



# CALL-IN SUB COMMITTEE

**MONDAY 13 AUGUST 2007**

**8.00 PM**

**\*Please note the start time of this meeting**

**SUB-COMMITTEE AGENDA (SCRUTINY)**

**COMMITTEE ROOMS 1&2,  
HARROW CIVIC CENTRE**

**MEMBERSHIP (Quorum 3)**

**Chairman: Councillor Anthony Seymour**

**Councillors:**

**Stanley Sheinwald  
Mark Versallion**

**B E Gate  
Mitzi Green**

**Reserve Members:**

1. Jeremy Zeid  
2. Mrs Lurline Champagnie  
3. –  
4. Dinesh Solanki  
5. Julia Merison

1. Jerry Miles  
2. Graham Henson  
3. Keeki Thammaiah  
4. Mrinal Choudhury

**Issued by the Legal Services Section,  
Legal and Governance Services Department**

**Contact: Claire Vincent, Democratic Services Manager  
Tel: 020 8424 1637 E-mail: [claire.vincent@harrow.gov.uk](mailto:claire.vincent@harrow.gov.uk)**

***NOTE FOR THOSE ATTENDING THE MEETING:  
IF YOU WISH TO DISPOSE OF THIS AGENDA, PLEASE LEAVE IT BEHIND AFTER THE MEETING.  
IT WILL BE COLLECTED FOR RECYCLING.***

**HARROW COUNCIL**

**CALL-IN SUB COMMITTEE**

**MONDAY 13 AUGUST 2007**

**AGENDA - PART I**

1. **Appointment of Chairman:**

To note the appointment, at the Special meeting of the Overview and Scrutiny Committee on 12 July 2007, of Councillor Anthony Seymour as Chairman of the Committee for the Municipal Year 2007/2008.

2. **Attendance by Reserve Members:**

To note the attendance at this meeting of any duly appointed Reserve Members.

Reserve Members may attend meetings:-

- (i) to take the place of an ordinary Member for whom they are a reserve;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve;
- (iv) if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

3. **Declarations of Interest:**

To receive declarations of personal or prejudicial interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Committee, Sub Committee, Panel or Forum;
- (b) all other Members present in any part of the room or chamber.

4. **Arrangement of Agenda:**

To consider whether any of the items listed on the agenda should be considered with the press and public excluded on the grounds that it is thought likely, in view of the nature of the business to be transacted, that there would be disclosure of confidential information in breach of an obligation of confidence or of exempt information as defined in Part 1 of Schedule 12A to the Local Government Act 1972.

5. **Appointment of Vice-Chairman:**

To appoint a Vice-Chairman of the Sub-Committee for the Municipal Year 2007/2008.

6. **Minutes:**

That the minutes of the meetings held on 17 October 2006 and 8 January 2007 be taken as read and signed as correct records.

7. **Call-in of the Decision of the Special Cabinet Meeting on 25 July 2007: Key Decision - Outcome of Spring 2007 Statutory Consultations on Community Care Services - Fair Access to Care Services:** (Pages 1 - 52)

The following documents are attached:-

- (a) Notice Invoking the Call-in
- (b) Extract from the Minutes of the Special Cabinet meeting held on 25 July 2007
- (c) Report submitted to the Special Cabinet meeting held on 25 July 2007

**AGENDA - PART II - NIL**

**Local Government (Access to Information) Act 1985:** In accordance with the Local Government (Access to Information) Act 1985, this meeting is being called with less than 5 clear working days' notice by virtue of the special circumstances and grounds for urgency stated below:-

Special Circumstances/Grounds for Urgency: Under Overview and Scrutiny Procedure Rule 22, a meeting of the Call-in Sub-Committee to consider a request for call-in must be held within 7 clear working days of the receipt of a request. This meeting therefore had to be arranged at short notice and it was not possible for the agenda to be published 5 clear working days prior to the meeting.

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**Call-in Notice**

To be completed by Members of the Public, as per the provisions of Overview and Scrutiny Procedure Rule 22.2(b).

To: **The Chief Executive**

1. **NOTICE OF CALL-IN OF EXECUTIVE DECISION**

In accordance with Overview and Scrutiny Procedure Rule 22, we, the <sup>597</sup>150 signatories to this call-in notice (see numbered continuation sheets overleaf), being members of the public registered on the electoral roll of the London Borough of Harrow, hereby give notice that we wish to call-in the Executive decision detailed in section 2 below.

( ATTACHED )

2. **DETAILS OF EXECUTIVE DECISION**

The details of the Executive decision are as follows:-

Decision: Agenda item 788 of the Cabinet (25 July): Outcome

Made by: of Spring 2007 statutory consultation on Community Services - Fair  
(Cabinet/relevant Portfolio Holder) Cabinet 25th July 2007 Access to Care Services

Published On: 30th July 2007  
(Date)

3. **GROUND'S FOR CALL-IN**

(Please specify below the grounds for the call-in, in accordance with Overview and Scrutiny Procedure Rule 22.5. Please note that, in the event that this call-in is referred to the Call-in Sub-Committee, the considerations of the Sub-Committee will focus on the grounds stated, and the Sub-Committee will seek evidence to support them. Please therefore also set out below details of the evidence to support the grounds for call-in, continuing on a separate sheet if necessary).

Grounds for CALL-IN ATTACHED.

PLEASE NOTE : POINT OF CONTACT

Anne Freeman - Harrow Rethink Support Group  
020 8427 7737

DEVEN PUNJ - HARROW MENCAP  
0208954 8444

Once completed, please forward this form to Michelle Fernandes in Room 143, Civic Centre or send it by fax to 020 8424 1557 WITHIN 5 WORKING DAYS OF THE DATE OF PUBLICATION OF THE DECISION.

To: The Chief Executive

**NOTICE OF CALL-IN OF EXECUTIVE DECISION**

In accordance with Overview and Scrutiny Procedure Rule 22, we, the undersigned, hereby give notice that we wish to call-in the Executive decision detailed in section 2 below:-

Name(s)	Signature
<b>PLEASE SEE ATTACHED LIST</b>	<b>PLEASE SEE ENCLOSED LIST</b>

**2. DETAILS OF EXECUTIVE DECISION**

The details of the Executive decision are as follows:-

Decision: **Agenda Item 7 & 8 of the Cabinet (25 July): Outcome of spring 2007 statutory consultations on Community Care Services – fair Access to Care Service**

Made by: **Cabinet on 25 July 2007**

Published On: **30 July 2007**

**3. GROUNDINGS FOR CALL-IN**

Please specify below the grounds for the call-in, in accordance with Overview and Scrutiny Procedure Rule 22.5 (the grounds on which an Executive decision may be called in are set out overleaf). Please note that the considerations of the Call-in Sub-Committee will focus on the grounds stated, and the Sub-Committee will seek evidence to support them. Please therefore also set out below details of the evidence to support the grounds for call-in, continuing on a separate sheet if necessary.

- (a) Inadequate consultation with stakeholders prior to the decision.**
- (b) The absence of adequate evidence on which to base the decision.**
- (c) The decision is contrary to the policy framework of the Council.**
- (d) The action is not proportionate to the desired outcome.**
- (e) A potential human rights challenge.**
- (f) Insufficient consideration of legal and financial advice.**

## Grounds for Call-In

### a. Inadequate consultation with stakeholders prior to the decision

The consultation process undertaken by the Council was flawed in a number of ways:

- The consultation was not genuine as the council had effectively made up its mind to implement its proposal prior to the cabinet's decision of 25<sup>th</sup> July.

The consultation only offered one option, namely that only those with critical needs should be supported hence offering no other real choices. It is worth noting that the draft consultation document had other options but was later withdrawn.

The leader of the council in a statement made relating to the single option proposal said ' It is the only way I can make the books balance'. A clear indication that this was a fait accompli.

Additionally in reaching its decision the council failed to take into account the overwhelming number of respondents against the proposal, clearly demonstrating that it did not go into the process with an 'open mind' or be prepared to change its position and take into account the outcome of the consultation. All essential aspects of a genuine and 'lawful' consultation process.

- The consultation document was misleading and confusing.

The FACS consultation ran practically simultaneously to the Day Care charges consultation process. These documents were virtually identical in colour, size and layout, which left the frail, elderly and disabled individuals and carers confused and unable to be properly consulted.

More significantly the FACS consultation document states that;

'If you live in a residential or nursing home or sheltered housing or have supporting people services your right to continue to live there would not be affected by any proposed change.' (page 4 Portfolio Holders introduction)

Yet there are numerous examples where individuals have been hurriedly assessed without the appropriate support from families or carers and services reduced or changed.

### b. Absence of adequate evidence on which to base the decision

The decision taken is not reasonable as the council has not demonstrated how it will achieve its stated aim of containing costs. The council makes a number of suppositions, which it obviously cannot substantiate.

The council own assessment contradicts its stated position.

The councils Outline impact assessment states;

'It is not possible to predict accurately to how many people this might apply, or estimate accurately what the financial implications may be over the medium to long term.'

'In some of these cases, that delay may eventually mean that more and/or more expensive services have to be provided than would have been the case had services been made available at an earlier point'

The council maintains that it will continue to meet the needs of the vulnerable yet its decision to restrict services to those assessed as critical contradicts this statement.

