



WARDS AFFECTED
ALL WARDS

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
CABINET

2 April 2007

FAIR ACCESS TO CARE SERVICES
ACCESS, ELIGIBILITY AND PROVISION OF SOCIAL CARE SERVICES

Report of the Corporate Director, Adults & Housing Department

1. Purpose of Report

- 1.1 This report outlines the requirement to determine eligibility for services under the Government's guidance on Fair Access to Care Services (FACS). Under the guidance introduced in April 2003, the council is required to reach an annual decision on where to place the threshold that determines eligibility across all adult and older people's social care services.
- 1.2 The national eligibility framework consists of the following four bands that describe the seriousness of the risk to an individual's independence if their assessed needs for support are not met:-
- Critical
 - Substantial
 - Moderate
 - Low

Details of the content of each band of eligibility along with case examples are outlined in the Supporting Information section of this report (paragraph 3).

- 1.3 At present, the Council's threshold of eligibility for adult social care services is placed at 'substantial' and 'critical'.

The banding determines which eligible needs will be met and which will be referred for preventative services and/or signposting.

2. Views of the Adult and Community Services Scrutiny Committee

- 2.1 The Committee at the meeting on 1st November 2006 discussed the FACS report and supported the recommendation that the Council continue to place the threshold of eligibility at 'substantial' and 'critical' needs.

3. Recommendation

- 3.1 Cabinet is requested to support the recommendation that the threshold of eligibility should continue to be placed at 'substantial' and 'critical' as indicated in Appendix A.

4. Background information

- 4.1 The FACS guidance was prepared in response to the Gloucestershire judgement in 1997. Previous guidance had stated "criteria of need are matters for local authorities to determine in the light of resources". The view that local authorities could take resources into account when assessing needs and deciding what services to arrange was challenged in a judicial review against Gloucestershire Social Services in 1995.
- 4.2 The Department of Health's position was upheld by the House of Lords in 1997, and additional guidance was provided to emphasize that the judgement did not give local authorities a license to take decisions on the basis of resources alone.

It was confirmed that the local authority cannot arbitrarily change the services it arranges merely because its own resource position has changed. The local authority needs to consider what assessed needs it will meet (i.e. what its eligibility criteria will be/and reassess needs against revised criteria.

- 4.3 The need for guidance on eligibility criteria for adult social care services was identified in the 1998 White Paper "Modernising Social Services" as different local authorities used different eligibility criteria. This led to considerable variation in access to social care, which in turn led to unfairness. The practice of many local authorities to apply eligibility criteria for both assessment and particular services was seen to be confusing and unnecessary.
- 4.4 At the centre of FACS guidance is the principle that local authorities should operate just one eligibility decision for all adults seeking social care support, i.e. should people be helped or not? In carrying out their duties under Section 47 of the NHS and Community Care Act 1990, local authorities should keep assessment in proportion to the individual's needs.
- 4.5 To help them determine eligibility, the FACS guidance provides a national framework for local authorities to use when setting their eligibility criteria. It covers how local authorities should carry out assessments and reviews, and support people through these processes. The framework is based on risks that arise from needs associated with various forms of disability, impairment and difficulty, and will keep local authorities focused upon promoting the independence of those seeking their help.

5. Report

- 5.1 Immediately prior to introduction of the guidance in 2003/04, the Department undertook a large scale staff training programme in order to ensure that workers at all levels were fully informed about the new criteria and were able to apply them appropriately. This approach was further supported through the introduction of a new policy and practice guidance document issued to appropriate staff.
- 5.2 Measures have been taken to ensure that the eligibility framework is built into the development of CareFirst (the Department's electronic information system). This is to enable effective performance information to be collated to indicate the extent of risk being addressed, types of needs and the circumstances being provided for.
- 5.3 Information collection systems set up to monitor FACS activity, indicate that in 2005/06, approximately 93% of adult assessments/reviews undertaken have resulted in a new or continued service being provided, i.e. the assessed needs fell within the 'critical' and 'substantial' bands referred to in paragraph 1.2 above, and therefore above the line of eligibility for 2005/06.
- 5.4 In 2004/05 the figure was 93% and at 31st December 2006 the figure was at 96.3%. This represents a total number of Assessments/Reviews at 'Critical' and 'Substantial' at 6901 out of a total number of Assessments/Reviews at 7164.
- 5.5 A recent survey of Local Authorities looked at the setting of eligibility thresholds and noted that the majority trend for eligibility is 'critical' and 'substantial'.
- 5.6 Only a small number of Local Authorities provide care to those people with 'low' needs with most offering an advice service and information on alternative care providers within their locality.
- 5.7 This picture illustrates that the tension within eligibility criteria is on the boundary between 'moderate' and 'substantial' need, and this is where there seem to be discrepancies between Local Authorities and their social care provision.
- 5.8 It appears that the tension is solved by ruling that those people with 'moderate' needs will not qualify for services, apart from exceptional circumstances where the assessment discloses needs which, if not met, are likely to lead to a significant deterioration in their condition within a very short time to 'substantial' or 'critical'.
- 5.9 It does appear from a review of current practice that the provision of 'moderate' care is generally being squeezed with most Local Authorities that currently provide for this level of need either intending to stop providing this or currently reviewing their criteria around the core being provided to those with 'moderate' needs.

