

**CABINET MEMBER FOR ADULT SOCIAL CARE  
16th June, 2014**

Present:- Councillor Doyle (in the Chair); Councillors Andrews and Pitchley.

**H1. DECLARATIONS OF INTEREST**

There were no Declarations of Interest made at the meeting.

**H2. MINUTES OF PREVIOUS MEETING**

Consideration was given to the minutes of the meeting held on 28<sup>th</sup> April, 2014.

Resolved:- That the minutes of the meeting held on 28<sup>th</sup> April, 2014, be approved as a correct record.

**H3. HEALTH AND WELLBEING BOARD**

The minutes of the meeting of the Health and Wellbeing Board held on 23rd April, 2014, were noted.

**H4. ADULT SERVICES REVENUE OUTTURN 2013-14**

Mark Scarrott, Finance Manager (Adult Services) presented a report relating to the Revenue Outturn position for Adult Services Department within the Neighbourhood and Adult Services Directorate for the financial year 2013/14.

It was reported that the 2013/14 revised cash limited budget was £73.555M, and the net Outturn for the Service for 2013/14 was an underspend of £33,089 (variation of -0.05%).

It was noted that a significant part of the actual underspend was due to additional income received from the NHS during the final quarter. This, together with restricting spend to essential items only throughout the year, underpinned by tight financial management within the Service, had contributed to addressing the budget pressures within Adult Services.

A summary revenue outturn position for Adult Social Services was given in the table within the submitted report.

The appendix to the submitted report detailed the revenue outturn 2013/14 and the reasons for variance from approved budgets. The following key variations were highlighted:-

**Adults General (-£140,000)**

- Underspend in the main due to restricting spend to essential items only, managed savings on training budgets plus additional grant funding for HIV support

**Older People's Services (+£298,000)**

- Recurrent budget pressure on Direct Payments, delays in implementing budget savings target within In-House Residential Care due to extended consultation, overspend on independent residential and nursing care due to budget savings target for additional Continuing Health Care not achieved plus increase in demand for domiciliary care particularly during the final quarter
- Above budget pressures reduced by additional Winter Pressures funding received in the last quarter, vacancies due to Service reviews and increased staff turnover within Assessment and Care Management and Social Work Teams, impact of restricting spend to essential items only within Day Care Services, delays on developing services for Dementia clients and carers' breaks. There had also been additional funding from Health to support hospital discharges, revenue savings due to delays in the replacement programme for Community Alarms and funding through capital resources

**Learning Disabilities (+£132,000)**

- Main overspend in respect of SYHA residential and nursing contracts, increases in care packages and reduced in Continuing Health Care income in Supported Living Schemes
- Increase in demand and unachievable budget saving in Domiciliary Care and high cost placements in independent day care
- Recurrent pressures on Day Care transport including under-recovery of income from charges and new high cost placements during the year
- Reduced by underspends in independent sector residential care budgets as a result of a review of all high cost placements plus efficiency savings on a number of independent and voluntary sector contracts and reduced care packages within Community Support Services

**Mental Health Services (-£446,000)**

- Savings on Community Support budgets
- Additional funding from Health to meet Public Health outcomes in respect of alcohol and substance misuse

**Physical and Sensory Disabilities (+£383,000)**

- Recurrent budget pressure and a further increase in demand for Direct Payments plus independent Domiciliary Care
- Pressures reduced by a planned delay in developing specialist alternatives to residential and respite care provision
- Efficiency savings on contracts with providers for day care, advocacy and Community Support Services, equipment and minor adaptations, staff vacancies and non-pay budgets

**Adult Safeguarding (-£148,000)**

- Underspend mainly due to additional Public Health funding to support Domestic Violence plus higher than expected staff turnover

**Supporting People (-£112,000)**

- Efficiency savings were made due to a reduction in actual activity on a number of subsidy contracts

Members present raised a number of issues that were clarified as follows:-

- The Local Authority had received £220,000 Winter Pressures money from Rotherham CCG
- £400,000 ringfenced Public Health monies had been allocated to meet Public Health outcomes within Adult Services

Resolved:- (1) That the unaudited 2013/14 Revenue Outturn report for Adult Services be received and noted.

(2) That staff be congratulated on ensuring the 2013/14 budget had been brought in line with Corporate priorities in an efficient manner.