The council in its Outline Equalities Impact Assessment states;

'By definition, all people to whom this proposed change applies are considered vulnerable.'

The cabinet paper (page 6 section 2.4) refers to the Voluntary sector supporting people who have services withdrawn. However it fails to provide any evidence of the capacity or adequacy of the sector to respond to these specialist needs.

Furthermore whilst there are references to carers needs no assessment of their respective needs have been undertaken as is required under the Carers(Equal Opportunity) Act 2004.

The consequences of the councils decision on Individuals and families are to cause unnecessary detriment and suffering ( as evidenced by the Council's own outline impact assessment); Therefore the decision cannot be said to be reasonable fair or proportionate.

c. The decision is contrary to the policy framework of the Council

The decision to restrict services to those deemed critical only is in direct conflict to the Council's Vision and stated Corporate Priorities.

- The Corporate Plan 2007-10 was agreed at Cabinet on 21 June 2007 and adopted by Full Council on 12 July. In this document under Vision and Corporate Policies it says



'The Council's vision is to be recognized as one of the best London Councils by 2012 in a borough that is cosmopolitan, confident and cohesive.'

This vision is supported by more specific aspirations and lists 11 including

'V5 - listen to and care for people who need our help'.

The document continues and lists 11 corporate priorities over the next three years. These include the following:

'5. Improve care for adults and children who most need our help'  
and

'10. Build on our existing strong and cohesive community'.

Under Flagship Actions for 2007-8 by Corporate Priority it states

'5. Improve care for adults and children who most need our help

Ref 5.1 Independence and Choice (Adults): Modernise our home care services for adults in need so that they have greater control and choice over the way in which services are delivered'

Ref 5.4 Abuse is a crime, Break the Silence and Report It (Adults): Enhance Safeguarding Adult Services using a multi-agency approach to protect the most vulnerable members of our community from abuse, harm or exploitation'.

Under

'10. Build on our existing strong and cohesive community

Ref 10.2 Meeting your needs (Strategy and Business Support): Our new Comprehensive Equalities Scheme means we will ensure that each of our services caters for all Harrow's communities'

Ref 10.3 Community Success (Community and Cultural Services): Adopt a Community Development Strategy to help communities come together, decide their needs and help to ensure that they are met'.

The Cabinet's decision will have a detrimental impact on the independence, choice and subsequently the ability or capacity of the elderly and disabled individuals and their carers to engage and feel part of the wider community. This will lead to isolation and severely impact on their health and emotional wellbeing (as stated in the Council's own Equalities Impact Assessment).

Additionally the decision not only disproportionately affect the most vulnerable in comparison to able bodied residents in Harrow BUT also in comparison to all citizens in London given that Harrow Council is the only one to have taken this course of action.

d. The action is not proportionate to the desired outcome

The decision by the cabinet is based solely on the desire to save money in the immediate term without due regard to the impact on the most vulnerable residents in the subsequent, medium and long term.

It also fails to recognise the impact on the carers and families who provide a wealth of informal support.

It is widely recognised that intervention and preventative measures are the most cost effective, financial as well as in human terms, for supporting the most vulnerable in our communities.

The council has through its own Outline impact assessments recognised the potential negative and detrimental effects of this proposal.

Harrow's vulnerable citizens will be disproportionately affected in comparison to those in other London boroughs.

The contingency (£250,000) outlined by the council in the absence of any rationale for this amount or plans or criteria for its use again demonstrates the lack of any substantive evidence for the council to base its decision on.

The action cannot be proportionate to the desired outcome.

#### e. A potential Human rights Challenge

The council whilst making reference to the Human Rights Act does not appear to have given this its full consideration.

The Act places the council as a public authority with the responsibility and duty to ensure that when it is formulating policy it considers and takes account of the risks facing people.

The decision taken will undoubtedly impact on people's family and private lives and ultimately affect their right to live independently.  
This would be a breach of the Human Rights Act.

#### f. Insufficient consideration of legal and financial advice

The decision taken does not appear to have given due consideration to the Disability Discrimination Act.

The fact that the council intends to refuse to provide services to those with a disability and assessed as having substantial needs is in itself discriminatory.

The council under the Act is also obliged to take account of a persons disability in carrying out its functions hence carry out impact assessments focussing on the direct adverse impact on people with disability and to minimize or eliminate those adverse impact.  
The Council has failed to carry out this duty.

Additionally people with Learning disabilities are currently subject to discriminatory practice from the council.

From the point of referral to assessment takes 6 months whilst other groups are assessed within the Council's standard of 28 days.

The Council has failed to consider its legal obligations under The Carers(Equal Opportunities) Act 2004 and Carers & Disabled Children Act 2000.

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## EXTRACT OF CABINET MINUTES

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### (SPECIAL) MEETING HELD ON 25 JULY 2007

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Chairman: \* Councillor David Ashton

Councillors: \* Marilyn Ashton † Janet Mote  
\* Mrs Camilla Bath \* Paul Osborn  
\* Miss Christine Bednell \* Mrs Anjana Patel  
\* Susan Hall \* Eric Silver  
† Chris Mote

\* Denotes Member present

† Denotes apologies received

290. **Key Decision - Outcome of Spring 2007 Statutory Consultations on Community Care Services – Fair Access to Care Services:**

Cabinet received the report of the Corporate Director of Adults and Housing Services, which set out the public response to the statutory consultation on the proposed changes to the eligibility criteria under Fair Access to Care Services (FACS). It also set out options for Cabinet to consider in response to the consultation exercise.

The Portfolio Holder for Adult Services set the report into context and highlighted the challenging financial position of the Council, which had led to the consultation process on altering the provision of care services for people whose needs currently fell into the 'critical' and 'substantial' criteria. Cabinet received an outline of the various financial pressures facing the Council, including the cost pressures from Harrow and Brent Primary Care Trusts (PCTs) and Northwick Park Hospital.

The Portfolio Holder stated that if the Council stayed within the existing eligibility criteria, a deficit of £1.5m - £2.0m was likely on the Care budget for 2007/08.

The Portfolio Holder

- outlined the extensive consultation process undertaken by the Council which had lasted 13 weeks, a week longer than the statutory period, and thanked Harrow Mencap for holding three additional public meetings;
- set out the options available to the Council and spoke in favour of concentrating the Council's resources on the vulnerable people of Harrow who were most in need of care;
- read out the actions that would be put in place to address the concerns expressed in the consultation about increased risk, as set out in paragraph 2.4 of the officer report;
- stated that the Council appreciated that the proposed measures might create difficulties for some people and that the Council would do all it could to alleviate these difficulties.

The Portfolio Holder responded, in detail, to questions from Members of Cabinet on eligibility, safety, preventative work and the impact the proposed change in criteria would have on people with Alzheimer's disease and Dementia.

In summary, the Chairman referred to the deliberation that had taken place on this matter and assured those present that areas of concern would be addressed. He drew attention to the guidelines available when dealing with victims of abuse and the help that would be available from the Council to those with personal care needs.

**RESOLVED:** (1) To proceed with the proposal to meet only needs that fell within the 'Critical' FACS band;

(2) that the proposed actions to mitigate this, as set out in section 2.4 of the officer report, be agreed.

**Reason for Decision:** To consider the consultation results undertaken on the criteria the Council would apply, to determine who qualified for social care services under FACS. To set the level eligibility criteria for Harrow.

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Meeting:	Cabinet
Date:	25 July 2007
Subject:	Outcome of Spring 2007 statutory consultations on Community Care Services – Fair Access to Care Services
Key Decision: (Executive-side only)	Yes
Responsible Officer:	Penny Furness-Smith, Corporate Director of Adults and Housing Services
Portfolio Holder:	Cllr Silver – Adult Community Care Services and Issues Facing People with Special Needs
Exempt:	No
Enclosures:	Appendix 1 – Consultation – Analysis of Responses Appendix 2 – Equality Impact Assessment Appendix 3 – What the proposal would mean

## 1 SECTION 1 – SUMMARY AND RECOMMENDATIONS

### Summary

This report sets out the public response to the statutory consultations on the proposed changes to the eligibility criteria under Fair Access to Care Services. It also sets out options for Cabinet to consider in response to the consultation exercise.

### Recommendations

Cabinet is requested to:

1. Determine whether to proceed with the proposal to meet only needs that fall within the 'Critical' FACS band and;
2. If so, to agree the proposed actions to mitigate this as set out in section 2.4 of this report.

### Reason

Cabinet agreed at its meeting of 14 December 2006, that a consultation

should be undertaken on the criteria the Council will apply, to determine who qualifies for social care services under Fair Access to Care Services. The consultation has now concluded and Cabinet need to make a decision about the level at which the eligibility criteria should be set for Harrow.

## **2 SECTION 2 – REPORT**

### **2.1 Background**

At its meeting on 14 December 2006 Cabinet considered the report of the Director of Financial and Business Strategy on the Revenue Budget 2007-08 to 2009-10.

It was resolved that: “In addition to the general consultation with stakeholders, officers be instructed to commence specific consultation on the following proposals, as detailed in the report of the Director of Financial and Business Strategy

- Access to Care Eligibility Criteria
- Day Care Charging”

At its meeting on 15 March 2007, Cabinet considered a report which set out details of the formative process, which had engaged key stakeholders and asked members to confirm the options on which they wished to consult. This decision was subsequently revised at a Portfolio Holder Meeting held on 22 March 2007.

