

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

25 NOVEMBER 2010

**REPORT OF HEALTH
SELECT COMMITTEE**

CABINET DECISION

Adult Services and Health – Lead Cabinet Member – Councillor Beall

EFFICIENCY, IMPROVEMENT AND TRANSFORMATION (EIT) REVIEW OF FAIR ACCESS TO CARE SERVICES

1. Summary

The attached report outlines the findings of the Health Select Committee's EIT Review of Fair Access to Care Services. The review examined proposals to amend the Council's eligibility criteria for adult social care services. This included an extensive consultation process, and the results are included in this report. The report makes recommendations to remove the Moderate band from the Council's eligibility criteria, undertake actions in order to implement this and to mitigate the impact of the change through increased support to community services and advice and information.

2. Recommendations

The Committee recommend:

1. that the Council amend its eligibility criteria for adult social care by removing the Moderate band and providing care to those in Critical and Substantial bands only;
2. that the revised policy be implemented for all assessments and re-assessments that take place following 1 April 2011;
3. that specific work be undertaken to ensure a consistent approach to the provision of aids and adaptations in line with the revised eligibility criteria that will take effect from 1 April 2011;
4. that a communications plan be developed in order to clearly communicate the revised policy and its implications to clients, staff and stakeholders including Members, and that the information provided to clients should continue to include reference to the availability of advocacy and other methods of support when undergoing assessments;
5. that further consideration be given to the additional operational and resource requirements of undertaking the assessment/re-assessment process during the initial 12 months operation of the revised policy;
6. that, subject to the availability of resources, investment should take place in targeted community services, using a preventative approach and the emerging priorities outlined in the report where possible, and that particular consideration should be given to investment in assistive technology (for example Telecare);

7. that the wider corporate support initiatives to the voluntary and community sector be endorsed, and as part of this, consideration should be given to enabling this sector to focus on preventative, community services for Adults, on a sustainable basis where possible, utilising the range of programmes that have been developed e.g. the Voluntary and Community Sector Investment Fund;
8. that advice and information services be further developed to enable signposting to community services, and that such services should be up to date and accessible, include effective promotion of community services that already exist, and be linked to the work being undertaken as part of the implementation of the EIT Review of Advice and Information, and the Personalisation implementation programme;
9. that the impact of the revised policy should be monitored through the implementation of the Action Plan from the Equality Impact Assessment;
10. that to ensure that data quality is maintained, a process should be put in place to monitor the information held in relation to clients' eligibility bandings and to keep this under review, and progress should be reported to the Health Select Committee as part of the established monitoring procedures.

3. Reasons for the Recommendations/Decision(s)

As part of the Council's EIT Programme, and as part of the agreed scrutiny work programme for 2009-10 and 2010-11, the Committee has undertaken a review of the Council's eligibility criteria for adult social care and the attached report outlines the results of the review.

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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CABINET DECISION

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CARE SERVICES**

SUMMARY

The attached report outlines the findings of the Health Select Committee's EIT Review of Fair Access to Care Services.

RECOMMENDATIONS

The Committee recommend:

1. that the Council amend its eligibility criteria for adult social care by removing the Moderate band and providing care to those in Critical and Substantial bands only;
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include effective promotion of community services that already exist, and be linked to the work being undertaken as part of the implementation of the EIT Review of Advice and Information, and the Personalisation implementation programme;

9. that the impact of the revised policy should be monitored through the implementation of the Action Plan from the Equality Impact Assessment;
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DETAIL

1. The attached report presents Cabinet with the outcomes of the Efficiency, Improvement and Transformation (EIT) Review of Fair Access to Care Services.
2. The review formed part of a three year programme of EIT reviews covering all services provided by the Council. The programme aims to ensure that all services are reviewed in a systematic way to ensure that they are provided in the most efficient manner, provide value for money and identify opportunities for service improvements and transformation.
3. Following consideration by Cabinet an action plan will be submitted to the Select Committee setting out how approved recommendations will be implemented detailing officers responsible for action and timescales.

FINANCIAL IMPLICATIONS

4. The projected saving that could be achieved by providing adult social care services for those in the Substantial and Critical bands only would be approximately £1.05m. The total gross savings could be higher once the effect of implementation with regard to aids and adaptations is taken into account. As detailed in the main report, the full level of savings that would be achieved would not be known until existing clients had been re-assessed, as it is possible that some clients that are currently in the Moderate band will be placed in a higher band due to a change in their circumstances.
5. It is proposed that consideration is given to investing in resources needed to undertake the re-assessment and early implementation of the revised eligibility criteria, and to support community services using a preventative approach. The total level of investment is yet to be determined as this will depend on the adopted approach to implementation, the type of community services the Council decides to invest in, and the overall level of resource available to the Council.

LEGAL IMPLICATIONS

6. Adult social care eligibility criteria are based on a statutory framework. Statutory guidance has been issued under section 7(1) of the Local Authority Social Services Act 1970. The guidance is entitled *Prioritising need in the context of Putting People First. A whole system approach to eligibility for social care*, issued by the Department of Health. This should be followed as the Council uses, reviews and if appropriate revises its eligibility criteria.
7. The Council needs to be aware of its legal duties in relation to avoiding discrimination. Eligibility criteria must not unlawfully discriminate. In determining eligibility criteria councils must have due regard to racial, gender and disability equality duties.

