achieve the in year savings agreed for Learning Disability day care services of £150,000.00.

7.2 **Options recommended for consultation with customers**

1) **Relocation of Autumn Service**

The Autumn Service provides day care services for older people with a learning disability. The service is delivered at Charnwood, Swinton and has a small outreach centre at Park Hill Lodge, Maltby. Best practice has been highlighted at Charnwood, Swinton where older people with social needs mix with older people with learning disabilities. In contrast the service provided at Park Hill Lodge is specifically for older people with a learning disability and there is no integration with other service users.

It is recommended that Autumn Service customers who attend Park Hill Lodge are transferred to Copeland Lodge, Thurcroft. This would create savings in staff resources as customer groups and staff establishments could be merged and benefits of economies of scale realised. It would also present opportunities for the future re use of the building should proposals to close Older People day care centres be agreed following consultation.

At present the toilet facilities at Park Hill Lodge are not suitable and require renovation works to ensure they meet minimum standards. The majority of the customers who attend the Autumn Service already travel from the South of the borough and therefore re-location to Copeland Lodge will realise additional transport savings.

2) **Cease catering arrangements currently provided at Addison and Oaks Day Service**

Four cooks are employed to deliver catering services across Oaks and Addison day centres equating to 148 hours per week. An income stream of £149,320.00 has been incorporated into the day care services budget however demand for catering services has been low as a result of people making the choice to bring in their own meals and income levels last year were £93,062.00 less than budget. This loss in income has been represented in the outlined savings of ceasing catering arrangements.

At present the catering arrangements across the Learning Disability day services differ in practice, and it is therefore recommended that catering arrangements cease and the dining hall space and kitchen facilities are maximised by customers to develop basic catering skills which would benefit them in moving forward into employment and towards independent living. It is also recommended that customers provide their own packed lunch, which would include customers who attend from respite provision and are in receipt of a free meal.

In year saving 2012/13 **£28,321.00**

7.3 **Options not requiring consultation**

1) **Utilise current vacant posts**

Day care services have operated with vacant posts since the corporate recruitment freeze and therefore it is recommended that these vacant posts are disestablished and contribute to the savings target.

Salary cover budget:	
Oaks	£77.00
Addison	£10,606.00
Reach	£7,263.00
Vacancies:	
Oaks: 4 x Day Centre Officer (18.5 hours, band D)	£36,724.00
Addison: 2 x Day Centre Officer (42 hours, band D)	£22,235.00
Autumn: 1 x Senior Officer (30 hours, band H)	£24,846.00
Autumn: 2 x Day Centre Officer (15 hours, band D)	£15,402.00
Potential savings	**£117,153.00**

2) **Acceptance of VER Requests**

The following voluntary severance application from the Autumn Service has been agreed. These savings have been ring fenced against NAS budgets and will not be used to contribute to corporate savings.

1 x Day Centre Officer (18.5 hours, Band F)	**£12,997**

7.4 **Options recommended for consultation with staff**

1) **Internal Day Care Staff Structure Review (Band F and Band D Posts)**

At present there are inconsistencies in the service in relation to the number of Band F and Band D posts within centre establishments. It is proposed that consultation with staff is initiated with the view to changing current staffing structures in order to achieve greater consistency and flexibility across services, whilst realising savings.

7.5 **Consultation**

In line with corporate guidelines and best practice it is proposed a 12 week consultation exercise is undertaken with all stakeholders in respect of the proposals made in section 7.2 of this report. Formal consultation will start on the 23rd July 2012 and end on the 15th October 2012. This will be a planned consultation exercise, as set out in the attached Consultation Plan (Appendix 1), offering advice and support from social care professionals and management to customers, carers and family members.

The review of day care service staff structures will be undertaken in line with corporate guidelines and include an appropriate consultation period with stakeholders. The length of which will be dependent on the number of staff members affected.

8 Finance

8.1 Options to achieve savings targets

The total savings for learning disability day care services is £150,000.00; to be delivered in the year 2012/13. The table below identifies the savings options, outlined in section 7 of this report, which will achieve these savings.

Learning Disability Options	
Cease catering arrangements	£28,321.00
Utilise existing vacancies	£117,153.00
Acceptance of VER Requests (Learning Disability)	£12,997.00
Total	**£158,471.00**

Savings proposals identified in this report are in excess of the savings required by £8,471.00. It is proposed these additional savings are used to contribute to the Older People's day care savings target for 2012/13.

9 Risks and Uncertainties

9.1 Utilising vacant posts to meet the savings target could increase risk to customers as staff ratios increase. It is therefore likely that the range of activities and visits outside the centres will reduce in order to manage the reduction in staff.

9.2 Where staff are at risk of compulsory redundancy attempts will be made in partnership with Strategic HR to seek alternative employment opportunities through the Talent Pool, however where this is not possible/successful this would lead to a 12 week notice period for termination of employment.

9.3 The Council may receive negative media attention and increased complaints from customers and other stakeholders. A comprehensive communication and consultation plan has been developed to mitigate this risk.

10 Policy and Performance Agenda Implications

- Presentation to Cabinet Member, November 2011, Day Services – The Challenge
- Community Care Act, 1990
- Our Health, Our Care, Our Say White paper, January 2006
- Putting People First; a shared vision and commitment to the transformation to adult social care, December 2007
- Corporate Finance has verified and supports all financial information.

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CABINET MEMBER FOR ADULT SOCIAL CARE
23rd July, 2012

Minute No. 19
Janine Moorcroft, Service Manager, Adult Community Services, presented a report on proposals for a review of Transport Services to achieve £219,817.82 savings towards the target of £615,000.00 for Day Care and Transport Services.

The Council provided transport services for customers from their home to their chosen Day Centre. Transport was provided using a mixture of in-house vehicles and contracted private providers with customers contributing £1 per day towards the cost. The actual cost was £39.10 per week for in-house provision and considerably more for private hire taxis.

Consultation with customers would take place on:-

- Review of Transport Eligibility Criteria
  It was anticipated that the adoption of the new criteria would reduce eligible customers by 75 as customers in receipt of Mobility Allowance were expected to use the funds or their mobility vehicle to travel to Day Care Services

  It was proposed that the criteria would apply whether the Service was provided in-house or commissioned externally. Commissioned services that were currently arranged and provided transport would be reviewed and consulted in line with the principles set out in the report.

- Utilise In-House Transport Services
  The unit cost of in-house transport was calculated at £39.10 per week per customer which demonstrated cost effectiveness against private providers. It was proposed that capacity created within NAS transport as a result of the new eligibility criteria be utilised by eligible customers using more expensive private providers. An initial review indicated that 47 customers would transfer from private providers to NAS transport.

- Review current arrangements with other travel providers

- Review arrangements with independent sector day service
  At present the 1 external day care provider contracted 3 NAS transport service buses to take customers from their home to the Day Service utilising funding provided by the local authority as part of the contract. It was proposed that arrangement cease and the 3 buses used by the Day Service be used to transport customers accessing in-house services using more expensive private providers.

It was proposed that a 12 weeks consultation exercise be undertaken with all stakeholders commencing on 23rd July to 15th October, 2012.

Discussion ensued on the report with the following comments made:-

- Had parents of young Service users been asked if they were prepared to pay more?