In 2003 the Government published the national Fair Access to Care Services (FACS) criteria. These are guidelines, with 4 bandings of needs, which councils must use to assess whether someone is eligible to receive adult social care services, having taken account of their resources. The bandings describe the seriousness of the threat to independence or other consequences if needs are not addressed. This, alongside carers’ legislation, sets the framework within which we ensure everyone is considered fairly.

In Harrow, the Council currently provides residents with services under two FACS bandings or criteria – ‘Substantial’ and ‘Critical’. These are the two highest levels of needs. Everyone is entitled to a community care assessment of their circumstances and need for care and support. Each individual case is different, but the assessment will determine which services are required to meet assessed needs under these two criteria.

The consultation proposed that Harrow will meet only needs that fall within the ‘Critical’ FACS band. Harrow will stop paying for any assessed needs at the ‘Substantial’ FACS band or below.

### **2.2 Consultation**

The public consultation followed good practice set out in the Harrow Compact and the Cabinet Office Code of Practice on Consultation. The Cabinet Code



of Practice on Consultation suggests that it is good practice to undertake informal consultation with stakeholders to allow their engagement while proposals are still at the formative stage. It is felt that this more informed consultation exercise ensures that stakeholders are engaged early and have a better understanding of the proposals.

42 key stakeholders were identified and invited to a pre-consultation event held on 12 February. A total of 27 individuals representing 17 organisations attended the event. The views of this group helped to inform the consultation document and process. The views of these stakeholders were reported to Cabinet at its meeting on 15 March.

The consultation period lasted 13 weeks and ran from 2 April 2007 to 29 June 2007. The consultation comprised the following:

- A consultation document (also available as an easy read version, audio tape and in community languages) which was sent to
  - 4135 current and recent service users
  - 2000 carers
  - 693 organisations (including voluntary, community and faith groups, GPs, Health and other partners, schools and contracted providers)
  - 63 Councillors
- The Harrow Council website was used to advertise the consultation with links to the PDF documents of the proposal, feedback sheets, case studies, frequently asked questions, FACS – an outline impact assessment, as well as copies of the adverts, posters and information about the public meetings.
- Three public meetings held on 17 May, 22 May and 11 June 2007. The Public Question Time held on 21 May also provided an opportunity for public questions on the consultation.
- Officers and Members also attended meetings and events organised by partners. These included Older People's Reference Group, Harrow User Group, Panel for Older People and three Harrow MENCAP meetings.
- The January and May 2007 editions of Harrow People carried information about the consultation. The public meetings were advertised in the Harrow Times, the Harrow Observer and the Harrow Leader.
- Posters were placed in all Harrow libraries, and on council and community notice boards, as well as in the civic centre and other People First sites. Copies were also sent to GP surgeries and directly to local organisations to place on their notice boards. Subsequent posters also provided information about the public meetings. Information was also circulated to voluntary and community groups for inclusion in any newsletters or mailings that they were producing during the consultation period.
- In order to encourage feedback, potential respondents were able to choose from the following methods to express their views.
  - By post using a free business reply envelope (to send back feedback sheets)
  - Calling the dedicated telephone consultation line (feedback sheets were filled in by council staff)
  - Via fax

- o Via email to the dedicated consultation email address
- o By taking part in the four public meetings

### 2.3 Key Messages from the Consultation

A total of 426 individual responses were received (feedback sheet, written response, telephone or email). In addition some 97 people attended the 3 specific public meetings, and 46 attended the Public Question Time.

An analysis of the response to the consultation is set out at Appendix 1. A copy of the individual responses, suitably anonymised has been made available in the Members' Library.

The vast majority of respondents were opposed to the proposed change, with the key messages to emerge from the consultation being:

- a. The Council is targeting the most vulnerable members of the community – *'Critical' covers the most vulnerable people and these will continue to receive council funded services.*
- b. The proposals will lead to increased costs to the NHS and council in the long term, as the needs of service users affected will increase – *the proposed change relates to social care needs and does not affect services paid for or provided by the NHS. This report sets out proposals to address these concerns.*
- c. The Council should reduce costs in other ways, e.g. by reducing high salaries or cutting staff number – *a total of £19m was saved during 2006/07 across all areas of the council.*
- d. The Council should make attempts to raise revenue and increase the level of central government grant – *Harrow has and continues to lobby Government for extra resources, and for 2007/08 set a Council tax just below the maximum allowed before capping.*
- e. Community Care budgets should be increased to avoid an implementation of the proposals at the expense of other council budgets – *the Council's current financial position precludes this.*
- f. The proposal will increase the burden of care for carers, some of whom may need to stop working or may be unable to maintain their caring role – *carers are entitled to a carers' assessment in their own right.*
- g. Simple and easy to understand information is needed about how the 'Critical' and 'Substantial' categories are defined and assessment decisions made – *we will continue to publish easy to understand guidance including case studies.*
- h. The need for speedy reassessments for those with changing/deteriorating needs and for the council to ensure there are enough staff to achieve this - *our performance on assessments is very good overall – 95.8% of assessment of new clients are started within 2 days, and 86.4% are completed within the required timescale (28 days).*
- i. The need for some services to be made available to those that would lose their current services such as respite care, outreach

*services and support for domestic and personal care – we are proposing to build stronger relationships and capacity within the voluntary sector to develop support for individuals who have services reduced or withdrawn following the reassessment and for new referrals who do not have ‘Critical’ needs. Service users could be signposted to other services.*

## **2.4 Responding to the consultation – options for consideration**

The guidance on eligibility criteria under Fair Access to Care Services states that in constructing the criteria councils should prioritise needs that have immediate and longer-term critical consequences for independence ahead of needs with substantial consequences.

The guidance also states that in setting their eligibility criteria councils should take account of their resources, local expectation and local costs.

Following the Portfolio Holders’ Meeting held on 22 March 2007, the consultation document proposed that Harrow will meet only needs that fall within the ‘Critical’ FACS band, and will stop paying for any assessed needs at the ‘Substantial’ FACS band or below. Cabinet are able to retain the status quo if they so wish. However, in reaching a decision Members will need to take account of the resources available and the consequent impact on the budget. If a decision is made not to proceed, on the basis of the proposal set out in the consultation document, the budget pressure could not easily be contained.

Three authorities now meet only ‘Critical’ assessed needs (Northumberland, West Berks and Wokingham). Two, Lambeth and Harrow are consulting about this proposed change. There has been significant national coverage of the pressures facing all local authorities and eight other London Boroughs are currently consulting on proposals to change their eligibility criteria. It is anticipated that many other authorities will be considering this within the next 2 years.

An analysis of a sample of service users receiving a service as at 31 March 2007, suggests that 492 service users were receiving services for ‘Substantial’ needs only. They would potentially no longer be eligible to receive a service, if Cabinet decide to proceed with the proposal to meet ‘Critical’ needs only.

If Cabinet wish to proceed with the proposal to meet only needs that fall within the ‘Critical’ FACS band, the following actions could be put in place to address the concerns expressed in the consultation about increased risk:

- No reductions to packages of care can be implemented until a personal review meeting has taken place. One month’s notice of any change could be given;
- To assess as ‘Critical’ any individual whose level of risk would be expected to reach that level within 12 weeks (currently 4-6 weeks), if their

non-critical needs were not responded to – this represent a two-three fold increase;

- To assess as 'Critical' anyone at risk of abuse under the Council's Safeguarding Policy. The Council regards this as an extremely important matter;
- To assess as 'Critical' anyone who would have to change their accommodation status as a result of unmet need;
- To establish a formal monitoring group to determine if any of the potential concerns materialise. The group would consider appropriate measures required to reduce differential impact for any group.

The Council recognises the significant contribution that voluntary and community organisations make to supporting people in the community. We are committed to building stronger relationships and capacity within the voluntary sector, to develop support for individuals who have services reduced or withdrawn, following the reassessment and for new referrals who do not have 'Critical' needs. Service users could be signposted to other services.

## **2.5 Resources, costs and risks associated with the proposals**

### Context

There is a history of severe spending pressure in community care, and this has been evidenced by substantial overspends in the last 3 years. The actual outturn for 2006-07 was an overspend of £1.5m, as forecast earlier in the year. This spending pressure reflects growing demand and increasing complexity of need, and has been compounded by a combination of cost shunting and withdrawal from jointly funded services on the part of the PCT. It is estimated that the actions of the PCT have added a total of £3.5m a year to Council costs. Some of these issues are formally in dispute. The level of debt owed by the PCT to the Council at 31 March 2007 totalled £3.4m of which £1.7m represented disputed debts going back to 2004-05 and 2005-06.

The community care budget has been subject to considerable management action over the last few years to try and contain spending and the Council has taken a series of steps to try and contain demand, achieve good value for money on individual packages, and reduce subsidies in some areas.

These measures have not been taken in isolation but have rather been part of significant savings packages across all Council services, designed to ensure that the Council lives within its means. This is particularly important as the Council had reserves of only £1.3m at the end of 2006-07. The Council's policy is to add £1m to reserves and provisions each year from 2007-08 until such time as general balances exceed £5m.