**(THE CHAIRMAN AUTHORISED CONSIDERATION OF THE FOLLOWING ITEM TO ENABLE THE ARRANGEMENTS TO BE MADE.)**

**H5. CHAMPIONS**

Resolved:- (1) That the 2014/15 Champions for the Adult Services Directorate be as follows:-

Learning Disability	Councillor Pitchley
Mental Health	Councillor Pitchley
Carers	Councillor Andrews

(2) That a report be submitted to the next meeting with regard to the Champion positions for Older People, Sensory Deprivation, Domestic Abuse and Safeguarding Adults.

**H6. THE FUTURE OF CARERS' SUPPORT SERVICES**

Sarah Farragher, presented a report on the future of Carers' Services which showed that Rotherham continued to have a higher rate of people with limiting long term illness than the national average of 17.6% (56,588 – 21.9% of the population). It also revealed that Rotherham's population was ageing faster than the national average with a 16% increase in the number of people aged over 65. Those aged over 85 increased at over

twice the rate, the profile of which impacted upon the numbers of people needing care now and potentially in the future.

Also 31,001 people in Rotherham said that they provided unpaid care to family members, friends or neighbours with either long term physical or mental ill health/disability or problems related to old age.

Given this information, the emerging demographic trends and the future legislative requirements through the Care Act 2014, there was a need to consider ways in which the Authority could improve the ways in which it supported carers in Rotherham. A review had been commissioned to establish the future requirements in the delivery of support to carers across the Borough. This part of the review provided an evaluation of the ways in which carers received information:-

#### Carers Support Officers

- Carers were positive about the range of information and support they received
- Workshops delivered in local communities at health centres, community centres and recently at the Hospital
- The number of carers attending the events had been greater than the day-to-day footfall to Carers Corner
- Proposal to increase the sessions across all local communities

#### Council Website

- Difficult to search for information relating to support to carers and need to update this part of the website
- Proposal to rebadge it as "Carers Corner" with interactive buttons that could be clicked to access a range of information about carers support services and/or signposting to health and 3<sup>rd</sup> sector organisations for additional information and support
- Would help build closer working arrangements with external organisations who also undertook a support role to carers in Rotherham

#### Carers Corner

- Serious decline in the number of people visiting for support during the last year
- Due to insufficient budget to manage the Service, and the need to support the service with additional staff, this had resulted in a detrimental impact on other services
- 3 options:-
  - Invest in current Service
  - Virtual Carers Corner
  - Relocate Carers Corner

Full details of each of the 3 options were set out in the report submitted upon which the following discussion took place:-

- The implications of giving notice on the existing premises in July, 2014
- Possible suitable alternative premises in the Town Centre
- The prominence of support for carers in national and local agendas
- Health and safety requirements for staff, resulting in staff being unable to work alone

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

(2) That option 3, the reconfiguration of support services delivered by the Carers Corner function, be endorsed which would maximise the ways in which the needs of hard to reach carers living in the Borough of Rotherham could be met whilst still maintaining a Town Centre location with the potential for increased footfall.

(3) That the proposals for improvements to the range of information provided to carers on the Council's website and ways in which linked with Health and 3<sup>rd</sup> sector partner agencies could be improved be endorsed.

## **H7. SCRUTINY REVIEW - SUPPORT FOR CARERS**

The Director of Health and Wellbeing reported on the joint review undertaken by the Health and Improving Lives Select Commissions during 2013 and reported to Cabinet on 5<sup>th</sup> February, 2014 (Minute No. C177 refers).

The Select Commissions had recognised the contributions made by carers in their review and sought to consider the following:-

- If carers generally identified themselves as carers
- The degree to which carers accessed support or considered they need support to assist them in their caring role
- Where carers go for initial support
- The key factors necessary to ensure carers received good and timely information
- Any areas for improvement in current information provision

The review had established that carers represented a vital unpaid workforce within the Borough and that they needed to be invested in. Any resources invested to support carers represented an opportunity to reduce pressure on social care and health services.

The review produced 11 recommendations:-

- That NHS England, Rotherham Clinical Commissioning Group and Rotherham Council work with GPs to ensure that the first line of support aims to increase the number of carers identified and seeking support

