

**PROGRESS TOWARDS THE TRANSFORMATION OF ADULT SOCIAL SERVICES – FINANCIAL ISSUES**

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***Executive Summary***

*The purpose of this report is to highlight to members a number of proposed actions regarding financial issues affecting the Department of Adult Social Services. These include Fair Access to Care; fees payable to Residential & Nursing homes, Supported Living Providers and Domiciliary Care Providers and the transfer to the Local Authority of NHS – Wirral (Primary Care Trust) Funding for Learning Disability Services.*

**1 Background**

- 1.1 In order to implement the Department of Adult Social Services budget strategy for 2009/10 in line with its transformational programme, a number of key areas of activity require cabinet approval.
- 1.2 The Fair Access to Care Services (FACS) guidance issued in May 2002 provided a national framework for eligibility criteria for adult social care. It is necessary for members to review and confirm, on a periodic basis, the level at which social care services are provided to individuals in Wirral.
- 1.3 Members have previously received reports regarding the level of fees paid to independent care providers. This report highlights the result of a consultation exercise in this area and makes recommendations regarding the way forward.
- 1.4 Guidance from the Department of Health (DH) was received in August 2008 with a further subsequent guidance letter received in November 2008 regarding the proposed funding transfer in respect of people with learning disabilities whose care is currently funded by NHS Wirral. This report sets out the detail of the proposals.
- 1.5 Each of these issues is considered in detail in the attached appendices and the key aspects and recommendations are set out below. Please note this report and Appendix 1 have been published in the public arena; Appendices 2 and 3 and their related Annexes have been classified as exempt items.

**2. Fair Access to Services**

- 2.1 The Fair Access to Care Services (FACS) guidance issued in May 2002 provided a national framework for eligibility criteria for adult social care. The Department of Health had acknowledged that the use of different local criteria *“leads to considerable variation in access to adult social care, which in turn leads to unfairness”*. The national framework sets out a

system of four bands, critical, substantial, moderate and low, which describe the seriousness of the risk to independence or other consequences if needs are not met.

- 2.2 Appendix 1 outlines the work that has been carried out since the guidance was issued, including Cabinet's previous consideration of this issue. Whilst key recommendations and priorities set out by the Commission for Social Care Inspection in a recent review of the national FACS, 'Cutting the cake-fairly' are incorporated into the Department of Adult Social Services change programme; further guidance on a new national system to replace FACS is yet to be issued. It is concluded that the current policy of providing social care services to individuals in Wirral who have critical and substantial needs should continue.

### **3. Fees paid to independent care providers**

#### **3.1 Supported Living**

- 3.1.1 A detailed analysis of the issues surrounding this service is provided at Appendix 2. Following an extensive consultation exercise it is proposed to implement Option 3, that is, to pay £13.18 per hour rate to all providers who have indicated they would accept the proposal and terminate contracts (with 3 months' notice) with providers who have refused. Work will be undertaken to establish if there is a business case to implement a detailed banded model of needs and fees in consultation with providers by tender during 2009/2010 to commence 1 April 2010 and further proposals will be brought to Cabinet as appropriate. Contracts will be terminated with all providers during 2009/2010 to incorporate an appropriate inflation clause and health standards unless this can be achieved through a variation to the contract. This work will be carried out in consultation with providers and if proven further proposals will be brought to Cabinet in order for the model developed to be introduced on 1 April 2010.

#### **3.2 Domiciliary Care**

- 3.2.1 A detailed analysis of the issues surrounding this service is provided at Appendix 2. As a result of a consultation exercise Option 3 is preferred which is in line with the North West average payment and maintains existing contract business at £12 per hour pro rata (i.e. 20 pence per minute) with a new contract to be developed during 2009/2010 to commence 1 April 2010 with a standard ceiling rate, appropriate inflation clause and health standards.. No new business will be placed with companies that refuse to accept the proposal and these contracts will be terminated (with 3 months' notice).