It should also be noted that, whilst growth of £3.9m was added to the community care budget for 2007-08, this was accompanied by a package of savings of £3.7m, and the budget was set before the final outturn position for

2006-07, which revealed additional pressure in this area, was known. Therefore, in overall terms the community care budget has not kept pace with demand.

### Current Proposals

The Council has carried out consultation in relation to the Fair Access to Care Criteria and Day Care Charging in the last few months. The decision to go to consultation on these policy areas was taken in December 2006 and the formal consultation commenced in March and lasted for 12 weeks.

The Medium Term Financial Strategy (MTFS) agreed in February assumed an income from Day Care Charging of £200k in 2007-08 and £300k in a full year. The MTFS also included an annual saving of £500k arising from the proposed change to the Fair Access to Care Criteria. However, recognising the need to carry out formal consultation and have regard to the outcome of the consultation, the budget also included a risk of £500k across both these areas. This was intended to give some flexibility in relation to the decisions that would be required.

### Fair Access to Care

In reaching a decision on FACS criteria Members will need to take account of the resources available and the consequent impact on the budget.

Even if Cabinet agrees to amend the criteria as suggested, there will still be considerable pressure on the budget. The proposed change to the eligibility criteria is not intended to deliver a significant saving to the council. Rather, the challenge facing the council is how to contain expenditure on adult social care within the budget available.

Continuing the current eligibility criteria, with no change in demand or demography, means that there would be additional pressure on the community care budget in 2007/08 in the order of £1.5m.

### Managing the 2007-08 Budget

As outlined in the accompanying Cabinet Report the options in relation to Day Care Charging all fall short of the income target. In addition, there will be considerable pressure on the community care budget, even if the FACS eligibility criteria are changed. Therefore it will be necessary to apply to £500k risk that was identified in the MTFS in full to the community care budget in 2007-08 and beyond to deal with the pressures identified. The Adults and Housing budget will be very closely monitored during 2007-08 and steps taken to contain the pressures as far as possible.

If a decision is made not to proceed on the basis of the FACS proposal set out in the consultation document the budget pressure could only be contained by identifying compensating savings from other council services.

## Planning for 2008-09 to 2010-11

The Council is commencing the work to develop its new medium term financial strategy. The decisions taken in relation to Day Care Charging and FACS will have to be taken into account in this process. It should be noted that if the proposal to change the criteria under FACS is not adopted, there will be a significant increase in the funding gap in future years.

### **2.6 Staffing/workforce considerations**

None associated with this report.

### **2.7 Equalities Impact**

An Equalities Impact Assessment has been undertaken alongside the consultation process. This is attached as Appendix 2. The key themes to emerge from this are:

- Many respondents to the Equalities Impact Assessment and the consultation thought that the proposals would impact equally on all service users currently assessed as having 'Substantial' only needs, and therefore no one group would be adversely impacted.
- However, some respondents disagreed and voiced concern that the following groups COULD be differentially impacted
  - Age
  - Race
  - Disability
  - Carersin respect of the following factors
  - Service users who do not 'recognise' their needs, and in particular that their needs have changed over any given period of time. This includes people with learning disabilities, dementia, mental health and mental illness.
  - Service users who cannot 'vocalise' their needs. This includes people with speech and/or hearing difficulties, language issues such as ethnic minority communities as well as asylum seekers.
  - Service users who have no one to advocate for them.
  - The financial and caring implications for carers and families.

The Equalities Impact Assessment proposes the following actions to mitigate the potential risk of any differential impact:

- The establishment of a formal monitoring group to determine if any of the potential concerns materialise. The group would consider appropriate measures required to reduce differential impact for any group.
- As set out in the consultation paper, all clients will be reassessed to determine eligibility for social care services under the new criteria. This would include an assessment of the levels of risk and a period of at least one month's notice will be given for any changes.

## 2.8 Key Performance Indicators

The Key Performance Indicators C29 – 32 (Helped to Live at Home) may be impacted by this decision. The numbers eligible to receive a service are likely to reduce if Cabinet decides to proceed with the proposal to meet only needs that fall within the 'Critical' FACS band.

## 2.9 Section 17 and Crime and Disorder Act 1998 Considerations

This report deals throughout with the needs of a group of adults who are amongst the most vulnerable and at risk in Harrow.

## 3 SECTION 3 - STATUTORY OFFICER CLEARANCE

Name: ...Myfanwy Barrett	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 17 July 2007		
Name: ...Hugh Peart.....	<input checked="" type="checkbox"/>	Monitoring Officer
Date: 17 July 2007		

## 4 SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact:

Mark Gillett  
Head of Service – Commissioning and Partnerships  
[mark.gillett@harrow.gov.uk](mailto:mark.gillett@harrow.gov.uk)  
020 8424 1911

Background Papers:

Harrow Code of Practice on Consultation

Cabinet Office (Better Regulation Executive) – Code of Practice on Consultation

Fair Access to Care Services – guidance on eligibility criteria for adult social care

**IF APPROPRIATE, DOES THE REPORT INCLUDE THE FOLLOWING CONSIDERATIONS?**

1.	Consultation	YES
2.	Corporate Priorities	YES
3.	Manifesto Pledge Reference Number	



## Consultation – Analysis of Responses for the FACS Consultation

### 1. Summary

The majority of respondents opposed the proposal and the main concerns were:

- a. The Council is targeting the most vulnerable members of the community
- b. The proposals will lead to increased costs to the NHS and council in the long term, as the needs of service users affected will increase
- c. The Council should reduce costs in other ways, e.g. by reducing high salaries or cutting staff numbers
- d. The Council should make attempts to raise revenue and increase the level of central government grant
- e. Community Care budgets should be increased to avoid an implementation of the proposals at the expense of other council budgets
- f. The proposals will increase the burden of care for carers, some of whom may need to stop working or may be unable to maintain their caring role
- g. Simple and easy to understand information is needed about how the 'critical' and 'substantial' categories are defined and assessment decisions made
- h. The need for speedy reassessments for those with changing/deteriorating needs and for the council to ensure there are enough staff to achieve this
- i. The need for some services to be made available to those that would lose their current services such as respite care, outreach services and support for domestic and personal care

### 2. Methodology

Once the proposals were drawn up potential respondents were made aware the public consultation was taking place through the following:

- Press adverts were placed in the Harrow People council magazine (January and May 2007), Harrow Times, Harrow Leader and the Harrow Observer, announcing that the consultation was taking place and subsequent adverts also provided information about the public meetings.
- A number of posters were placed in all Harrow libraries, and on council community notice boards, as well as in the civic centre & all people first sites. Copies were also sent to GP surgeries and directly to local organisations to place on their notice boards. Subsequent posters also provided information about the public meetings. Local organisations were also sent information and a request made for them to include this

## Appendix 1 (FACS)

information in any relevant documents being produced for dissemination.

- The Harrow Council website was used to advertise the consultation with links to the PDF documents of each proposal, as well as copies of the adverts, posters and information about the public meetings. There were 191 'hits' on the Spring 2007 public consultations homepage for FACS and Day Centre charging.
- Consultation packs were sent out to 4,135 current, recent and potential service users, 2,000 carers, 693 local organisations and the 63 councillors. Free return envelopes were provided for completed feedback sheets. Council staff also attended a number of specific user group meetings arranged by local organisations to encourage feedback and to answer questions about the consultation. Audio tapes were also available for people who required an audio copy of the document.

The service users were made up of:

<b>Service Area</b>	<b>Number of Service Users</b>
FACS	3625
Mental Health service users	350
Direct Payment users	160
<b>TOTAL</b>	<b>4135</b>

In addition some 2,000 carers were sent a consultation pack in partnership with Carers Support Harrow.

<b>Carers</b>	<b>Number</b>
Carers	2000

The local organisations were made up of:

<b>Organisations</b>	<b>Number</b>
Community, voluntary and faith groups	256
Providers of residential and domiciliary care in Harrow	156
Supporting People contractors	73
Schools	69
GP surgeries	39
People First sites	31
Home care provision providers	21
Mental Health Partnership	19
Harrow Resident and tenant associations	18

Harrow Libraries	11
<b>TOTAL</b>	<b>693</b>

In order to encourage feedback, potential respondents were able to choose from the following methods to express their views.

- By post using a free return envelope (to send back feedback sheets)
- Calling the dedicated telephone consultation line (feedback sheets were filled in by council staff)
- Via email to the dedicated consultation email address
- By taking part in the three public meetings organised by Harrow Council as well as attending the Public Question Time Meeting (attended by 46 people)
- By taking part in the meetings/workshops organised independently and specifically to feedback into the consultations. Three meetings organised by Harrow Mencap (three meetings attended by over 100 people of which 76 were people with learning disabilities and their families and carers), the Harrow Users Group (19 people), Milmans Day Centre service user group (37 service users), The Bridge Service Users Group meeting (37 service users), The Young Carers Project, Harrow MS Society and the Partnership for Older People (POPS) panel, Older People's Reference Group and Harrow Strategic Partnership.

### **Participant response - numbers**

426 individual responses (feedback sheet, written response, telephone or email), the following table breaks down respondents for each consultation.