- The new criteria meant that only those in a wheelchair would be transported – not taking into consideration whether the Service user could read, write, cross a road safely
- Traffic congestion if more cars were used to deliver clients
- Those in receipt of low rate Mobility Allowance would still be provided with transport
- Families had to bear some of the responsibility of getting them to the Day Centre
- A Social Care Assessment did not take into account Mobility Allowance
- No. 5 of the Eligibility Criteria be amended to read "the customer is in receipt of the higher rate mobility component of Disability Living Allowance"
- That the note on No. 6 of the Eligibility Criteria be amended to read "it will not be acceptable for family members or carers to claim priority over the use of such vehicles – to be addressed on an individual basis"
- No. 7 of the Eligibility Criteria be amended to read "the customer has a family member or friend who is able to provide regular transport"
- "If able to access public transport should do so" be added to the consultation
- The £1 charge for transport was reviewed annually but had remained the same for a number of years – include in the consultation
- A Corporate review of transport was also taking place

Resolved:- (1) That the report be noted.

(2) That the 12 weeks consultation programme with customers, as set out in the report and amended at the meeting, be approved.

(3) That a further report be submitted outlining the longer term strategy for Transport Services.

(4) That upon completion of the consultation, a report be submitted to Cabinet for consideration.

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1	**Meeting:**	**Cabinet Member for Adult Social Care**
2	**Date:**	**23rd July, 2012**
3	**Title:**	**Day Service Review Proposals – Transport Services**
4	**Directorate:**	**Neighbourhoods and Adult Services**

5 **Summary**

Neighbourhood and Adult Services provide an in house transport service. This service primarily provides transport for customers to access adult social care services such as in house day services and respite units however is also utilised by external organisations and other Council Directorates to transport their customers; generating income.

The Cabinet Member for Adult Social Care report 'Day Services Review' dated 13 February 2012 outlined savings targets for RMBC day care services. This report identifies options to achieve these savings specifically for Transport Services and requests approval to commence formal consultation with customers on the new revised transport criteria.

6 **Recommendations**

- **Note the background and history to this report**
- **Agree the revised transport eligibility criteria which is attached to this report**
- **Agree to the commencement of the 12 week consultation programme with customers in line with the recommendations within this report.**
- **Agree to accept a follow up report outlining the longer term strategy for Transport Services**

7 Proposals and Details

7.1 Background

RMBC provides a range of day care services for adults with learning disabilities and those who have social care needs due to old age. Customers access these services following social care assessment. As well as providing day care services Rotherham Council also provides transport services for customers from their home to their chosen day centre. Transport is provided using a mixture of in house vehicles and contracted private providers. Customers contribute £1 per day towards the cost of this transport despite the actual cost being £39.10 per week for in house provision and considerably more for private hire taxis although due to the differing capacity of vehicles Finance have been unable to provide a fixed unit cost to aid comparison.

Day Care and Transport Services were set a savings target of £615,000.00 in 2010/11 as part of the medium term financial planning process. Transport Services will contribute £219,817.82 towards this savings target to be achieved in 2013/14. The remaining £395,182.18 will be achieved across learning disability and older people's day services.

Learning disability day services will contribute £158,471.00 in 2012/13 as outlined in the Cabinet Member for Adult Social Care report 'Day Service Review Proposals – Learning Disability Services' dated 9th July 2012. Older people's services will contribute £117,228.23 in 2012/13 and £146,360.00 in 2013/14 subject to a future report 'Day Service Review Proposals – Older People Services'. Although Older People's services have not met their savings target for 2012/13, increased savings in 2013/14 will off set this whilst still providing increased savings of £26,877.05.

7.2 Options for consultation with customers

1) Review Transport Eligibility Criteria

In September 2006 a report was submitted to the Cabinet Member for Adult Social Care proposing new transport eligibility criteria (minute number 51), a follow up report on the implementation of the eligibility was submitted in October 2006 (minute number 58). This report outlines how further savings can be achieved by further strengthening the transport eligibility criteria and eligibility form. Draft Transport Eligibility Criteria (Appendix 1) and Transport Eligibility Form (Appendix 2). The principles and exclusions within the amended criterion are supported by Legal Services.

It is anticipated the adoption of this new criterion will reduce eligible customers by 75; as customers in receipt of mobility allowance are expected to use these funds or their mobility vehicle to travel to day care services.

Potential savings **£76,321.70**

It is recommended that the reviewed transport eligibility criteria will apply regardless of whether the service is provided in-house or commissioned externally. Therefore commissioned services that currently arrange and provide transport will be reviewed and consulted inline with the principles set out in this report.

2) **Utilise In House transport services (Transport)**

The unit cost of in house transport is calculated at £39.10 per week per customer which demonstrates cost effectiveness against private providers. It is proposed that capacity created within NAS transport as a result of the new eligibility criteria is utilised by eligible customers using more expensive private providers. An initial review indicates that 47 customers could transfer from private providers to NAS transport.

Potential savings **£83,656.44**

3) **Review current arrangements with other travel providers (Transport)**

Other travel providers are used by a number of customers to attend day services, we will review these arrangements.

Potential savings **£21,559.79**

4) **Review arrangements with Independent Sector day service**

At present the one external day care provider contracts 3 NAS transport service buses to take customers from their home to the day service utilising funding provided by the LA as part of the contract. It is proposed that this arrangement is ceased and the 3 buses used by this day service are instead used to transport customers accessing in house services using more expensive private providers.

The buses are under utilised transporting only 4 customers per bus when capacity is 15 seated or 6 seated with 3 wheelchair users. This is due to the geographical range of customer pick up points. There may be opportunities to lease additional vehicles in order to continue to provide this service. The annual fee would need to be reviewed to ensure the income met the cost of provision at a lower cost.

Potential Savings: **£38,279.89**

7.3 Customer Consultation

In line with corporate guidelines and best practice it is proposed a 12 week consultation exercise is undertaken with all customers and stakeholders from June 2012 with a view for completion and re-submission to Cabinet Member with consultation outcomes in September 2012. Communication plan attached (Appendix 3).

8 Finance

8.1 Options to achieve savings targets

The total savings target for transport services is £219,817.82. The table below outlines the options to deliver this savings target, as outlined in section 7.2 of this report.

Transport Options	
Review Transport Eligibility Criteria	£76,321.70.
Utilise NAS transport services	£83,656.44
Review arrangements with Independent Sector Travel	£21,559.79
Review arrangements with Independent Sector day service	£38,279.89
Total	**£219,817.82**

9 Risks and Uncertainties

9.1 The proposed changes to the transport criteria would reduce customer eligibility for transport services. It is very likely that customers and their carers will be unhappy with this change as many would be expected to arrange and pay for their own transport.

9.2 The utilisation of NAS transport rather than more expensive private hire taxis would reduce our need to contract with private providers. This could have a negative impact on the local economy; although minimal.