#### **3.3 Residential and Nursing Homes**

- 3.3.1 A detailed analysis of the issues surrounding this service is provided at Appendix 2. The objective of proposing revised fee levels was to bring Wirral's fees in line with the North West average. As a result of a consultation exercise Option 3 is preferred which states that where home owners have agreed to accept the new rates these are to be implemented from 1 April 2009; where home owners have refused the new rates,

contracts to be terminated (with 3 months' notice) with new placements being made at homes that have accepted the new rates with effect from 1 April 2009. All placements in homes that do not have a valid contract will be reviewed and alternative accommodation options explored on an individual basis. All contracts will need to be terminated during 2009/10 to build in the results of the Quality Premium review and health standards, an appropriate inflation clause and measures required to ensure the principals of "personalisation" are embedded.

3.3.2 This will result in the following fee levels

<b>Star Rating</b>	<b>Residential</b>	<b>Residential EMI</b>	<b>Nursing</b>	<b>Nursing EMI</b>
B	342.61	370.21	385.80	413.39
1	348.14	375.74	391.33	418.92
2	375.86	403.46	419.05	446.64
3	403.79	431.39	446.98	474.57

#### **4. Transfer to the Local Authority of Primary Care Trust Funding for Learning Disability Services**

4.1 In line with guidance received from the DH in August 2008 and in November 2008 regarding the proposed funding transfer in respect of people with learning disabilities whose care is currently funded by NHS Wirral, discussions throughout the latter part of 2008 clarified the areas of funding that would be considered for transfer. These are set out in detail in Appendix 3.

4.2 The Appendix also highlights the value of the contracts to be transferred and work that is on going to prepare a partnership agreement and communications strategy. The transfer does not, however, include any property assets and further work is required before any agreement can be made in this area.

#### **5 Financial and Staffing Implications**

5.1 The issues considered in this report have a number of financial implications, considering each in turn:

##### **(i) Fair Access to Services**

(a) No discrete financial assumptions have been made regarding the application of the Fair Access to Services policy. Experience in 2008/09 has shown that there are demand pressures for services and consistent and firmer application of this policy is required to manage demand.

##### **(ii) Fees paid to independent care providers**

- (a) The Department has agreed efficiency target for 2009/10 of which the following have been specifically identified:

Supported Living – Fair Price Model	£650,000
Residential/Nursing Care	£1,500,000
Total	£2,150,000

- (b) Furthermore, if no action is taken the existing contracts contain inflation clauses which will increase costs by £3.116m. Since inflation provision of 2% is contained within the budget the following additional expenditure will be incurred:

Provision type	2009/2010
Supported Living	229,200
Domiciliary Care	307,200
Residential and Nursing Homes	1,343,200
Total deficit	1,879,600

- (c) The financial implications for the recommended options in 2009/2010 in this report are set out below;

Provision type	Efficiency Savings	Reduced inflation pressure
Supported Living	525,000	200,000
Domiciliary Care	500,000	307,000
Residential and Nursing Homes	675,000	1,050,000
Total Saving	1,700,000	1,557,000
Target	2,150,000	1,879,600
Residual budget pressures	450,000	322,600

The adoption of these proposals will require the department to bring forward further proposals to bridge the remaining gap of £772,600. These will be the subject of subsequent reports to Cabinet.

### **(iii) Transfer to the Local Authority of Primary Care Trust Funding for Learning Disability Services**

- (a) Appendix 3 details the proposed transfer of funding that the Council will receive for taking responsibility for the care of a number of people with disabilities currently funded by NHS Wirral. The proposed amount to be transferred in 2009/10 is £6,204,296

- (b) In addition NHS Wirral has recognised the additional requirement for support to deliver these services and will add, on a recurring basis, £150,000 making a total amount to be transferred of £6,354,296. It is

proposed to establish the following posts to support the transfer and to respond to the additional demands made upon the Department

- Finance - 1 Technical Support Officer (Scale 2-4) £24,000
- Access and Assessment – 2 Social Work Posts £92,000
- Contracts – 1 Contract Officer (PO1) £37,000

All costs are at the top of scale, include on costs and in the case of social work posts, an estimation of mileage and travel costs

## **6 Business Risk**

- 6.1 A list of the risks relating to each area has been established under each of the options being considered.
- 6.2 Members' attention is particularly drawn to the significance of the risks identified under each of the preferred options.