Respondent	No.	%
Service users	296	69.5%
Carers	108	25.4%
Other e.g. councillor, member of public	12	2.8%
Organisations	10	2.3%
Total Number of Responses Received	426	100%

Some 97 people attended the public meetings, of whom 20 were deemed to be from a visible ethnic minority background. Participants in each public meeting identified themselves as a mix of service users (38%), carers (49%) and voluntary organisation representatives (12%) and a GP (1%).

The following table provides a breakdown of respondents, who stated their ethnic origin when responding by completing a feedback sheet, or who called the consultation telephone line.

## Appendix 1 (FACS)

<b>Ethnic origin of respondents (as stated on feedback sheets)</b>	<b>No</b>	<b>%</b>
Asian or Asian British Bangladeshi	3	0.8%
Asian or Asian British Indian	67	17.6%
Asian or Asian British Pakistani	5	1.3%
Asian or Asian British Other	9	2.4%
Black or Black British African	3	0.8%
Black or Black British Caribbean	9	2.3%
Black or Black British Other	1	0.3%
Chinese	0	
Mixed White and Black African	1	0.3%
Mixed White and Black Asian	1	0.3%
Mixed White and Black Caribbean	1	0.3%
Mixed Other	4	1.0%
White British	246	64.7%
White Irish	13	3.4%
White Other	17	4.5%
<b>TOTAL</b>	<b>380</b>	<b>100%</b>

### 3. Consultation analysis of FACS proposals

#### Written, telephone or email responses to the consultation document and meetings/workshops

The following is an analysis of the response to the feedback sheets contained in the consultation document and comments received from all of the meetings/workshops.

Respondents were given the opportunity to comment on the following proposal. "Owing to the increasing numbers of older and disabled people and the financial consequences outlined in this document, the Council is making the following proposal: In the future, the Council's social care services will only meet needs that are 'critical'. The following comments were made

No.	Comment	Response
1	What is critical, how is it defined and by whose definition?	The criteria, set nationally by the Department of Health (DoH), define 'critical' for all Councils.
2	The council's idea of 'critical' and a carer's idea are different.	It is noted that there are differences in the way service users and carers take to mean critical and substantial and the national guidelines which all councils must apply.
3	Our needs vary, at times we think they are critical and other times they are substantial, because our condition changes at different times/it feels that substantial and critical overlap.	The criteria is set nationally by the Department of Health (DoH), Changing needs are considered at reviews/reassessments. Service users may also contact the Care Management Team at any time if they believe their needs have changed significantly.
4	The proposals will create a situation where people with "substantial" social care needs become "critical" much quicker than would otherwise be the case.	Harrow proposes to change its local guidance to staff applying the DoH critical criteria to use a 12-week timeframe, so that service users who will deteriorate from substantial to critical in the next 12 weeks will continue to receive a critical level of services, to pick up this concern. See Cabinet main report 2.4, bullet point 4, options for consideration.
5	This proposal effects the most disadvantaged/vulnerable of people in our society, particularly older people who have	'Critical' covers the most vulnerable people and these will continue to receive council funded services. The criteria will apply equally to all adult social care groups, so in that sense older people will be treated

	contributed through taxation over many years and will now be denied any services needed.	no better and no worse than anyone else. However, more older people are likely to be affected, simply because there are more people aged 65 and over who use social care services than there are in any other group. The equalities impact assessment (EIA) provides more information.
6	Will service users/carers be able to appeal if they do not agree with the decisions made in a reassessment?	There is no appeal process against the determination of eligibility criteria - the 'assessment'. Service users/carers are able to complain to the council and can ask for help through the local advocacy services with making a complaint. It is noted that many people want an appeals process.
7	Will there be speedy access to reassessment if a person's condition deteriorates further?	The risk of deterioration if support was not provided is one of the factors considered when assessing the level of need. People can request a reassessment at any time and if their needs change rapidly, this can be done quickly. Also see point 4.
8	Will people with substantial needs receive any service?	Most of the individuals whom we currently support are likely to have a mixture of critical and substantial needs but only their critical needs will be met. Also see point 4.
9	This action will be unfair for those whose needs are less than critical.	Noted. People will be able to request a review of their needs if they believe they have changed significantly. Also see point 4.
10	Critical must come first but every effort must be made to support substantial for those who cannot afford the cost.	See Cabinet main report 2.4 bullet points, options for consideration. Additional support services which might be run with other voluntary services are being considered.
11	The proposals are very worrying and I do not know how I/the person I care for will be affected or how we will manage.	Those with critical needs will continue to receive help and support. We will work with local voluntary, community and faith groups to identify and encourage the development of other informal sources of support. For domestic support within the home the expectation is that people will make use of their attendance allowance (current lower rate £41 per week) for the purpose intended, such as housework, laundry and shopping services.
12	It may jeopardise elderly and disabled people's ability to live independently within the	See Cabinet main report 2.4 bullet points, options for consideration.

	community in line with the current government guidelines. It could further compromise people's ability to rehabilitate themselves back into work and off benefits, effectively strengthening the "benefit trap".	
13	This council should have planned for this, it is not a new issue, we are an ageing population.	This is a national issue. Many councils are struggling with increasing demands from a growing elderly population and people with increasingly complex disabilities which exceed current levels of government funding. Without additional resources the council is considering whether to focus resources on those most in need and modernising the way we provide services for vulnerable people.
14	A perfectly reasonable course of action, considering the reduction in funds/reluctantly I agree.	Noted.
15	The council cannot rely on voluntary organisations to bridge the gap that will be created.	The Council and voluntary organisations in Harrow have agreed a Compact, which provides a framework for working together. The council operates a system of grants to voluntary organisations and has established relationships providing services and facilities through partnerships. The council would continue to develop it's partnerships with voluntary groups in order to maximize opportunities and services for Harrow's residents. See Cabinet main report 2.4, bullet point 3, options for consideration.
16	Does this eliminate respite care? There is a basic need for 'respite care' for all people so that a 'normal' family life can be maintained.	No. Respite can be one aspect covered in an assessment of need. Where it is assessed as a critical need then it will continue to be funded by the council. Other voluntary and private providers also provide options for people to self-fund, as now.
17	Is there a disabled person involved in the decision-making process of the proposals?	The council's cabinet will make the final decision. They are all councillors elected by the people of Harrow. No current cabinet member has a registered disability. This consultation provided the opportunity for people who do have a disability to influence the cabinet's thinking. The equalities impact assessment will inform

	councillors for their July Cabinet meeting.
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Respondents were asked to if the proposed change would affect their life and made the following comments.

No.	Comment	Response
18	I/the person I care for will not be able to afford unsubsidised care and this will have an impact on the quality of our life.	See 15 above.
19	I/the person I care for would have no-one to socialise with.	See 15 above.
20	If services are withdrawn there is a chance that service users' health and wellbeing will be affected.	See 4 above.
21	I am unable to manage some basic domestic manual tasks such as ironing, cleaning, changing light bulbs, etc.	Some support and prevention services already exist for example mainly through services provided by the voluntary sector, which may be partly council funded. We would work with other service providers and the voluntary, community and faith sector to see how they might develop other informal support services they provide. Examples include the fall prevention service and the healthy living centre. Through this approach one care agency is now approaching a private shopping service at a cost of £8 per shop. The voluntary sector also provides a range of valuable services to residents. The most recent service commissioned is a floating support service from Willow Housing to assist and provide former occupiers on any issues which might prevent them from continuing to live at home. Also see point 15 above.
22	Care for personal hygiene, confidence, dignity may suffer.	
23	My immediate relatives live about 100 miles away.	See point 12 above.



24	Withdrawal of services will increase the burden of care on me as a carer and increase the stress Service users may become less independent, increasing the dependency on carers.	Noted. An equalities impact assessment, (EIA), partly informed by the consultation, is also going to councillors for them to consider at July Cabinet meeting. Carer groups contributed information to this. All carers are entitled to an assessment in their own right. If their needs are such that they cannot continue to care and meet the critical needs of the cared for person, then these will be met.
25	I am getting old too and being a carer is wearing. I am also suffering from a serious illness too.	
26	As a carer life is already hard, and now it will be even more difficult, particularly as I don't have help any more with cleaning and domestic help.	
27	Make sure alternative services are available to people before making changes and not to leave people without support.	See Cabinet main report 2.4, bullet point 3, options for consideration. If the changes go ahead we will explore how we might work with other organisations to develop alternative services in the community, as and when resources are available, to help support people who may no longer be eligible for specialist social care services from the council. Also see 15 above.
28	Not immediately, but it may in the future as I become less independent and able to cope.	Service users can ask for a reassessment if they believe there circumstances have changed.
29	I will still need care – but will I have to pay for all of it?	Substantial needs will have to be paid for after reassessment. Also see 4 above.

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Respondents were asked to tick which of the following measures would make it easier for them, if the proposals were adopted and to list any others.

Measures that would make it easier for respondents if proposals were adopted	No.	%
Someone to assist you in deciding which services could best help you	254	60%
Giving you clear information during any reassessment and giving you a quick and clear decision on your eligibility	225	53%
A notice period before we change your service so that you can arrange alternatives	224	53%
Information about other services that could help meet your needs	201	47%
Advice about benefits to which you may be entitled	197	46%

Additional measures stated were that information should be available for a range of service users, i.e. larger print, Braille, appropriate foreign languages. Many respondents reiterated that they did not favour the proposals.