9.3 The Council may receive negative media attention and increased complaints from customers and other stakeholders.

10 Policy and Performance Agenda Implications

- Presentation to Cabinet Member, November 2011, Day Services – The Challenge
- Community Care Act, 1990
- Our Health, Our Care, Our Say White paper, January 2006
- Putting People First; a shared vision and commitment to the transformation to adult social care, December 2007

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Appendix 3

Day Centre and Transport Service Review Consultation Plan (23.07.12 – 15.10.12)

Stakeholders: Service Users, Carers, Relatives, Friends, Day Centre Staff, Service Managers, Assessment and Care Management Staff, Unions, Commissioners, HR, Local community, Social care providers, domiciliary care providers, Direct Payments Team, Elected Members

No.	Communication Method	Location	Date	Consulted Stakeholders
1	Proposal details displayed on the internet	Council website	27.07.12	ALL
2	Comment facility on the internet	Council website	27.07.12	ALL
3	Comment boxes in all day care centres and on in house transport vehicles	Oaks Day Centre Addison Day Centre Reach Day Centre Maple Avenue Kiveton Park Charnwood Copeland Lodge Park Hill Lodge In house vehicles	27.07.12	Service users, day centre staff
4	Email and postal comment methods	N/A	27.07.12	ALL
5	All information released to customers to be agreed with the Learning from customer forum or Speak Up	N/A	23.07.12	Service users, carers, relatives, friends
6	Key information displayed in all day centres and in house transport	Oaks Day Centre Addison Day Centre Reach Day Centre Maple Avenue Kiveton Park Charnwood Copeland Lodge Park Hill Lodge In house vehicles	27.07.12	Service users, day centre staff, carers, relatives, friends
7	Team meetings with all centre staff to ensure consistent messages to customers	Oaks Day Centre Addison Day Centre Reach Day Centre Maple Avenue	25.07.12	Day centre staff, senior managers, unions, HR

		Kiveton Park Charnwood Copeland Lodge Park Hill Lodge		
8	Key messages and FAQ's distributed to all staff to ensure consistent messages to customers	Individual workplaces	25.07.12	Day centre staff, senior managers, service users, carers, relatives, friends
9	Letter to every service user advising of the changes	N/A	25.07.12	Service users, carers, friends, relatives
10	Day centre meetings to outline potential changes	Oaks Day Centre Addison Day Centre Reach Day Centre Maple Avenue Kiveton Park Charnwood Copeland Lodge Park Hill Lodge	02.08.12	Service users, carers, friends, relatives
11	One to one meetings offered to service users and relatives/carers	Individual preferences	25.07.12	Service users, carers, friends, relatives
12	Press Release to local media	N/A	25.07.12	ALL
13	Scenario based direct payment information available to customers	N/A	25.07.12	Service users, carers, friends, relatives, Assessment and Care Management staff, day centre staff
14	Regular staff briefing emails and bulletins	N/A	25.07.12	Day centre staff, unions, Assessment and Care Management staff
15	One to one staff meetings with HR, unions and managers	Individual preferences	15.08.12	Day centre staff
16	Email to all assessment and care management staff advising of the changes and facilitating comment	N/A	08.08.12	Assessment and Care Management Staff, senior managers
17	Information and support available at Rotherham Carers' Corner	Rotherham Carers Corner	25.07.12	Carers, friends, relatives, service users
18	Open day at Rotherham Carers' Corner	Rotherham Carers Corner	31.08.12	Carers, friends, relatives, service users

19	Meeting with commissioners	Riverside House	24.08.12	Commissioners, adult social care providers
20	Attendance at domiciliary care provider forum	Domiciliary Care Provider Forum	31.08.12	Adult social care providers, Commissioners, Assessment and Care Management staff
21	Attendance at Rotherham Carers Forum	Rotherham Carers Corner	30.09.12	Carers, relatives, friends, service users
22	Attendance at specific service area Carers Forums	Learning Disability, Older People and Physical Disability Carers Forums	30.09.12	Carers, relatives, friends, service users
23	Unions informed of all changes affecting staff	N/A	27.07.12	Unions, day centre staff, senior managers
24	Monthly email briefing to Elected Members	N/A	27.07.12	Elected Members, senior managers
25	Consultation closure meeting at each day centre	Oaks Day Centre Addison Day Centre Reach Day Centre Maple Avenue Kiveton Park Charnwood Copeland Lodge Park Hill Lodge	05.10.12	Service users, carers, friends, relatives

Appendix 1: Draft Transport Eligibility Criteria

Eligibility Criteria

Only where there is no alternative means of travel for a service user should the use of transport, provided or arranged by the council, be considered.

Customers are eligible to access the council's transport services if they meet the following criteria:

1. The customer is assessed as having a substantial or critical need under the Fair Access to Care Services (FACS) framework and not meeting this need would produce an unacceptable level of risk to the customer and/or the recognised carer;

2. The customer has no access to transport and is unable to use public transport without putting themselves at an unacceptable risk;

3. There is not an alternative method of meeting the customer's assessed need which does not require transport services;

Where transport is to be provided by the local authority the Council's Eligibility Criteria Form must be completed and approved by a Team Manager / Budget Holder.

Exceptions

The Council **will not** provide transport services in the following circumstances:

1. **The customer has chosen to attend a service outside of their locality when a suitable service is available more locally;**

   Notes:
   Under no circumstances will transport be provided to a service where there is a suitable service available that meets the needs of the customer and is closer to the customer's home.

2. **The customer is able to walk to the service;**

3. **The customer is able to use public transport;**

   Notes:
   Consider if the customer could use public transport following a period of reassurance, support, enablement or transport training? This might be after a period of support has been provided by Occupational Therapists. Therefore transport may be provided on a temporary basis and reviewed when the service user is able to use public transport. In this circumstance a review date must be identified and recorded on SWIFT.
   Carers supporting the customer to use public transport may be eligible for a free bus pass.

4. **The customer lives in a residential or nursing home and has access to appropriate transport;**

5. **The customer is in receipt of the mobility component of Disability Living Allowance;**

   Notes:
   If the service user is not in receipt of mobility allowance, and the carer feels that they should be, then support should be provided to make an application.

6. **The customer has a mobility car provided by the Mobility Scheme;**

   Notes:
   It will not be acceptable for family members or carers to claim priority over the use of such vehicles.

7. **The customer has a family member or friend who is able to provide transport;**

8. **The customer is funded by another local authority to attend services in Rotherham.**

CHARGING FOR TRANSPORT

Charges for transport services are set by Cabinet Members and are subject to a process of regular review by Elected Members. Charges are in line with national guidance on charging policies.

Rotherham Metropolitan Borough Council
Directorate of Neighbourhoods and Adult Services

Rotherham Metropolitan Borough Council
Neighbourhoods & Adult Services

Service User Eligibility Criteria for Transport Services

The customer must have been assessed using an individual social care assessment and meet the eligibility criteria as set out in the Council's Transport Eligibility Criteria before completion of this form.