## **7 Equal Opportunities Implications**

- 7.1 An Equality Impact Assessment with regard to fee levels is included in Annex 4 of Appendix 2.
- 7.2 Where people are selecting a home their choice may be restricted by the number of homes willing to accept the council's revised fees,

## **8 Community Safety Implications**

None arising from this report

## **9 Local Agenda 21 Implications**

None arising from this report

## **10 Planning Implications**

New applications to develop residential or nursing homes by new entrants to the market may reduce as Wirral Fees appear to be less attractive.

## **11 Anti Poverty Implications**

None arising from this report

## **12 Social Inclusion Implications**

All contracted services in this report offer support to people living in Wirral.

## **13 Local Member Support Implications**

Providers and people who use services affected by these proposals are located in all wards.

## **14 Background Papers**

Residential and Nursing Home Fees - Cabinet 9 July 2008 (Exempt).

Progress toward the transformation of Adult Social Services - Cabinet 10 December 2008

Community Care Annual survey of UK Local Authority baseline Fee Rate  
Published July 2008 – Laing and Buisson.

## **15 Recommendations**

It is recommended that Cabinet agree:

### **15.1 With regards to Fair Access to Care Services**

To endorse the decision to continue to provide social care services to individuals in Wirral who have critical and substantial needs

### **15.2 With regards to Supported Living**

To pay £13.18 per hour rate to all providers who have indicated they would accept the proposal and give 3 months notice to terminate contracts with providers who have refused. Work will be undertaken to establish if there is a business case to implement a detailed banded model of needs and fees during 2009/2010. This work will be carried out in consultation with providers and if proven further proposals will be brought to Cabinet in order for the model developed to be introduced on 1 April 2010.

### **15.3 With regards to Domiciliary Care**

To maintain existing contract business at £12 per hour pro rata (i.e. 20 pence per minute) with a new contract to be developed during 2009/2010 to commence 1 April 2010 with a standard ceiling rate appropriate inflation clause and health standards. No new business will be placed with companies that refuse to accept the proposal and these contracts will be terminated (with 3 months' notice).

### **15.4 With Regards to Residential and Nursing Homes**

Where home owners have agreed to accept the new rates these are to be implemented from 1 April 2009; where home owners have refused the new rates, contracts to be terminated (with 3 months' notice) with new placements being made at homes that have accepted the new rates with effect from 1 April 2009. All placements in homes that do not have a valid contract will be reviewed and alternative accommodation options explored on an individual basis. All contracts will need to be terminated during 2009/10 to build in the results of the Quality Premium review, incorporate a range of health standards, an appropriate inflation clause and measures required to ensure the principals of "personalisation" are embedded..

### **15.5 With Regards to the Transfer to the Local Authority of Primary Care Trust Funding for Learning Disability Services**

(a) To approve the proposed transfer of funding of £6,354,296 that the Council will receive for taking responsibility for the care of a number of people with disabilities currently funded by NHS Wirral.

(b) To recommend that the Employment and Appointments Committee approve the establishment of the following posts to support the transfer and to respond to the additional demands made upon the Department

- Finance - 1 Technical Support Officer (Scale 2-4) £24,000
- Access and Assessment – 2 Social Work Posts £92,000
- Contracts – 1 Contract Officer (PO1) £37,000

**JOHN WEBB**  
**Director of Adult Social Services**

## Fair Access to Care Services (FACS)

### 1. Background

- 1.1 The FACS guidance issued in May 2002 (for implementation in 2003) provided a national framework for eligibility criteria for adult social care. The Department of Health had acknowledged that the use of different local criteria *“leads to considerable variation in access to adult social care, which in turn leads to unfairness”*. The guidance issued under section 7 (1) of the Local Authority Social Services Act 1970 was mandatory and designed to be consistent with the policy objectives of the 1990s to focus upon people with the greatest assessed needs.
- 1.2 The national framework sets out a system of four bands, critical, substantial, moderate and low, which describe the seriousness of the risk to independence or other consequences if needs are not met. The FACS framework was based on risks arising from needs associated with various forms of disability, impairment and difficulty in order to *“help councils to promote the independence of those seeking their help”*.