Respondents were asked if they thought that the Council has considered all available means of making council services efficient and value for money, 326 respondents provided an answer.

	Yes (96)	No (230)
Do you think that the Council has considered all available means of making council services efficient and value for money?	29.5%	70.5%

When asked to provide suggestions on how the council could make services more efficient and save money, the following replies were made:

- Cut back on ‘non essential services’ such as libraries
- Cut back on ‘non essential expenditure’ such as cycle and bus lanes, road works, translation
- Cut down on bureaucracy costs
- Reduce Members’ allowances and expenses
- Cut the number of council staff, including middle management
- Do not use agencies if it is cheaper to run services ‘in house’
- Renegotiate with the central government to increase the amount of funding given to Harrow
- Increase charges where possible, such as for internet use in libraries, car parking
- Combine services/buildings where possible
- Early preventative services – ‘a stitch in time saves nine’
- Better forward planning
- Don’t know/would need more information to provide an answer

Respondents were asked, what additional community-based support and/or prevention services they would want to have available, if the proposals were adopted, for future planning. The following services were stated:

- Respite care
- Support services from specialist organisations such as Mencap or Mind
- Drop in centres/support and advice groups
- Outreach or more resources for my Care home
- A range of day services
- Specialist doctors, respite care, adult day care
- Support for domestic and personal care
- Shopping services and laundry services
- More social clubs
- Sheltered activities/ voluntary supported work/ support paid work

Finally, respondents were asked if there were any other points that they wanted to inform the consultation, which are listed below.

No.	Comment	Response
a	The council is being unfair in taking a short-term view, when the financial position has improved will things change?	The council reviews its services regularly and changes are made to reflect its budget situation.
b	There is an air of despair and concern for people who may be affected. Without the mental stimulation and interaction, it will affect the quality of life of people.	The impact that this consultation may have on individuals is noted. This is a statutory consultation and by law, the council must provide information to people who may be affected by this proposal.
c	Changes will have a major impact on carers, many are struggling to cope and may have to give up work	Noted. The equalities impact assessment which will be sent to councillors for the July Cabinet meeting. All carers are entitled to an assessment in their own right. If their needs are such that they cannot continue to care and meet the

	less or give up work.	critical needs of the cared for person, then these will be met.
d	Community services helped me over a difficult period, I hope they are there for other people to benefit from in the future.	See 15 above.
e	I foresee real difficulties for service users with moderate needs.	See 15 above.
f	What other actions is the council considering to raise money or make savings elsewhere?	In 2006/2007 the council made £19 million savings across the authority in all departments, so it is not just adult social care that is affected.
g	Why not look at ways to increase funding for Harrow from central government, instead of adopting the proposals?	Harrow lobbied the government for extra resources, nil additional funds have been secured to date.

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### Analysis of the public meetings

The participants at the public meetings were asked to discuss their views to two questions on the proposals relating to FACS. These are listed below together with an analysis of the main points made in the three public meetings.

Q1	How do we best spend money for competing services – the choice is do we spread the adult community care budget more ‘thinly’ on a broad range of people with needs (who will receive ‘less’) or do we concentrate/focus on those with the most needs (who would receive ‘more’).
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- Do not concentrate to on some people at the expense of others.
- Look at the needs of people and then set the budget to match.
- Instead the council should look to make cuts elsewhere on other budgets or raise more funds so that the proposals are not adopted. The council should seek to increase the central government subsidy received by Harrow.
- More information is required about assessment procedures particularly about reassessments and reviews.

- A withdrawal of services for those with substantial needs would have a detrimental affect on users and carers. This could result in more members of the family requiring services in the long run.
- There was some confusion on the distinction in the criteria applied in judging who has critical rather than substantial needs.
- The question was perceived as being ‘loaded’ towards the proposals in the consultation.
- There is the need to increase the number of Assessment Officers at the council.

Q2	<p>If we target on those with higher/multiple needs how can we best help those who do not receive a service?</p> <p>For example, if there was a budget of say, £250,000 how could we best work with the voluntary/faith/charitable sector to make a difference?</p>
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- It was felt that the question is loaded/invidious. It’s encouraging people who believe individual needs should be considered.
- The voluntary sector can deliver greater efficiency in some situations rather than direct service provisions.
- Most people thought that the council should not ‘pass the buck’ to other organisation that have limited funds. Other participants thought that it was a good idea to work with organisations but the council would have to provide free premises and seriously look at the capabilities of other organisations to be able to deliver services.
- Some people thought that faith groups should be excluded as they would not be inclusive for the range of clients in Harrow.
- Some local voluntary groups have had to reduce their services due to lack of funding/council grant cuts.
- Employment services.
- Private sector care homes could be approached to see if they are willing to provide places for day care at a reduced cost to the council.

Q3	<p>Which particular preventative proposals/services do you think that the council and organisations in Harrow should consider developing?</p>
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- It is important if critical only needs are met, so that an early warning system is in place.
- Advocacy services will particularly help.
- Exercise classes, but to achieve this access to leisure centres and appropriate transport is required.
- Healthy eating education.
- Day centres are a preventative services so access should be retained for all current users.
- Develop user groups within day centres.
- Younger adults would benefit from activity centres, work experience and other initiatives away from their home.

- Independent living opportunities.
- Work opportunities/social enterprise firms/Choices 4 All.
- A 'good neighbour scheme' – a formal befriending service.

EQUALITY IMPACT ASSESSMENT QUESTIONNAIRE/CHECKLIST - Proposals to change the criteria to determine who qualifies for social care services (FACS)

**Summary statement**

Many respondents to the EIA and the consultation thought that the proposals would impact equally on all service users, who would be financially assessed as being liable for a charge, and therefore no one group would be more adversely impacted in comparison to other groups. Other respondents said that it is not possible to know in advance if particular groups would be differentially impacted, as the proposals centre around changes to existing policy.

However, some respondents disagreed and voiced concern that the following groups of people COULD be differentially impacted

- Age
- Race
- Disability
- Carers

This was due mainly to the following four potential factors

1. Service users who do not 'recognise' their needs, and in particular that their needs have changed over any given period of time. This includes people with learning disabilities, dementia, mental health and mental illness.
2. Service users who cannot 'vocalise' their needs. This includes people with speech and/or hearing difficulties, language issues such as ethnic minority communities as well as asylum seekers.
3. Service users who have no one to advocate for them.
4. The financial and caring implications for carers and families.

# HARROW COUNCIL

## Actions to monitor differential impact if members choose to adopt the proposals:

1. Set up a formal monitoring group to determine if any of the potential concerns materialise. The group would consider appropriate measures required to reduce differential impact for any group.
2. As set out in the commitment in the consultation paper, all clients will be reassessed to determine eligibility for social care services under the new criteria. This would include an assessment of the levels of risk and a period of one month's notice will be given for any changes.

Directorate	People First	Section	Community Care		
1 Name of the function/ policy to be assessed	<b>Proposals to change the criteria to determine who qualifies for social care services (FACS)</b>	2 Date of Assessment	July 2007	3 Is this a new or existing function/policy?	New/proposed policy that has been the subject of a recent user and public consultation



4 Briefly describe the aims, objectives and purpose of the function/policy

Harrow Council faces financial difficulties caused by low levels of government funding and increasing demands on council services that are currently outstripping resources in some areas. The Council is not looking to reduce the overall amount spent on social care services, but **to operate within its available budget. It is, therefore, looking at ways to refocus its limited resources, in order to continue to protect the growing number of people most in need in the community, within the available resources.**

**The Council currently provides care services to people with social care needs assessed as either critical or substantial. If the proposed change were to go ahead, only needs that fall within the critical criteria would be eligible for care support from the council.** The Council would stop paying for any assessed needs at substantial level or below (i.e. moderate and low). The Department of Health FACS Guidance definitions are

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

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

## HARROW COUNCIL

<p>5 Are there any associated objectives of the function/policy? Please explain</p>	<p>Sustainable Communities Plan 2006-2020 National Framework Draft Community Development Strategy Budget Reports</p>		
<p>6 Who is intended to benefit from the function/policy and in what way?</p>	<p>Harrow Council as the proposal will help to ensure it is able to operate within its budget constraints and to refocus limited resources in order to protect those people most in need in the community. The proposals do <u>not</u> intend to deliver a saving to the council.</p>		
<p>7 What outcomes are wanted from this function/policy?</p>	<p>If the proposed change were to go ahead, only needs that fall within the critical criteria would be eligible for social care support from the council.</p>		
<p>8 What factors/forces could contribute/detract from the outcomes?</p>	<p>The proposals will be discussed and a formal decision made at the cabinet meeting on July 2007. The decision to reject the proposals would mean that the desired outcome above would not be achieved.</p>		
<p>9 Who are the main stakeholders in relation to the function/policy?</p>	<p>Service Users, Carers, Harrow Council, Voluntary Sector, a range of service providers.</p>	<p>10 Who implements the function/policy and who is responsible for the function/policy?</p>	<p>Adult Community Care, People First, Harrow Council.</p>