SECTION A: Customer Details

SERVICE USER NAME:		**DOB:**		**SWIFT NO.:**	
ADDRESS:		**Service Area Assessing:** (Older People, Learning Disability, Physical Disability, Mental Health).			
POSTCODE:					

SECTION B: Eligibility Criteria

QUESTIONS	YES/NO	COMMENTS/DETAILS
Is the customer able to walk to the Service, either alone or with assistance?		(If **No**, please explain why)
Does the customer have a car provided under the Mobility Scheme?		(If **No**, please explain why)
Does the customer receive the mobility component of Disability Living Allowance?		(If **No**, please explain why)
Is the customer able to use public transport either independently or with assistance?		(If **No**, please explain why)
Can the Service User be transported by a carer, family member or friend?		(If **No**, please explain why)
Is there a service nearer the service users home which would meet their needs?		(If **No**, please explain why)
Does the Service User live in a setting that has been commissioned by the Local Authority where transport can be arranged by a Service Provider?		(If **No**, give details why the Provider can not arrange the transport) (If **Yes**, ensure the Provider is aware of the transport requirements of the Service User)

Where **YES** is answered to any of the criteria above then transport **will not** be provided by the council. The customer will be expected to make their own transport arrangements but should be offered the support of their Assessing Officer to do so. Section C part 1 should be completed.

Where **NO** is answered to all of the criteria above then transport can be provided by the Council. Section C part 2 should be completed.

SECTION C: Assessing Officer's Recommendation

TRANSPORT REFUSED

1. Following the outcome of an individual social care assessment and by applying the above criteria, I recommend that Transport **is not** provided by the council for the above customer.

Signed: ..... **Name:** ..... **Date:** .....
(To be completed by the Worker undertaking the assessment)

TRANSPORT RECOMMENDED

2. Following the outcome of an individual social care assessment and by applying the above criteria, I recommend that Transport **is** provided by the council for the above customer.

Signed: ..... **Name:** ..... **Date:** .....
(To be completed by the Worker undertaking the assessment)

SECTION D: Team Manager Decision

In my capacity as Team Manager I confirm that I have reviewed the customer's individual social care assessment and as a result feel that transport provided by the council should be:

TRANSPORT REFUSED

Signed: ..... **Name:** ..... **Date:** .....
(To be completed by the Team Manager)

TRANSPORT RECOMMENDED

Signed: ..... **Name:** ..... **Date:** .....
(To be completed by the Team Manager)

Once completed and authorised the following should be undertaken:-

1. The Worker should inform the Service User of the outcome as part of the assessment;
2. A copy of this document should be associated to AIS along with the ISCA and Support Plan;
3. Where the outcome has been for Transport to be arranged or provided the Assessing Officer should make the necessary arrangements with the transport service.

ROTHERHAM BOROUGH COUNCIL – REPORT

1.	**Meeting:**	**Health Select Commission**
2.	**Date:**	**13th September, 2012**
3.	**Title:**	**Scrutiny Review of Continuing Healthcare**
4.	**Directorate:**	**Resources**

5. Summary

This report sets out the findings and recommendations of the scrutiny review of Continuing Healthcare in Rotherham. The draft review report is attached as Appendix 1 for consideration by the Health Select Commission.

6. Recommendations

That the Health Select Commission:

- **Endorse the findings and recommendations of the report and make any amendments as necessary**
- **Agree for the report to be forwarded to the Overview and Scrutiny Management Board and then Cabinet**
- **For the Cabinet response to the recommendations be fed back to the Health Select Commission**

7. Proposals and Details

As part of its 2011/12 work programme, The Health Select Commission agreed to undertake a joint review with the Improving Lives Select Commission to look at Continuing Healthcare (CHC) in Rotherham.

It was brought to the attention of members that spend on CHC in Rotherham was lower than that of surrounding and statistical neighbours and there were anecdotal concerns in relation to the customer experience of the CHC process and time taken to receive decisions. Scrutiny Members were concerned about this level of spending locally and the impact this was likely having on customers as well as Local Authority budgets.

Below is a summary of the key findings:

- There had been some positive engagement between the two organisations (local authority and NHS) to address some of the strategic issues faced locally in relation to budgets and procedures
- In Rotherham, the lower spend on CHC meant that Adult Social Care spend was higher than it would be if the CHC spend was either at average levels, or in line with the levels of health inequalities in the borough
- Interviews with professionals raised a number of issues and concerns around the process of assessments and decision making, including the CHC panel
- It was clear that although the processes were being adhered to, there were huge inconsistencies in the way they were implemented
- Information gathered from customers reflected the concerns raised in relation to the lack of clarity and inconsistencies in the process and delays being experience

The recommendations from the review are detailed in Section 6 of the full review report. They are divided into 5 themes, and include:

1. Assessments: To consider options for undertaking the CHC and social care assessments together and for increasing the use of step up/step down units as a setting to undertake assessments

2. Training: To refresh the CHC training package, ensuring it incorporates case studies and opportunities for feedback to relevant workers

3. Written Protocols: To agree written local protocols to provide clarity for specific situations in relation to the assessment process, lead worker and funding

4. Joint Working: To put in place joint strategic liaison meetings and regular multi-disciplinary team meetings to improve joint working and communication across agencies

5. Panels and Appeals: To ensure appropriate representation on CHC panels to enable expert knowledge and independence, and ensure information in relation to the appeals process is routinely given to customers

The indicative timetable for the onward consideration of the review and its recommendations is as follows:

- For the final report, following approval by the Health Select Commission, to go to OSMB in September
- Report to Cabinet September/early October 2012
- Cabinet response to report recommendations back to Health Select Commission December 2012

The review makes a recommendation for the CHC Manger to provide an update report 6 months following approval of the recommendations back to health Select Commission to provide reassurance that the recommendations were being implemented.

8. Finance

In Rotherham, the lower spend on CHC means that Adult Social Care spend is higher than it would be if the CHC spend was either at average levels or at a level in accordance with the level of health inequalities in the community. The purpose of the review was to consider reasons for this lower spend, as well looking at the customer experience, and make recommendations to try and address these financial discrepancies.

9. Risks and Uncertainties

The information gathered by the review-group suggests that although processes were in place, there were huge inconsistencies in the way in which these were being implemented in Rotherham. The total number of panels in place and the lack of transparent implementation of the processes were the main reasons for delays being experienced and financial discrepancies. CHC is dealing with an incredibly vulnerable group and the failure to prioritise this issue will be seen by Members as unforgivable.

10. Contact

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Rotherham Metropolitan Borough Council

Review of Continuing Healthcare in Rotherham

Joint report of the Health and Improving Lives Select Commissions

September 2012

Review Group

Cllr Brian Steele (Chair)
Cllr Dominic Beck
Cllr Hilda Jack
Cllr Lindsay Pitchley
Anne Clough (Co-opted member)

Contents

1. Executive Summary

Continuing Healthcare (CHC) is a complex and highly sensitive area which affects people at a very vulnerable stage in their lives. Because of the complex nature and a history of legal challenges to decisions in relation to funding Continuing Healthcare, a national eligibility criteria and processes were introduced in 2009, in the National Framework for NHS Continuing Healthcare and Funded Nursing Care.

In Rotherham, spend on CHC is lower than that of surrounding and statistical neighbours. Anecdotal concerns have also been raised in relation to the service user experience of the CHC process and time taken to receive a decision. Scrutiny Members were concerned about this level of spending locally and the impact this was likely having on service users as well as Local Authority budgets, and subsequently where Local Authority social care resources may be being inappropriately directed.