### 2. Wirral implementation of FACS

- 2.1 On 23rd April and 14th May 2003 the Director of Social Services reported to Social Care and Health Services Select Committee and Cabinet respectively, outlining the national policy guidance (FACS), the department’s proposed eligibility threshold and other actions needed as a consequence. Cabinet resolved that *“individual social care services (be provided) for adults and older people whose assessed needs fall into the critical and substantial risk bands only, with all other people receiving an information, advice and a signposting service from the Central Advice and Duty Team”*. The seriousness of the risk to independence or other consequences if needs are not addressed are as follows:

- (i) **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.
- (ii) **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
- 2.2 The decision as to where to place Wirral's eligibility threshold was based on an assessment as to the level at which current budgets would enable services to be provided. It was estimated that in 2003/04 Wirral Social Services could provide individualised services to adults whose assessed needs fell into the critical and substantial bands.
- 2.3 In December 2003, as agreed by Cabinet in May 2003, the Social Services Department formally implemented its Policy on Fair Access to Care Services (national eligibility criteria for adult social care; Wirral's risk threshold for services).
- 2.4 The details of the policy had been included, for consultation, as an insert in Wirral's long term care charter "Better Care in Wirral" and are published on Wirral Council's web site.
- 2.5 On 10<sup>th</sup> December 2003 in a further report, members of Social Care and Health Select Committee were given an update on progress implementing FACS.
- 2.6 On 28<sup>th</sup> April 2005 the Director of Social services submitted a report to cabinet on the monitoring and review of FACS eligibility criteria. Cabinet resolved that the threshold for Fair Access to Care Services for 2005/06 be set at "substantial" and above.
- 2.7 In October 2005 an eligibility criteria seminar took place for elected members.
- 2.8 On 15<sup>th</sup> March 2006 the Director of Social Services submitted a report to Social Care and Health Select Committee which concluded that the threshold should remain at critical and substantial for 2005/06. Members noted the report.
- 2.9 Formal FACS training was provided for all care managers in April and May 2007, when 127 staff attended 1 day's training. In August and September 2007, 25 further staff attended a half day FACS Briefing. People who use services were involved in the training and training material was provided. A rolling programme of training is made available for new staff.
- 2.10 The application of the FACS eligibility criteria forms part of routine supervision with care managers. It is the team managers' role, in line with their quality assurance responsibilities, to ensure that eligibility for

services is properly determined and that service provision complies with FACS eligibility criteria.

- 2.11 As of February 2009, 4,226 people who are receiving services were assessed as having substantial and critical needs. Out of this number, 78 were assessed as having critical needs.

### **3. Commission for Social Care Inspection Review – “Cutting the Cake Fairly”**

- 3.1 In October 2008, the Commission for Social Care Inspection produced a government sponsored review of the national FACS criteria following concerns about the quality of life of many people and deemed ineligible for publicly funded social care and inconsistent application of the FACS criteria across Councils. The findings of the review highlighted the following issues:

- Lack of clarity and confidence in understanding of the framework by professionals and people who use services
- Lack of fairness due to variations in professional judgements, a service led as opposed to a needs led approach, over-standardisation of groups of people and a lack of consideration of other important areas such as health
- Not connected to prevention and inclusion agendas and inadequate signposting on first contact
- Emergent tension between FACS standardisation and Personalisation principles based on self-assessment, individual choice in control.

- 3.2 Recommendations from the report covered the following: offering better arrangements for universal support; improving the quality of response at peoples' first contact with the Council; a new system for allocating public funds based on immediate, early and longer-term intervention; a national resource allocation formula; improvements in the quality of decision making.

- 3.3 As part of the Transformation Agenda for the Department of Adult Social Services, the key recommendations and priorities set out in the report are incorporated into the Department of Adult Social Services change programme. Further guidance on a new national system to replace FACS is yet to be issued. Any revisions are likely to be affected by the government's review of funding for care and support, details of which will be outlined in the Green paper due for publication in 'spring '2009

### **4. Future FACS Criteria**

- 4.1 When considering the current eligibility threshold, the view of the Department is that the future budget should be able to continue to accommodate services to adults whose assessed needs fall into the critical and substantial band.

## **5. Conclusion**

- 5.1 That Wirral Council set Fair Access to Care Services criteria as at present and continue to provide social care services to individuals in Wirral who have critical and substantial needs.