

AGENDA ITEM

REPORT TO CABINET

11 JUNE 2009

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Adult Services and Health – Lead Cabinet Member– Councillor Ann McCoy
Access and Communities - Lead Cabinet Member - Cllr Coleman

**SUMMARY OF RECENT REPORT RECOMMENDATIONS RELATING TO THE
COMMISSIONING OF SERVICES FOR PEOPLE WITH LEARNING DISABILITIES**

1. Summary

Two national reports published in recent months (*Six Lives: The Provision of Public Services to People with Learning Disabilities* and *Commissioning Services and Support for People with Learning Disabilities and Complex Needs*) have implications for commissioning and the provision of services for people with learning disabilities. This report summarises the reports and recommendations.

2. Recommendations

Cabinet are asked to:

1. Note the contents of the two reports;
2. Support the implementation of recommendations.

3. Reasons for the Recommendations/Decision(s)

To ensure that Stockton's commissioning and provision of services for people with learning disabilities and complex needs addresses the requirements of these national reports.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same

purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;

- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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SUMMARY

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RECOMMENDATIONS

Cabinet are asked to:

1. Note the contents of the two reports;
2. Support the implementation of recommendations.

DETAIL

1. Two recent national reports have been published that focus on Learning Disability services the detail and recommendations of these reports is outlined below.
2. **Six Lives: The Provision of Public Services to People with Learning Disabilities**

2.1 Introduction

In March 2007 Mencap published a report, *Death by Indifference*, which set out case studies relating to six people with learning disabilities. Mencap believe they died unnecessarily as a result of receiving worse healthcare than people without learning disabilities. None of the cases reported were from Stockton.

On behalf of the families involved Mencap asked the Health Service and Local Government Ombudsman to investigate complaints about all six cases, three of which span both health and social care.

2.2 Report Findings

The investigation reports illustrate some significant and distressing failure in services across both health and social care with issues ranging from a complaint about the care provided in a single hospital to complaints about service failures which involve the whole system of health and social care, including the ability of organisations to respond appropriately to complaints.

A total of 20 organisations were involved, including 3 councils and 16 NHS bodies. Complaints about the Healthcare Commission's handling of complaints were made in 5 of the 6 cases.

All of the six people died between 2003 and 2005 in circumstances which Mencap alleged amounted to institutional discrimination.

2.3 Complaint Handling

Most of the complaints which were investigated had been reviewed first by the NHS or council complaints systems. The families experiences of these systems had left them drained and demoralised and with a feeling of hopelessness.

Families gave repeated examples of failures to understand their complaints, with little effort made to clarify matters with them; confused and fragmented systems; poor investigations with little rigorous testing of evidence; defensive explanations; a failure to address the heart of the complaint; and a reluctance to offer apologies.

2.4 Treating People as Individuals

The Disability Discrimination Act 1995 makes it unlawful for service providers to treat disabled people less favourably than other people for a reason relating to their disability unless such treatment is justified.

In many of the organisations whose actions were investigated it did not appear that the level of understanding of the need to make reasonable adjustments had become embedded.

2.5 Leadership

Guidance on standards of practice across a range of health and social care functions is regularly issued and sets out a broad and consistent approach which should be familiar to all professionals. These standards offer many of the safeguards essential to ensuring that the needs of people who are vulnerable are addressed and appropriate adjustments made to their care.

The report made reference on many occasions suggesting that basic policy, standards and guidance were not observed, adjustments were not made and services were not co-ordinated. There was a lack of leadership and in some situations it appeared that no one had a real grasp of what was happening.

2.6 Overview and Summary Investigation Reports

The full investigation report gives details of the various complex factors which led to failure to offer good care to individuals in very vulnerable situations. The areas of concern included, communication, partnership working and co-ordination, relationships with families and carers, failure to follow routine procedures, quality of management and advocacy.

The report recommends that all NHS and social care organisations in England should review urgently:-

- the effectiveness of the systems they have in place to enable them to understand and plan to meet the full range of needs of people with learning disabilities in their areas.
- the capacity and capability of the services they provide and / or commission for their local populations to meet the additional and often complex needs of people with learning disabilities
- and should report accordingly to those responsible for the governance of those organisations within 12 months of the publication of the report.

That those responsible for the regulations of health and social care services (specifically the Care Quality Commission, Monitor and the Equality and Human Rights Commission):

- should satisfy themselves that health and social care organisations are meeting statutory and regulatory requirements.
- and report accordingly to their respective boards within 12 months of the publication of the report

That the Department of Health should:-

- promote and support the implementation of the recommendations, monitor progress against them
- publish a report in 18 months of the publication of the report.