A sub group of members and co-optees from the Health and Improving Lives Select Commissions agreed to look into continuing Healthcare in Rotherham; what the current picture was in relation to spend on CHC in comparison with other areas, how processes in relation to assessments and decision making were being implemented and gathering views and experiences from service users, to establish reasons for this lower spend locally and produce a set of recommendations for improving this service for Rotherham people.

1.1 Summary of Key Findings

There has been some positive engagement between the two organisations (local authority and NHS) to address some of the strategic issues faced locally in relation to budgets and procedures, although Members agree this needs to be developed further.

In Rotherham, the lower spend on CHC means that Adult Social Care spend is higher than it would be if the CHC spend was either at average levels, or in line with the levels of health inequalities in the borough.

Interviews with professionals raised a number of issues and concerns mainly around the process of assessments and decision making, including the CHC panel. It is clear that although the processes are being adhered to, there are inconsistencies in the way they are implemented and it is not clear that the processes are being correctly applied to get the right decisions, resulting in delays and creating a negative experience for the service user. There also appears to be a lack of transparency in the process which, along with the gap between expected level of funding and demographics, suggests there is a serious issue in Rotherham.

LINk Rotherham were asked to undertake a study to gather the views and experiences of service users. What was gathered from this activity clearly reflects the issues in relation to inconsistencies in implementing processes for assessments and decision making, which was having a negative impact on the service user. The response rate from this study was disappointingly low, and Members feel strongly that agreement needs to be made jointly between the NHS and Local Authority to ensure that experiences of customers can be properly and sensitively gathered in future, to support service improvements.

1.2 Summary of Recommendations

The review-group agreed a set of recommendations under 5 themes. A summary of the recommendations is provided below:

1. Assessments: To consider options for ensuring that CHC and social care assessments are undertaken together and for increasing the use of step up/step down units as a setting to undertake assessments

2. Training: To refresh the CHC training package, to incorporate some local case studies and opportunities for feedback to relevant workers

3. Written Protocols: To agree protocols for:

- Clarifying who should be the lead worker for individual cases
- Clarifying the backdating of funding when a person is admitted to a nursing unit based on a fast track or checklist
- Agreeing an appropriate joint 'exit strategy' for people moving from high level of care to lower level
- Agreeing appropriate ways for engaging with customers to gather their views and experiences

4. Joint Working: To put in place joint strategic liaison meetings and regular MDT meetings to improve joint working and communication across agencies and look at ways of sharing good practice between services

5. Panels and Appeals: To ensure appropriate representation on CHC and Dispute panels to enable expert knowledge and independence, and ensure information in relation to the appeals process is routinely given to service users

2. Original concerns – why Scrutiny wanted to look at this issue

It was brought to the attention of members that spend on CHC in Rotherham was lower than that of surrounding and statistical neighbours. There have also been anecdotal concerns raised and evidence from social workers case files, in relation to the service user experience of the CHC process and time taken to receive a decision.

Scrutiny members were keen to unpick what the reasons may be for the lower spend on CHC locally, particularly looking at the way in which the national framework was being implemented across Rotherham and any issues with the process. Members were keen to look at how any issues could be addressed, ensuring a good working relationship between the local authority and NHS. Members also wanted to explore the concerns in relation to service user experience and establish whether the process could be done better or differently to improve this.

Initial discussions with the portfolio holder for Adult Social Care and local authority Director of Health and Wellbeing helped the review-group understand the challenges faced locally and agree the scope and key lines of enquiry for the review. These discussions highlighted to members that there had been some positive engagement between the two organisations (local authority and NHS), and positive dialogue between the Strategic Director of Neighbourhoods and Adult Services and the Chief Operating Officer of NHS Rotherham/Clinical Commissioning Group (CCG). In

addition there had been some sharing of expertise around commissioning which has resulted in commissioned services providing improved value for money.

However there were still considered to be delays experienced in the timing of assessments, and consequently delays in people accessing CHC which can have a negative and in some cases significant impact on customers.

Despite the council and NHS using, in some cases, the same services in the community, there are times when the transfer of an individuals care from local authority or from self funding care to CHC funding is not smooth, resulting in distress and disruption for the customer. The apparent 'underfunding' of CHC within Rotherham compared to others in the region, also results in increased pressure on council budgets.

2.1 Scope of Review

The review-group agreed the scope for the review, which was to include:

- Gathering benchmarking information against South Yorkshire authorities and statistical neighbours to establish the Rotherham position overall
- Reviewing the current arrangements in relation to the national framework, and identify areas of improvement and any non-compliance
- Examining the current role of the CHC Panel and how decisions are taken
- Examining the service user experience, building on anecdotal concerns in relation to experience of the CHC process and timings of assessments and decisions
- Developing conclusions and recommendations based on the evidence that is collected

To achieve these objectives the following actions were undertaken by the review group and supporting officers:

- Desk-top review of relevant reports, publications and gathering data and information from other local authorities to provide benchmarking
- Comparison of Department of Health published figures
- Use of the LINk to help gather views and experiences of local people
- Meeting with representatives of Adult Social Services
- Meeting with relevant NHS representatives
- Meeting with the Chair of the Continuing Healthcare Panel

3. Legislative and Policy Context

CHC is a complex and highly sensitive area which can affect people at a very vulnerable stage of their lives. CHC and NHS-Funded Nursing Care (FNC) refer to services that are funded by the NHS due to a persons health related needs. CHC is where the NHS fund 100% of care and FNC is where the NHS funds the nursing element of a care package. In these cases the accommodation (board and lodging) costs are either paid in full or in-part by the service user and/or by the Local Authority. Responsibility for CHC assessments and decisions in relation to NHS funded services were previously with the local Primary Care Trust (NHS Rotherham), however this responsibility has now transferred to the local Clinical Commissioning Group (CCG).

People who are not eligible for NHS funded care will have their needs assessed to establish whether they receive social care services from the Council. NHS funded care differs from Local Authority care in that NHS care is free at the point of delivery but Local Authority care is means tested.

CHC and FNC differ from many NHS services in that there are specific eligibility criteria and assessment/decision-making processes set out in legislation that must be followed. This reflects a history of legal challenges and Health Service Ombudsman investigations that led to a single national eligibility criteria and processes being introduced in 2007, and then revised in 2009, via the National Framework for NHS CHC and FNC. Since the introduction of the National Framework there have been no successful legal challenges to CHC.

Where a person has long-term health and social care needs, *and* their primary needs (their main needs) are health needs, the NHS is responsible for meeting both the health and social care needs via the provision of CHC. This can be offered in any setting including care homes and a person's own home. In many cases the providers are the same as used by Rotherham social care services.

Where a person is not entitled to CHC but their care plan identifies that they need a placement in nursing care accommodation, the NHS pays a fixed rate contribution towards the cost of support from a registered nurse via FNC. Local Authority social care and/or the individual themselves pay the remaining costs, depending upon the person's means. There are three national tools which are required to use in making decisions on eligibility for CHC – these being:

1. ***NHS Continuing Healthcare Checklist*** – initial checklist used by workers (social work/nurses etc) which triggers the need for a full assessment
2. ***Decision-Support Tool (DST)*** – tool completed by a multi-disciplinary team to establish whether the individual should be in receipt of CHC; their recommendation then goes to the eligibility panel for ratification
3. ***Fast Track Pathway Tool*** – is a rapid assessment process (fast track) – with a quick reference guide for use by all workers when a quick decision is required, where a person's health maybe quickly deteriorating

Responsibility for making decisions on CHC eligibility is with multidisciplinary teams (MDTs) of health and social care professionals, who carry out the assessment and make the recommendation on eligibility. The NHS CHC panel is expected to accept MDT recommendations in all but exceptional circumstances and are required to consult with the relevant Local Authority before making an eligibility decision (including before making a decision to end CHC eligibility).