<p>11 What data or other existing evidence have you used to assess whether the function/policy might have a differential impact? (please continue on a separate piece paper if necessary)</p>	<p>Over 50 organisations and individuals were asked to submit their views specifically for this EIA. Respondents are listed in section 18.</p> <p>By analysing the data gained from the consultation process. Consultation packs were sent out to 4135 current, recent and potential service users, 2000 carers, 693 local organisations and the 63 councillors. Free return envelopes were provided for completed feedback sheets. In order to encourage feedback, potential respondents were able to choose from the following methods to express their views.</p> <ul style="list-style-type: none"> <li>• By post using a free return envelope (to send back feedback sheets)</li> <li>• Calling the dedicated telephone consultation line (feedback sheets were filled in by council staff)</li> <li>• Via email to the dedicated consultation email address</li> <li>• By taking part in the three public meetings organised by Harrow Council as well as attending the Public Question Time Meeting (attended by 46 people)</li> <li>• By taking part in the meetings/workshops organised independently and specifically to feedback into the consultations. Three meetings organised by Harrow Mencap (three meetings attended by over 100 people of which 76 were people with learning disabilities and their families and carers), the Harrow Users Group (19 people), Milmans Day Centre service user group (37 service users), The Bridge Service Users Group meeting (37 service users), The Young Carers Project, Harrow MS Society and the Partnership for Older People (POPS) panel, Older Peoples Reference Group and the Harrow Strategic Partnership. Written notes of the meetings/workshops were sent for inclusion within the consultation, and have been contributed to this EIA.</li> </ul>
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<p>12 Has the data or other evidence raised concerns that the function/policy might have a differential impact? If so in what area?</p>	<p>Age Race Disability Carers</p>
<p>13 What are the concerns? (please continue on a separate piece paper)</p>	<p>Many respondents thought that the proposals would impact equally on all service users currently assessed as having 'substantial' only needs. However, some respondents voiced four main areas of concern:</p> <ol style="list-style-type: none"> <li><b>1. Service users who do not 'recognise' their needs, and in particular that their needs have changed over any given period of time. This includes people with learning disabilities, dementia, mental health and mental illness.</b></li> <li><b>2. Service users who cannot 'vocalise' their needs. This includes people with speech and/or hearing difficulties, language issues such as ethnic minority communities as well as asylum seekers.</b></li> <li><b>3. Service users who have no one to advocate for them.</b></li> <li><b>4. The financial and caring implications for carers and families.</b></li> </ol> <p>The above points have been determined from the range of concerns fed back from respondents. These are listed below, under the headings of section 12. Data snapshots of service users as at 31<sup>st</sup> March 2007 are also stated (see note 1 below). Clearly, respondents were keen to voice concerns about the assessment process itself, as well as the actual proposals of the consultation.</p> <p><i>NOTE 1: Electronic recording of social care user data began last year on Framework i. Some user data remains partially complete, hence there is some disparity of totals in the data tables provided. Currently, a separate database, JADE, holds information on service users with mental health needs.</i></p>

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### Age

- Some older service users are likely to have settled within their present circumstances and may have difficulty in coping with changes to their long-established routine. It was thought that there may also be fewer 'alternative' services that can be accessed by older people.
- Older people will have more rapidly changing needs and thus there may be greater adverse affect on this group.
- Many older people who do not have family support will not be able to judge or answer questions about their needs under critical or substantial and will need more support.
- Possible increased isolation for older service users who may have fewer alternatives for contact with friends and people other than family members, as well as fewer other opportunities that provide a break from the home environment.
- A 'quicker' rate of deterioration for vulnerable individuals without the support of care services than would otherwise be the case, as care service staff often provide information and support on health issues as part of general social care support.

The breakdown of care service users by age is shown below, excluding users with mental health needs (see Note 2 below):

<b>Age</b>	<b>No. of service users</b>	<b>% of service users</b>
19-45	377	13.3%
46-65	360	12.7%
66-75	526	18.6%
76-85	757	26.7%
85+	815	28.7%
Total	2835	100%

*NOTE 2. Unfortunately it was not possible to include a breakdown for some 834 service users with mental health needs as this information is kept in the JADE database. This database does not allow a distinction to be made between those that have received an assessment and people who have been in contact with health professionals only.*

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### Race

- Studies have shown that people from BME communities are amongst the poorest and most excluded groups, finding it more difficult to access services or ask for help. The impact of a reduction of service entitlement, affecting both service users and carers may be more likely to be 'hidden' amongst certain ethnic groups.
- Afro-Caribbean young men are reluctant to engage with services at an early point. This change may exacerbate this difficulty of early intervention with this group.
- Language and understanding the system can be daunting and prohibitive for some BME communities.
- Assessments/reassessments may not take cultural factors and needs into consideration, for example if a mother is not around it would not be possible in some cultures for a father to live with and to take care of his daughter's needs. Asian groups tend to live in culturally appropriate environments with extended families, if an assessment indicates less need this could cause some difficulties and possibly increase isolation.

The breakdown of care service users by ethnicity is shown below, excluding users with mental health needs (see Note 2 above):

<b>Ethnicity</b>	<b>No. of service users</b>	<b>% of service users</b>
White	1818	64.1%
Asian or Asian British	754	26.6%
Black or Black British	106	3.8%
Other Ethnic Groups	55	1.9%
Mixed	16	0.6%
Unknown/not stated	86	3.0%
Total	2835	100.0%

### Disability

- Service users with a less severe disability are by the very nature of the FACS assessment less likely to meet critical criteria currently if they are eligible and may have their service(s) withdrawn.

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- People with mental health problems/disabilities tend to be more socially isolated than non-disabled people. If they currently receive services and those services are withdrawn or reduced this will increase the level of isolation and social interaction.
- Potential conflict with the DDA 1995. A change in criteria could be seen as limiting access for some people to services.
- People with learning disabilities, dementia and mental incapacity may be disadvantaged if they are not supported in communicating with social care services at the point at which their needs may have changed significantly.
- Additional financial pressures to pay for other items or additional costs related to their disability not encountered by non-disabled people.

The breakdown of care service users by service user group is shown below. This **includes** approximately 800 mental health service users on the JADE database.

<b>Service user Group</b>	<b>No. of service users</b>	<b>% of service users</b>
Physical disability, frailty and sensory impairment (including older people)	2379	67.3%
Mental Health (JADE & Frameworki databases)	834	23.5%
Learning Disability	313	8.9%
Other vulnerable People	9	0.3%
Total	3535	100.0%

See Note 1 above in section 13.

### Carers

The proposals are more likely to affect service users who live at home with their carers/families than those living alone in their own homes, who are more likely to be at greater risk. Thus the following points are more likely to be applicable to the former set of carers/families.

- Carers may not be able to support the cared for person to access community resources/alternative services.
- Financially carers will have less money for other family expenditure if they decide to make alternative service arrangements.

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- Some carers may have to make changes at home, possibly giving up work, education and leisure, which would need consideration in light of the 2004 Equal Opportunities Act for Carers. This would be applicable to carers eligible for social care services. Anxieties that carers may also no longer be eligible for respite care.
- If the proposals are introduced current 'substantial' service users may become more dependent on their carers for support and social stimulation. This may lead to an increased health and social pressures on carers due to an increased caring function.

<p>14 Does the differential impact amount to adverse impact i.e. could it be discriminatory, directly or indirectly?</p>	<p>Potentially YES but it is not possible to fully determine if the concerns will materialise</p>	<p>15 If yes, can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or any other reason?</p>	<p>NO</p>
<p>16 Have you considered ways in which the adverse impact might be reduced or eliminated?</p>	<p>The EIA has revealed potential concerns of differential impact for the groups listed in section 12. Councillors are yet to decide if any of the proposals are to be implemented. See also the main report section 2.4 'options for consideration' – bullet points. However, if the proposals are implemented, a formal monitoring group should be set up to determine if any of the concerns listed under section 13 materialise/exist, in the event and extent of any decision to change the criteria. This group should also consider appropriate measures to reduce differential impact for any groups, as noted under the improvement plan at the end of this document.</p>		
<p>17 How have you made sure you have consulted with the relevant groups and service users from Ethnic Minorities? Disabled people? Men and women generally?</p>	<p>Yes, please see section 11 for details and the list of specific EIA respondents in section 18.</p>		



18. Please give details of the relevant service users, groups and experts you are approaching for their views on the issues

Specific responses for the request for information for the EIA were received from:

- Age Concern
- Bentley Resource Centre
- Brember Day Centre
- Bridge\*
- Carers Support Group
- Central & North West London Mental Health Trust
- Harrow Association of the Disabled – staff and service users\*
- Harrow Association of Voluntary Organisations
- Harrow Council Staff
- Harrow Rethink Support Group \*
- Harrow User Group\*
- Mencap (3 meetings)\*
- Mind in Harrow
- Milmans – staff and service users\*
- Tanglewood (people with learning disabilities and carers)\*
- Wiseworks\*
- Young Carers Project\*

\* Denotes that a response was sent feeding back the thoughts of a specific user group session/meeting

Feedback to specific questions were also obtained from the 97 people who attended the public consultation meetings, of whom 20 were deemed to be from a visible ethnic minority background. Participants in each public meeting identified themselves as a mix of service users (38%), carers (49%) and voluntary organisation representatives (12%) and a GP (1%).