- In looking at recommendation 1 above, the partners consider whether professionals should work on the presumption that the close family member or friend is a carer and ask questions to determine if this is the case and therefore what information resources are required to back this up
- That Rotherham Council investigates further with the Advice in Rotherham partnership (AiR) and the Department of Work and Pensions, what specific information carers need to access benefits that are available to them. This may also help to identify more carers
- That NHS England, Rotherham Clinical Commissioning Group and Rotherham Council, work with their VCS and other partners to create the carers pathway of support; an integrated, multi-agency response to the needs of carers, using carers assessments and crucially the allocation of a “buddy” or “lead worker” to champion their individual needs. This lead worker should, where possible, come from the most appropriate agency identified for individual needs
- That Rotherham Council considers via its review of services to carers, and in light of the new requirements imposed by the Care Bill, reconfiguring its advice and information offer for Carers including; Assessment Direct, Connect 2 Support, Carers Corner and outreach services, to ensure that flexible support is offered within existing resources
- That the “triangle of care” presented by RDaSH be considered as part of this process as something that could be adapted and rolled out to all partners providing support to carers
- That Rotherham Council reviews its carers assessment tool in the light of the Care Bill to ensure it is fit for purpose. This should involve considering whether it could be less onerous. The correct title of the document “Carer’s needs form and care plan” should be used by partners to reflect that it is an enabling process rather than an “assessment”
- That Rotherham Council looks to set more stretching targets for carers assessments and regular (annual) reviews
- That steps are taken to ensure that the Joint Action Plan for Carers meets the recommendations of this review and is more accountable in terms of its delivery, seeking to influence external partners accordingly
- Whilst the review group has sought to make recommendations that can be accommodated within existing resources it also recognises that there is a strong case for further investment in this sector, in line with the prevention and early intervention agenda. It therefore

recommends that the allocation of resources to carers (including the Better Care Fund) is reviewed to demonstrate how the changes to services proposed within this review are to be achieved

- Although outside the original scope, the review group recognised the important role public, private and third sector employers, play in providing flexible employment conditions for carers and therefore recommend that the findings of this review are shared with partners as widely as possible. In addition they reaffirmed the commitment in the Carer's Charter to actively promote flexible and supportive employment policies that benefit carers

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

- The Carers' Charter and Carers' Action Plan incorporated the review's actions
- A report was to be submitted to the Chief Executives' meeting regarding the employment aspect

Resolved:- That the report be noted.

#### **H8. DEPRIVATION OF LIBERTY SAFEGUARDS (DOLS) SUPREME COURT JUDGEMENT**

Sam Newton, Service Manager, Safeguarding Adults, presented a report outlining the significant resource implications for the Local Authority in its role as Care Manager, Care Provider and Supervisory Body as a result of a legal challenge and case law.

The Deprivation of Liberty Safeguards (DoLS) were introduced to the Mental Capacity Act 2005 through the Mental Capacity Act 2007 which required a process to be implemented which ensured that people who were considered to be deprived of their liberty were safeguarded through the DoLS process. This had been subject to challenge and case law, the most recent of which was the judgement in P v Cheshire West and Chester Council and P & Q v Surrey County Council which was handed down by the Supreme Court on 19<sup>th</sup> March, 2014. The judgement clarified the meaning of 'deprivation of liberty' in the context of social and health care which had practical and legal implications for the future of the Mental Capacity Act and the application of Article 5 of the European Convention on Human Rights and Article 5 being a person's right to liberty.

In order to meet its statutory responsibility following the judgement, the Local Authority would need to invest in additional resources and workforce. The initial costing for assessment alone could be in the region of £1M with an annual recurrent cost of approximately £700,000 for reviews and new assessments. This did not include the financial implications in terms of costs for commissioners, legal services, human

resources, additional Mental Health Act assessments and implications for Section 117 funding.

An initial action plan had been developed but was likely to change as national guidance emerged. In order to meet the initial impact and demand, the DoLS Team would have to be immediately increased with a Best Interest Assessor and additional business support in order to priorities all urgent DoLS requests (completion in 7 days). All previous DoLS applications received in the past 2 years that were not granted on the grounds that they did not meet the Council's then understanding of the threshold for deprivation of liberty would need to be reviewed.

A more detailed scoping exercise would be undertaken to understand how many individuals in Rotherham would be affected including all Adults and Children (those that are 16 years+ and in Foster Care) and those in receipt of health services. It was proposed that a working party be established to undertake this exercise and would include:-

- An approach to assessing/reviewing individuals that were impacted upon by the judgement
- Whether those who lacked the mental capacity to consent would need to be subject to a DoLS authorisation or be detained under a section of the Mental Health Act
- Proposed planned and measured approach applied in respect of standard requests (completion in 21 days) working with providers to identify, screen and prioritise assessments over a longer time frame e.g. 12 months
- Future applications not accepted without an appropriate Mental Capacity Assessment and evidence of a well worked best interest decision clearly demonstrating that all other alternatives to a deprivation of the person's liberty had been explored and ruled out
- Work with Rotherham CCG in terms of negotiating the availability of Section 12 Approved Doctors practicing within the local area
- Consideration to recruitment of additional trained Best Interests Assessors from external sources and/or investment in the development of the internal workforce to conduct reviews/assessments
- Impact of the additional demand on Legal Services

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

- Any suitably qualified doctor who had received Section 12 training could carry out the assessment
- Work was taking place around options for increasing the pool of Section 12 doctors as cost effectively as possible
- ADASS had commissioned a survey and was working with the Department of Health on the requirements
- Need to ensure that Social Workers were fully aware of the implications of these rulings especially in relation to their



understanding of the Human Rights Act and the Article 5 and the Mental Capacity Act

Resolved:- That the report be noted.