CHC is fundamentally a 'whole system' issue which can only operate successfully if Local Authorities and the NHS work in partnership. CHC and Local Authority social care assessments consider very similar issues.

3.1 NHS Reforms

Launched on 20 July 2010, the Commission on Funding of Care and Support was an independent body tasked by Government with reviewing the funding system for care and support in England. Their report (Fairer Funding for All, July 2011) identified that different funding streams between the NHS and social care can create barriers for people and can sometimes seem unfair, such as in the instance of Continuing

Healthcare. The Commission recommended that NHS Continuing Healthcare should be given a much firmer statutory footing.

The publication of the Draft Care and Support Bill (2012) demonstrates the Government's response to the recommendations made by the Commission. A series of clauses are included in the Bill which relate to cooperation between the local authority and NHS when undertaking assessments for Continuing Healthcare, a requirement of the Secretary of State to make regulations about how an assessment is carried out, to provide clarity and ensure consistent practice (for instance, an assessment for NHS Continuing Healthcare), and the part local authorities must play in assessments to establish whether a person is entitled to Continuing Healthcare.

N.B. At the time of this report being published, the Bill and associated proposals and legislation were being consulted on nationally.

4. Findings

4.1 Local Position

Desk-based research gathered information and data on the total numbers of people receiving CHC from 2009 onwards. This data shows how Rotherham compares with other South Yorkshire local authorities and Rotherham's statistical neighbours. There was an increase in total numbers receiving CHC in 2011/12 compared with 2009/10 and 2010/11, which may be in part due to the implementation of the revised National Framework in October 2009 which brought into practice national eligibility criteria.

In 2011/12 768 people received CHC in Rotherham (compared with 411 in 2009/10 and 644 in 2010/11), costing £11.709. On average 425 people received FNC in the same period at a cost of £1.5m.

Whilst the spend per head of population has increased in the last year, Rotherham's ranking in relation to spend on CHC has dropped from 8th to 10th out of the 15 local authority areas in Yorkshire and Humberside. Overall the ranking has reduced and Rotherham is still below the average spend per head of population, in an area of poor health and low life expectancy, there are some key areas of spending variation:

- older people with dementia – Rotherham is still at less than half the regional average
- people with physical disability- Rotherham is a third below the regional average
- people with a learning disability – Rotherham spend has deteriorated and is 13% below the regional average

Data for the financial year 2011/12 shows that the majority of spend on CHC in Rotherham was on Learning Disability under 65s, which was 30.5% of the total CHC budget, whereas this represents only 5% of the total number of people receiving CHC; demonstrating the high cost of learning disability care packages. In the same year, spend on Physical Disabilities age 65 plus was 30% of the total budget with the total number of people receiving CHC in this year at 28%. Spend on Mental Health age 65 plus was 15% of the total budget, which was 28% of the total number of people and Physical Disabilities under 65s was 14% of the budget with the total number of people receiving CHC in this year at only 4%. Spend in relation to the Fast Track process was at only 6.5% of the total budget; however this group

represents the highest number of people receiving CHC, at 50.5%, which is due to the nature of the care packages through Fast Track, as they are often people at the end of their life.

In Rotherham, this means that Adult Social Care spend is higher than it would be if the CHC spend was either at average levels (or at a level in accordance with the level of health inequalities in the community). This has been recognised within budget setting processes, and an estimate of £4.5m is included in the adult social care budget to reflect additional CHC funding that the local authority will attempt to secure through negotiations with the CCG over the next 3 years.

4.2 What Professionals Told Us

The review-group interviewed a number of professionals in relation to CHC; these included social care representatives from the Local Authority, a representative from the Clinical Commissioning Group and the CHC Panel Chair.

The key lines of enquiry were as follows:

- *How effective is the multi-disciplinary assessment process?*
- *How are decision made? Can decisions be challenged? And how would challenges be dealt with?*
- *Are there any ways in which the current arrangements could be improved?*

The outcomes of this interview have been collated into themes and outlined below:

Theme 1. Decision Making

Decisions are made at the point of assessment by the multi-disciplinary team (MDT). The MDT looks at the evidence and makes recommendations as to whether they are eligible for CHC or not and this decision goes to panel for ratification. It is <u>not</u> the role of the panel to disagree with decisions, <u>but to ratify them</u> and ensure the appropriate information and evidence is available. If it is felt there is not enough evidence, the panel will send the case back to the MDT to gather further information.

The decisions that the MDT make include:

- Full CHC funding – NHS pays in full the costs of care
- Nursing component – NHS pays a set amount towards the nursing care element of a person's care package (the individual/local authority pays the rest)

There is a written process for making decisions; however a number of issues have been raised:

- Social workers are not in a position where they can admit someone into a home without a Decision Support Tool (DST) being completed; this can result in people waiting in hospital until the DST has been done by the MDT, which is often delayed
- It is not always possible to get a timely response from district nurses to complete assessments
- If this happens at a weekend, there can be huge delays in getting a person admitted to a home, as they will not do this without a DST being completed
- It was felt there should be an element of trust involved; if a social worker felt a person needed a nursing unit at the weekend then it would be an issue as a DST would have to be completed, if the person was placed somewhere pending a DST

being completed on the Monday, if CHC was not agreed, It was felt that NHS would not be prepared to pay that nursing cost which was an issue for the Local Authority and more flexibility and common sense was needed from the CCG;
- There needed to be a solution to this so that a person could be admitted over the weekend based on a checklist only, then a full DST could be done after the weekend. Agreement is needed that NHS would fund this package regardless of the decision
- There are a number of contacts from district nurses with a request for an assessment to be completed, without a fast track or checklist being completed initially, which can delay the full assessment
- It is felt that the process is in place, but lines of clear accountability were not felt to be there - the lead worker for each case is described as the 'person who knows them best' which is felt to be unclear and standard guidelines for this would be beneficial
- Although the 'process' is in place, every case is different which suggests there needs to be localised protocols agreed and clear guidance for what to do in specific situations
- There were felt to be inconsistencies in relation to the autonomy of MDTs, with a view that decisions needed to be based on need not finance

Hospital / A&E Issues

Issues were raised in relation to acute Accident and Emergency (A&E) assessments and discharge processes:
- Staff within A&E were currently <u>not</u> completing DSTs and they should be doing this; the process should be that ward staff should complete the check list/DST first to assess for CHC and rule out if necessary before the social worker goes in to complete a social care assessment
- There is a view that there needs to be greater partnership working for discharge planning to avoid delays
- It was felt customers did not always understand this process and what was happening in the hospital setting was not always clear

There were also concerns in relation to occasions when a hospital-based social worker assesses for one need and a few days later there may be more or different issues/needs, and a CHC assessment may need to be completed. It was felt that step up/step down services (where a person goes into a small unit for intensive intervention for a period of time) was beneficial, as the person can then be re-assessed as to where they need to be. Step up/step down units were also felt to be much better places to complete the DST if needed.