This would support the view that this Department's setting of the threshold at 'substantial' and 'critical' is the norm.

6. **Headline Financial and legal Implications**

6.1 **Financial Implications (Colin Share, Head of Finance)**

The FACS framework provides the Council with a legitimate and transparent means of determining resource allocation and eligibility for service based on the availability of resources. Although there are serious pressures on the Community Care (Commissioning) Budgets, it is expected that the expenditure to meet substantial and critical needs, subject to demand staying within the current and anticipated levels, it will be contained within the overall Departmental Budgets proposed in the 2007/08 Departmental Revenue Strategy.

If the eligibility level were raised to critical only, then a nil financial impact could be expected in the first year as individual's needs and care packages are reviewed and services withdrawn. A saving would be achieved in years 2 and 3 as less people receive a service. From around year 4 onwards, it is likely that people with substantial needs will progress to critical needs as their condition deteriorates through lack of support and the savings would diminish. There could also be increased demand on local health services, which would need to be factored into joint planning by the Council and the Primary Care Trust.

If Members are minded to move the eligibility criteria to Moderate or Critical, then details service and financial modeling would need to be commissioned to quantify the effects for the Council and the NHS over the short, medium and longer terms.

6.2 **Legal Implications (Guy Goodman, Head of Community Services LAW)**

The legal implications arising from this report are fully explored accurately by the authors in the Supporting Information.

7. **Report Author/Officer to contact:**

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Key Decision	Yes
Reason	Is significant in terms of its effect on communities living or working in an area comprising more than one ward.
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)

LEICESTER CITY COUNCIL – ADULTS AND HOUSING DEPARTMENT
ELIGIBILITY CRITERIA FOR COMMUNITY CARE SERVICES

A S S E S S M E N T P R O C E S S	<p>CRITICAL</p> <ul style="list-style-type: none"> • Life is, or will be threatened; • Significant health problems have developed or will develop; • There is, or will be, little or no choice or control over vital aspects of the immediate environment; • Serious abuse or neglect has occurred or will occur; • There is, or will be an inability to carry out vital personal care or domestic routines; • Vital involvement in work, education or learning cannot or will not be sustained; • Vital social support systems and relationships cannot or will not be sustained; • Vital family and other social roles and responsibilities cannot or will not be undertaken. 	<p>SUBSTANTIAL</p> <ul style="list-style-type: none"> • There is, or will be, only partial choice and control over the immediate environment; • Abuse or neglect has occurred or will occur; • There is, or will be, an inability to carry out the majority of personal care or domestic routines; • Involvement in may aspects of work, education or learning cannot or will not be sustained; • The majority of social support systems and relationships cannot or will not be sustained; • The majority of family and other social roles and responsibilities cannot or will not be undertaken 	↑ T H R E S H O L D F O R S E R V I C E S ↓	<p>MODERATE</p> <ul style="list-style-type: none"> • There is, or will be an inability to carry out several personal care or domestic routines. • Involvement in several aspects of work, education or learning cannot or will not be sustained; • Several social support systems and relationships cannot or will not be sustained; • Several family and other social roles and responsibilities cannot or will not be undertaken. 	<p>LOW</p> <ul style="list-style-type: none"> • There is, or will be, an inability to carry out one or two personal care or domestic routines; • Involvement in one or two aspects of work, education or learning cannot or will not be sustained; • One or two social support systems and relationships cannot or will not be sustained; • One or two family and other social roles and responsibilities cannot or will not be undertaken. 	A S S E S S M E N T P R O C E S S
	← ELIGIBLE NEEDS →			← PREVENTATIVE SERVICES, ADVICE, GUIDANCE, REFERRALS TO OTHER AGENCIES →		