8. The Equality Act 2010 replaces existing anti discrimination laws and extends the areas where discrimination will be unlawful to include age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment. Most of the Equality Act 2010 is now in force, however, it creates a new public sector Equality Duty which is not expected to be in force until April 2011. The Government is currently consulting on how this should be implemented. Until then the local authority must continue to have due regard to existing equality duties and these are outlined as follows.
9. They include: Sex Discrimination Act 1975, the Disability Discrimination Act 1995, the Human Rights Act 1998, the Race Relations (Amendment) Act 2000 and age discrimination outlined in the NSF for Older People.
10. The statutory duties are:
 - Sex Discrimination Act 1975 - S.76A - a general duty to have due regard to the need to eliminate unlawful discrimination and harassment (including for transsexual people) and the need to promote equality of opportunity between men and women.
 - The Human Rights Act 1998 generally makes it unlawful for a public authority to act in a way which is incompatible with rights under the European Convention on Human Rights, and requires legislation to be interpreted so as to give effect to Convention rights.
 - Race Relations Act 1976 (amended by Race Relations (Amendment) Act 2000 - S71 - provides a duty, when exercising functions, to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups and S19B makes discrimination by a public authority unlawful.
 - Disability Equality Duty

S. 49A Disability Discrimination Act 1995 provides:

Every public authority shall in carrying out its functions have due regard to:

- a) the need to eliminate discrimination that is unlawful under this Act;
- b) the need to eliminate harassment of disabled persons that is related to their disabilities;
- c) the need to promote equality of opportunity between disabled persons and other persons;
- d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
- e) the need to promote positive attitudes towards disabled persons, and
- f) the need to encourage participation by disabled persons in public life.

The Disability Rights Commission (since replaced by the Equality and Human Rights Commission) has produced a statutory Code of Practice "The Duty to Promote Disability Equality" which must be taken into account by public authorities and the courts but does not have the force of law. Paragraph 1.10 of the Code emphasises that equality for disabled people may mean treating them more favourably. Paragraph 1.113 requires public authorities to adopt a proactive approach. Paragraph 2.34 considers "due regard" and its meaning that requires public authorities to do more than simply give consideration to disability equality. The Code encourages a full impact assessment.

The results of the Equality Impact Assessment are outlined below and considered in the main report.

RISK ASSESSMENT

11. This report on Fair Access to Care Services is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

12. The issues covered by the review have an impact upon a number of Community Strategy themes in particular Healthier Communities and Adults, Stronger Communities, and Older Adults.
13. There are no specific community safety implications.

EQUALITIES IMPACT ASSESSMENT

14. This report has been subject to an Equality Impact Assessment (EIA) and has been judged to have a negative impact. This has been judged necessary because of the potential effect on some groups, in particular older people and the disabled, due to the nature of the client group.
15. Actions to mitigate the effect of the amended eligibility criteria will be taken as outlined in the report and EIA Action Plan, including the development of advice and information, and a range of community and targeted services where possible. The EIA's Action Plan also aims to meet the Committee's desire to see that the implementation of revised criteria will be properly monitored. This should include a demographic analysis of the adult social care client group 12 months after the introduction of revised criteria, and a process to monitor the progress of a sample of clients whose needs are not assessed as eligible under the revised criteria, and who would therefore be directed to community based services as appropriate.

CONSULTATION INCLUDING WARD/COUNCILLORS

16. The review included a period of extensive consultation that took place between 1 June and 27 August 2010. Members of the Community Equality Impact Assessment Panel reviewed the proposed consultation approach and the draft documents as part of the consultation preparations.
17. A survey and information booklet was sent to the 6851 clients and carers who were in receipt of Council adult social care services at the time of the creation of the mailing list in May. The survey and booklet was also made generally available to the public, including on the Council's website. 1340 survey responses were received in total, including 1276 from clients.
18. In addition to the survey over 30 engagement events and meetings were attended. This included seven dedicated public meetings, attendance at a range of existing forums, and dedicated focus groups. Additional meetings were organised in response to demand. Events were organised for particular client groups, including three Learning Disability Day Services events, a deaf community meeting, engagement with young people including transitions groups, the BME Network, Over-50s Forum, and the Faith Group. A presentation was provided at each event and this was followed by the opportunity for more in-depth discussion.
19. All Councillors were provided with a briefing in order to enable Members to support the consultation process. The process was advertised via Stockton News, the Council website,

press releases, and posters in public areas. The results of the consultation are detailed in the Committee's final report (attached).

Name of Contact Officer: Peter Mennear
Post Title: Scrutiny Officer
Telephone No. 01642 528957
Email Address: peter.mennear@stockton.gov.uk

Education related? No

Background Papers None

Ward(s) and Ward Councillors:

Not Ward specific

Property

No direct implications.