Learning Disability services

Learning disabilities have a fairly static populous; with people who are very familiar to services and the processes in relation to assessments. It was also suggested that because learning disabilities services was a joint service; with workers co-located, it made the process much easier and issues could be dealt with quickly.

The CHC service run a dedicated Learning Disability (LD) Panel, which has on it two senior LD service managers representing the service. An LD expert from out of the area was brought in to facilitate, educate and support this panel for a period of over 18 months. Despite this, concerns were raised in relation to the lack of

understanding of specific learning disability services issues on the CHC panel, which could sometimes make ratifying decisions difficult. It was noted that this was improving, but more work and training may be required.

Theme 2. The role of panel and appeals process

There were felt to be inconsistencies with the MDT decision being ratified by the panel. It is felt that where the MDT has made a recommendation which has been challenged and overturned by the panel, the decision was no longer that of the MDT but of the panel, which was not the correct process.

The ratification panel is in place to ensure consistency, but if eligibility decisions were being overturned due to inconsistency in the completion of the DST, then this suggests a need to provide feedback to people completing assessments to ensure they are completing them correctly.

It was noted that there was an open invitation for the Local Authority to attend panel meetings, but to date no-one had been attending and this needed to be addressed.

Appeals

If the decision was taken that the person was not eligible for CHC, individuals and/or families have a right to appeal. Appeals can take up to 14 days if a local issue, or a few months if referred to the Strategic Health Authority.

Response to appeals could involve a further assessment being completed by a 'new' MDT or a peer review (another local authority area looking at it e.g. Sheffield or Barnsley). If there was still no agreement it would go to the Strategic Health Authority for an independent review panel.

The CHC manager informed that out of approximately 600-700 patients currently in the system in Rotherham, there are 5 appeals, with an average of 20 appeals per year.

There was concern that the appeal process was not independent in the first instance, as appeals were sent solely to the CHC manager as the 'dispute panel' to make decisions on the appropriate next steps.

There was also concern that the appeal process was not always followed properly, because it was not always understood by workers and individuals/families. Information leaflets for the public are available, but it is not clear how often these were being given out by the person responsible for completing the assessment.

'Scrutiny' of assessments

It was noted that the panel sends completed assessments to be scrutinised by the service deputy, they may make the decision that there was a lack of evidence, and send back to the author. In this instance, once the author has obtained the evidence required, it goes back to the service deputy and if they are happy, back to CHC panel again to ratify.

There were concerns that this process can significantly delay decisions, as they have to be sent by Safe Haven fax (secure fax system)/secure post/or hand delivered. Files cannot be sent electronically due to confidentiality.

Social Services Panel

If the decision was taken by the MDT that no eligibility for CHC was evident, the case would be put to the Social Services panel to make a decision regarding eligibility for social care services.

There have been instances when the social services panel disagrees with the decision taken not to fund CHC and requests this goes back to the CHC panel. If it goes back to CHC panel and still not enough evidence at this stage it can go for a peer review. If there was still no decision and there was dispute between the Local Authority and NHS, that can't be resolved at local level (through peer review / or a new MDT), the case would go to both Directors for a decision to be made; this would always be seen as a last resort, as a decision by a multi disciplinary panel, which included Local Authority representatives would save time and be more transparent.

Learning disability appeals

There were times when complex learning disability packages of support/care were put in place through CHC funding. When the package was then reassessed 6 months on, it may be that the person no longer presented the same difficulties because of the support being provided, however if the support was taken away these difficulties could re-occur and would require CHC again.

It was suggested that this situation could be extremely difficult to provide evidence of need, for example with autism and complex learning disability needs. If support was put in place, it could divert and recognise issues before they arose, resulting in an overall improvement in an individual's behaviour.

There was concern that different interpretation of 'managed' need between the panel and learning disability services was apparent, which made decisions difficult to understand by the panel.

Theme 3. Training

It was noted that there was a rolling programme of training in relation to the assessment process for all agencies, and it was noted that there had been good attendance on training to date, however some concerns were raised:

- There was concern that training had not changed since 2009, when the revised framework was implemented, and workers were anxious about this
- There was felt to be inconsistencies and variation in how assessments (using the Decision Support Tool) were completed depending on who completed the tool (e.g. district nurse/social workers) which suggested a possible training need
- It was suggested that anyone responsible for carrying out assessments would benefit from case studies being built into the training programme to enable workers to understand where things may be being done incorrectly.
- It was also suggested that individual workers should be given feedback on their assessments, to help review and understand the process and where they may be

going wrong (for example, where the CHC panel sends a case back for further information as it was felt incomplete)

It was noted that case studies were included in training, but only on a case by case basis and that feedback was not given to every contributor.

Further Comments

There needed to be greater communication and partnership working across all agencies and services. It was noted that there were new MDT meetings established, which should improve partnership working, but it was crucial that these continued and were prioritised as far as possible.

There were also concerns with capacity issues on both sides (NHS and Local Authority) which was a huge issue for all involved and consideration needed to be given to this by strategic leads in both organisations.

The joint service centre (based in Maltby) was seen to be a good example of partnership working and there needed to be consideration given to how shared learning from this could be used across the board.

4.3 What Service Users Told Us

The review-group asked LINkrotherham to undertake a study on their behalf to look at the experience of service users in relation to CHC.

This study took place between July and August 2012 with the following key lines of enquiry:

- *Experiences of continuing healthcare; including assessments, decision making, and length of time from first contact to receiving the decision*
- *What would make individuals' experiences better*
- *Do service users understand the process of assessments and decision making*

LINkrotherham developed a CHC survey which was sent to specific voluntary/community sector groups with a relevant user base (i.e. experience of continuing healthcare). It was explained in a covering letter that the purpose of the review was to gather information and evidence of the current arrangements in place locally in relation to the assessment process, the role of the CHC panel and service user experiences of the CHC system in Rotherham.

People taking part in the survey were informed that their feedback would be anonymised and used for the sole purpose of the scrutiny review. They were also advised that it would not make any change to the outcome of CHC assessments that had already been carried out, but the findings of the overall consultation may help others.

Surveys were completed by applicants, carers and jointly by applicants and carers. The age range of applicants ranged from 17 to over 85 years old and the majority of respondents were female. Not all respondents answered all of the questions.

Survey Responses

Text in quotation marks is verbatim from the survey responses.

Assessments

In response to how assessments were undertaken, the majority of respondents stated that the assessment was clear, with a few suggesting they did not understand the process and felt needs had not been addressed appropriately. However, there were a number of comments in relation to communication and perception of the process:

“Decision seemed already to be made; seemed unwilling to discuss areas of disagreement, although these were recorded, we were told”.

“Clear enough but marred by changes to the evidence required to support statements made by care staff about individual's needs - not a bad thing to need more evidence, but no communication of this need.”

“Views of carers and family recorded by assessor, but assessor's own perception (having met the resident very few times) guided setting of levels. Not seen as a positive experience by family (although I am speaking for them, obviously)”.