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<p>19 How will the views of these groups be obtained? (Please tick)</p>	<p>Letter ✓ Meetings ✓ Interviews ✓ Telephone ✓ Workshops ✓ Fora ✓ Questionnaires ✓ Other: Email ✓</p>	<p>20 Please give the date when each group/expert was contacted.</p>	<p>Throughout the consultation/EIA period – 2 April 2007 to 29 June 2007.</p>
<p>21 Please explain in detail the views of the relevant groups/experts on the issues involved. (Please use a separate sheet if necessary)</p>	<p>Covered in detail under section 13.</p>		
<p>22 Taking into account the views of the groups/experts, please clearly state what changes if any you will make, including the ways in which you will make the function/policy accessible to all service users, or if not able to do so, the areas and level of risk (Please continue on a separate sheet if necessary)</p>	<p>The Cabinet is yet to decide if the proposals are to be formally implemented. See also the main report section 2.4 ‘options for consideration’ – bullet points. However, if the proposals are implemented, a formal monitoring group should be set up to determine if any of the concerns listed under section 13 materialise. The group should also consider appropriate measures to reduce differential impact for any groups, as noted under the improvement plan in this document.</p>		
<p>23 Please describe how you intend to monitor the effect this function/policy has on different minority groups (Please continue on a separate sheet if necessary)</p>	<p>See 22 above.</p>		

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<p>24 If any elements of your function/policy are provided by third parties please state, what arrangements you have in place to ensure that to ensure that the Council's equal opportunities criteria are met</p>	<p>Not applicable.</p>		
<p>25 Please list any performance targets relating to equality that your function/policy includes, and any plans for new targets (Please continue on a separate sheet if necessary)</p>	<p>Not applicable</p>		
<p>26 How will you publish the results of this Impact assessment?</p>	<p>Via the Harrow website, with printed copies sent to people on request. All councillors will receive a copy of this report prior to the Cabinet meeting in July.</p>	<p>27 Date of next assessment</p>	<p>On-going from the start of introduction, if the proposals are adopted.</p>

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Please list actions you intend to take as a result of this assessment. Attach additional sheets if necessary.

### IMPROVEMENT PLAN

The following applies only if any proposals are implemented.

ISSUE IDENTIFIED	ACTION REQUIRED	LEAD OFFICER	TIMESCALE	COMMENTS
Potential concerns in section 13	To set up a formal monitoring group, that will report back to the Director of Adult Services and Cabinet, if potential concerns have materialised. The actions required to mitigate any differential impact should be considered in detail with timescales for implementation.	Mark Gillett	<p>To begin monitoring from the date of implementation of any proposals.</p> <p>A formal cabinet report should be produced outlining the main findings 6 months from the implementation date with appropriate recommendations for reducing or eliminating differential impact, if any.</p> <p>A report from the monitoring group should be considered in a cabinet meeting and made public via the Harrow Website.</p>	<p>The monitoring group will gather the views of service users and key stakeholder organisations.</p> <p>Focus groups may be appropriate as well as the collation of case studies.</p> <p>Recommendations for reducing or eliminating differential impact, if any, should include timescales.</p>

Signed:

NAME: Peter Singh, Service Manager Research and Strategic Planning, **Completing officer**

Date: July 16 2007

Signed:

NAME: Mark Gillett, Group Manager +, **Lead Officer**

Date: July 16 2007

## What the proposal would mean

**Department of Health definition:****CRITICAL:**

- Life is, or will be threatened; and/or
- Significant health problems have developed or will develop, and/or
- Serious abuse or neglect has occurred or will occur

**Carer** – their life is, or will be, threatened.

**Carer** – Major health problems have developed or will develop.

**These are some examples of what this might mean**

- Help will prevent serious health problems, or avoid a serious existing condition deteriorating (including users and carers mental health).
- Users and/or carers have a severe mental illness, which places them and/or others at significant risk of harm.
- Users and/or carers have a life threatening substance misuse problem, which requires urgent treatment or a rehabilitation programme.
- Users and/or carers are unable to recognise that things they do in or around their home place them or others at significant risk of harm, for example, leaving the gas on, wandering in the night.
- Users and/or carers must be protected from abuse that might include: violence or the threat of violence; degrading treatment; sexual abuse; emotional abuse; financial abuse or exploitation.
- All users must be protected from serious avoidable deterioration in their health and well being as a result of neglect, that is the failure to take the necessary actions either for themselves or because others are not helping them.
- Users and/or carers are experiencing, or expect to experience a significant deterioration or loss of sight or hearing.
- Users and/or carers need support with taking essential medication (a health care responsibility but may be provided as part of an overall support arrangement).

<p><b>Department of Health definition:</b></p> <p><b>CRITICAL:</b></p> <ul style="list-style-type: none"> <li>• There is, or will be, little or no control over the vital aspects of the immediate environment</li> </ul> <p><b>Carer</b> – there, is or will be, an extensive loss of autonomy for the carer in decisions about the nature of tasks they will perform and how much time they will give to their caring role.</p>	<p><b>These are some examples of what this might mean</b></p> <ul style="list-style-type: none"> <li>▪ Help is required to avoid admission to the hospital or to avoid a delay in being discharged from hospital.</li> <li>▪ Help is required to avoid an admission to a residential or nursing home placement.</li> <li>▪ Users and/or carers have seriously impaired short-term memory and without assistance and care throughout a 24 hour period would be at extreme risk.</li> <li>▪ Due to users and/or carers physical or mental health problems or disability they need help with their care at many times throughout the day or night.</li> <li>▪ Users and/or carers are unable, or able only with equipment or assistance, to get in and out of bed, their chair or wheelchair or to use the toilet.</li> <li>▪ Without help users would be unable to change position often enough to avoid harm to their health eg pressure areas.</li> <li>▪ Users and/or carers are unable to request help to make their needs known.</li> <li>▪ Users and/or carers might not recognise risks to themselves arising from their physical or mental health problems, and/or cannot recognise risks in their environment to their personal safety.</li> <li>▪ Users and/or carers home is unsafe for them and they are at serious risk of injury eg risk of falling on the stairs or steps.</li> <li>▪ The carer has no choice over the tasks they perform in their caring role or how much time they devote to the caring role.</li> </ul>
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<p><b>Department of Health definition:</b></p> <p><b>CRITICAL:</b></p> <ul style="list-style-type: none"> <li>• There is, or will be, an inability to carry out vital personal care or domestic routines</li> </ul> <p><b>Carer</b> - There is, or will be, an inability to look after their own domestic needs and other daily routines while sustaining their caring role.</p>	<p><b>These are some examples of what this might mean</b></p> <p>Users are unable * to carry out the following activities of daily living and have no other help available to them:</p> <ul style="list-style-type: none"> <li>▪ Getting washed all over often enough to avoid harm to their health. The minimum would be once a week.</li> <li>▪ Washing your face and hands each day.</li> <li>▪ Getting dressed.</li> <li>▪ Getting into and out of bed each day.</li> <li>▪ Using the toilet.</li> <li>▪ Getting in and out of their chair / wheelchair.</li> <li>▪ Getting a meal.</li> <li>▪ Eating and drinking adequately for their health.</li> <li>▪ Keeping the place where they live sufficiently clean and well maintained to avoid serious risk of harm to their health eg. aggravation of a respiratory problem or deterioration in their mental health.</li> <li>▪ Without constant reminders and prompting from others, users might not complete these vital personal care tasks.</li> <li>▪ The carer is, or will in the foreseeable future, be unable to manage vital aspects of their own domestic needs and daily routines due to their caring role and require social care support.</li> </ul> <p>“Users are unable” means it is so hard for users to do that it is dangerous and/or users find it extremely difficult and/or it takes substantial amounts of time and/or leaves users extremely tired.</p>
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<p><b>Department of Health definition:</b></p> <p><b>CRITICAL:</b></p> <ul style="list-style-type: none"> <li>• Vital involvement in work, education or learning, cannot, or will not, be sustained, and/or</li> <li>• Vital social support systems and relationships cannot, or will not, be sustained, and/or</li> <li>• Vital family and other social roles and responsibilities cannot or will not, be undertaken</li> </ul> <p><b>Carer</b> – many significant social support systems and relationships are, or will be, at risk.</p> <p><b>Carer</b> – involvement in employment or other responsibilities is, or will be, at risk.</p>	<p><b>These are some examples of what this might mean</b></p> <ul style="list-style-type: none"> <li>▪ Users have a severe and enduring mental health problem (e.g. are under Section 117) or significant disability and without help users are at serious risk of losing their employment, education or social support networks.</li> <li>▪ Users have a severe and enduring mental health problem or significant disability and without help in the form of advice, preparation, counselling and job coaching, they will be unable to take advantage of opportunities for appropriate work.</li> <li>▪ Users are unable * without help (and it is unavailable to them) to care for their adult dependants, without which support they will have significant health or social care needs.</li> <li>▪ Users children are taking on inappropriate responsibility for providing care for them.</li> <li>▪ Users are experiencing extreme isolation and have no immediate social networks like neighbours or family.</li> </ul>
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