3. Commissioning Services and Support for People with Learning Disabilities and Complex Needs

3.1 Introduction

A joint review was undertaken in 2008 by the Commission for Social Care Inspection, the Healthcare Commission and the Mental Health Act Commission, in nine areas of England to see how well people with learning disabilities and complex needs were being supported by local services.

Staff from the three commissions worked with an expert reference group, including people with learning disabilities, to develop the review methodology. The review does not cover children but focuses on adults with learning disabilities and complex needs, it does however look at how young people moved into adult services.

3.2 Assessment Framework

A framework was designed to structure the topics to be assessed during the reviews, based on extensive policy and literature review and on the eight steps to effective commissioning as highlighted in the Department of Health's Commissioning Framework for Health and Wellbeing (2007).

The framework incorporated the Valuing People white paper priorities and the eight assessment topics included:-

1. Person centred commissioning
2. Understanding needs of populations and individuals
3. Sharing and using information effectively
4. Assuring high quality providers for all
5. Recognising links to health, well being and rights
6. Develop incentives for commissioning
7. Local accountability
8. Capability and leadership

The nine areas involved in the assessment were Doncaster, Dorset Dudley, Gateshead, Harrow, Hillingdon, Lancashire, Redbridge and Stoke-on-Trent.

3.3 Report Summary and Findings

Valuing People Now sets out a three year strategy and a delivery plan for making changes happen for everyone, including people with complex needs.

The review has identified ten key challenges for councils and Primary Care Trusts, Learning Disability Partnership Boards and others to address together in their commissioning strategies.

3.4 Ten Key Challenges

1. Special effort should be made to ensure inclusive approaches. Person centred plans; health action plans and access to good advocacy are basic rights for every person not an optional extra.
2. Agencies should ensure that people with learning disabilities and their families and carers (including people with complex needs) are treated as equal citizens in planning and providing feedback on quality of services.
3. Councils should ensure that direct payments and personal budgets are sufficiently taken up by people with learning disabilities and complex needs and their families.

4. Health and social care organisations should ensure they share information so they can assess how their services and support meet the needs of people with learning disabilities and complex needs.
5. Learning Disability Partnership Boards should ensure they are effective and ensure their objectives are renewed.
6. Joint Strategic Needs Assessments should include information to ensure clear commissioning strategies for services and support for people with learning disabilities and complex needs.
7. Primary Care Trusts and Councils should ensure the effectiveness of community learning disability teams.
8. Primary Care Trusts should ensure that access to healthcare for people with learning disabilities and complex needs is consistent and fair.
9. Councils and Primary Care Trust should ensure the effectiveness of safeguarding arrangements.
10. Primary Care Trusts and Councils should ensure the workforce attitudes and competences are improved.

4. Summary

Both reports highlight wide ranging issues for the commissioning approach and operational oversight for learning disability services. A Learning Disability Strategy is being developed to focus on existing and new work to address each of the reports recommendations and will be in place by December 2009.

The Learning Disability Partnership Board is being reviewed to ensure that it can robustly monitor the action plan that is developed. In addition, learning disabilities will be strengthened via the refreshed Joint Strategic Needs Assessment (JSNA) which will be completed by Summer 2009.

FINANCIAL IMPLICATIONS

The effectiveness of our partnership arrangements with our partners is critical – work is underway to revise the agreements with Tees Esk and Wear Valleys NHS Trust and the PCT.

The review will need to consider the resourcing arrangements for learning disability services in line with the report recommendations.

LEGAL IMPLICATIONS

The reports highlight the importance of embedding the Disability Discrimination Act (1995) and to make reasonable adjustments for people with a learning disability.

RISK ASSESSMENT

This is a high profile review of learning disability services and there are clear expectations that progress is made to address the report requirements. An assessment of the implications of these reports will consider the resource and risk elements and will report back via the strategy development and the Learning Disability Partnership Board.

COMMUNITY STRATEGY IMPLICATIONS

The Sustainable Community Strategy (Shaping Our Future) for Stockton-on-Tees 2008-2021 sets out the vision and key improvement priorities for the local area. People with learning disabilities and complex needs are reflected in the need to reduce health inequalities, improve access to healthcare, prevent ill health and promote health living and enable independence of this vulnerable group.

People with a learning disability are often a marginalised group. Within the Council Plan the focus on the sustainable community includes which people with learning disability who should be able to contribute to and enjoy an improved quality of life, have increased choice and control and improved health and well being.

CONSULTATION INCLUDING WARD/COUNCILLORS

N/A

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Background Papers

N/A

Ward(s) and Ward Councillors:

N/A

Property

N/A.