

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

- Via email to the dedicated consultation email address
- 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:

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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	