## **H9. CARE ACT 2014**

The Director of Health and Wellbeing presented a report on the plans in place to support the implementation of the Care Act 2014 in Rotherham.

The Care Act aimed to transform the social care system and its funding. The Department of Health was working together with the Local Government Association and the Association of Directors of Adult Social Services to develop and shape the Regulations which would come under the primary legislation and to inform the statutory Guidance on how local authorities would meet the legal obligations.

The Bill placed a duty on local authorities to carry out their care and support functions with the aim of integrating services with those provided by the NHS and other health related services including house, to be in place by 2018.

The key elements of the Act as currently laid out included:-

- Improving Advice, Information and Guidance
- Entitlement to Care and Support
- Assessment of Eligibility
- Personalisation
- Financial Assessment
- Cap on Care Costs
- Deferred Payments
- Safeguarding
- Carers
- Portability of assessment/Provision
- Provider Failure
- Transition from Child to Adult

It was anticipated that additional funding would be made available to local authorities in relation to the new duties but the level of which was not clear. Some of the issues the Council would need to address were:-

- Understanding the implications for the Council of a national eligibility framework
- Clear information about self-funders, not just in care homes but also those with eligible needs who were purchasing community-based support services who would be entitled to an assessment of need, support plan and annual review
- An understanding of the new processes that would need to be put in place for the provision of 'care accounts' including financial

assessments of self-funders, monitoring of self-funders' eligible care costs, production and provision of 'care account' statements for self-funders

- Assessment of financial implications of the cap on care costs and of an increase in the upper threshold for financial support from the Local Authority
- Awareness of those, including carers, who had unmet needs who would be eligible for social care services
- Understanding of the number of carers who would be entitled to an assessment to support planning where relevant
- Financial implications of extended carers' support services which would be non-chargeable
- Arising implications from the responsibility of ensuring there were sufficient preventative services which delayed people's need for long term care and support
- Development of processes to recover costs for meeting a person's eligible needs where funding responsibility laid with another local authority
- Resource implications of extended responsibilities in relation to transitions from Children's to Adults Services
- Implications for training assessment and care management staff with a move to proportionate assessments with an 'asset based' approach
- Implication of extended responsibilities to provide written information and advice to people with non-eligible needs on what could be done to prevent or delay the need for care and support

In order to gain an early understanding of the changes and the implications for the Local Authority, a programme of work had commenced in 2013 to consider in detail of the implications of the Bill and to scope and plan the implementation of the required changes. A Care Act Steering Board had been established with workstreams identified against key areas of work together with substantive sub-groups and enabling sub-groups. Details of each were set out in the report submitted.

It was noted that an all Members seminar was to be held before Christmas 2014.

Resolved:- That the report be noted.

**(THE CHAIRMAN AUTHORISED CONSIDERATION OF THE FOLLOWING ITEM TO ENABLE APPROPRIATE ARRANGEMENTS TO BE MADE.)**

**H10. ADULT SOCIAL SERVICES VISITS**

Resolved:- That, in future, the above be referred to as "Adult Social Services Informal Visits".

**H11. EXCLUSION OF THE PRESS AND PUBLIC**

Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 4 of Part I of Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of any particular person (including the Council)/information relating to any consultations or negotiations).

**H12. COMMISSIONING OF JOINT COMMUNITY OCCUPATIONAL THERAPY SERVICE POST MARCH, 2014**

Janine Parkin, Strategic Commissioning Manager, reported on the refreshed options remaining to the Local Authority and the Rotherham CCG for the delivery of Community Occupational Therapy Services following expiry of the existing jointly commissioned contract with the Rotherham Foundation Trust.

A full review of the Service and its performance had been conducted.

The report contained details of the 2 options available.

Resolved:- (1) That Option 1 be approved as the preferred option.

(2) That formal engagement with Rotherham CCG, agreement on governance arrangements and prioritisation of the service review be agreed by the Better Care Fund Task Group before submission to the Cabinet Member.

(3) That, further to (2) above, a further report be submitted before September, 2014, outlining the future commissioning plan, new governance routes and the proposed service model.