Decision Making

In response to a question concerning views and experiences of the decision making process, there was a wide range of responses with one respondent stating that it was “ok”, another stating “the decision was made quite quick” whilst another respondent stated that it “seems unfair to have a decision making panel that has no learning disability representation on it. Specialist knowledge required to accurately assess the complex needs of the resident we care for”.

There was a wide range of responses with respect to the length of time from first contact to receiving the decision which ranged from receiving a response within a month’s time, another within 6 months, one respondent stating that they “don’t know how long it’s going to take” and one respondent stating that they were “basically told on the day that CHC would not be received; officially informed 4 weeks later”.

The majority of respondents stated they understood the process of assessment and decision making and felt it was explained clearly. However one respondent commented “was not too sure what is going to happen, felt things were not clear enough” and another commented “When they came to do the assessment did not understand how they are going to process assessment”. Whilst another respondent commented “The evidence required for this assessment was completely different to past experiences”.

When asked what would improve people’s experience of CHC, respondents felt they “would like things to progress a lot quicker. Because the need is urgent.” And felt “More consistency between assessments.” was needed.

There was however a number of comments in relation to the need to explain the decision making and appeals process much better: “No appeal process explained. Not happy with the decision made.”

A number of people also felt that the decision had already been made prior to assessment, with one respondent commenting “Left with feeling of inconsistency and decision already made (another agenda?). On reflection the greater requirement in terms of evidence asked for etc, is not a bad thing, but not being forewarned about changes in style of assessment was not helpful, making it difficult to support statements made at the time.” Another respondent also felt that “Clearer, early communication of changes to guidelines regarding evidence [was] required to support individual assessments.”.

Review-group Response to Customer Study

The responses reflect the concerns in relation to inconsistencies raised by professionals. With a mix of people feeling the process was explained and some who felt it wasn’t clear enough. For those who felt the process was unclear and that they had not received appropriate, timely information, this has to be seen as a failure of the CHC service and needs to be addressed as a priority. Some individuals also felt unhappy with the way the assessment took place and the decision making process which, if explained, may help people understand the decision; particularly if the decision was not to fund CHC. A number of people also felt that the decision had already been made, regardless of the evidence being gathered, which may be due to a lack of understanding of the process and the way in which decisions were made.

The comment made in relation to a lack of specialist knowledge on CHC panels is a powerful observation. This reflects the concerns raised by professionals with regards to no learning disability service expertise on the CHC panel, which has resulted in a lack of understanding of the complex care needs of this population, and subsequently the wrong decisions potentially being made.

The review-group feel there needs to be a joint discussion between agencies in relation to how best to obtain qualitative data on customer experience in the future, not only for this group of people, but for any person where their experience and views would benefit health services in the future.

5. Conclusions

The information gathered by the review-group suggests that although processes are there, in line with the National Framework, there are inconsistencies in the way in which these are being followed across all agencies and services in Rotherham. The total number of panels in place, inconsistencies in the process and a lack of independent review and customer focus on this issue are clearly the main reasons for delays being experienced, financial discrepancies and negative service user experience. CHC is dealing with an incredibly vulnerable group and the failure to prioritise this issue will be seen by Scrutiny Members as unforgivable.

Communication between agencies (NHS and Local Authority) was clearly improving, but Members feel that more work is needed to seriously address the issues in relation to processes and communication. If workers in all settings have a clear understanding of processes and there is a common approach across Rotherham to

implementing procedures, this would have a positive impact on customer experience, as well as ensuring resources were appropriately directed for all agencies. Training, addressing service change in relation to how assessments are undertaken, and having jointly agreed protocols for Rotherham have therefore been identified by the review-group as areas where significant improvements are needed.

In relation to Rotherham being below average for spend on CHC, addressing the issues with undertaking assessments and having agreed protocols for specific situations, including the funding of care packages which have been put in place over the weekend based on a checklist and ensuring specialist knowledge for all services on CHC panels, will go some way to improve the CHC spend locally. However Members feel there needs to be more open and honest discussions between both agencies to tackle this and therefore recommend that regular formal meetings are held between strategic leads to consider budget issues and issues in relation to transitions between funding streams and services, as well as informal MDT meetings to address more operational issues on the ground and improve communication between workers.

6. Recommendations

The review-group has agreed a set of recommendations under 5 specific themes to address the issues raised from both professionals and customers.

1. Assessments:

1a) To consider options for ensuring the CHC and social care assessments are undertaken together and develop an agreed protocol for how this should be delivered

1b) To consider options for utilising the use of step up/step down units much more widely, and enable assessments to be undertaken in this setting

2. Training:

2a) To refresh the CHC training package, ensuring it is up to date, appropriate for the different staff involved and rolled out to all relevant staff periodically

2b) To ensure the training package incorporates local case studies and opportunities for feedback to relevant workers on completing the assessment process to enable shared learning

3. Written Protocols:

3a) To clarify issues in relation to who should be the lead worker for individual cases and how to resolve disputes by producing written, agreed guidance for all to adhere to

3b) To put in place written agreement regarding the backdating of funding when a person is admitted to a nursing unit based on a fast track or checklist, pending a full DST being completed (protocols for weekends/holidays etc)

3c) To agree and put in place an appropriate joint ‘exit strategy’ for people moving from high level of care to lower level (within and across service providers)

3d) To agree joint protocols for engaging with service users to gather their experience and views for the purpose of service improvement

4. Joint Working

4a) To ensure the continuation of MDT meetings on a regular basis to improve joint working and communication across agencies

4b) To put in place joint strategic liaison meetings on a twice yearly basis, to allow for issues to be raised across agencies in an open and honest forum (including budget issues, transition planning and implementing the proposals within the Care and Support Bill)

4c) For the NHS and Local Authority to agree appropriate arrangements to consider discharge planning to avoid delays

4d) To consider options in relation to closer working across agencies, based on examples of good practice e.g Maltby Service Centre

5. Panels and Appeals

5a) To address concerns in relation to the lack of representation from the Local Authority at CHC panel meetings

5b) To ensure there is expert knowledge via an appropriate worker (such as a learning disabilities representative) on future CHC and Dispute Panels

5c) To review the current Dispute Panel, and take action to ensure this is an independent, multi-disciplinary panel which includes representation from the Local Authority

5d) To review the decision making process and look to streamline panels where possible to reduce delays and inconsistencies

5e) To ensure that all workers are routinely giving service users information leaflets and that the appeals process and their right to appeal is clearly explained at the beginning of the process

Reviewing Recommendations

6) For the Health Select Commission to receive a report from the CHC manager 6 months from the recommendations being approved, to ensure they are being implemented and making progress to improve this service in Rotherham.

7. Thanks

The review-group would like to thank the representatives from the local authority and NHS for their cooperation in undertaking this review.

Thanks are also given to LINk Rotherham for undertaking consultation with customers on behalf of the review-group, and to the customers, family members and carers who responded with their views and experiences.

8. Information Sources/References

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9. Contact

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10. Glossary of Terms

CHC Continuing Healthcare

CCG Clinical Commissioning Group

DST Decision Support Tool

FNC Funded Nursing Care

LINk Local Involvement Network

MDT Multi-disciplinary Team

NHS National Health Service