



Leicester
City Council

WARDS AFFECTED
All Wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Social Services Scrutiny Committee
Cabinet

14th March 2006
3rd April 2006

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

Report of the Corporate Director, Adult & Community Services

SUPPORTING INFORMATION

1. Introduction

- 1.1 The City Council was required to implement Department of Health Guidance, issued by the Secretary of State under S7 (1) of the Local Authority Social Services Act 1970, to enable people to gain Fair Access to Social Care Services (FACS), by 7 April 2003. The Guidance provided a framework for determining eligibility for services based on the identified risks to a person's independence if problems are not addressed and services are not provided. It also covered how the council should carry out assessments and reviews, and support people through these processes.

The Guidance was implemented on time, and is now in its third year of operation.

2. Context

- 2.1 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 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.
- 2.2 The Department of Health 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 a local authority cannot arbitrarily change the services it arranges merely because its own resource position has changed. It needs to consider what needs it will meet (i.e. what its eligibility criteria will be), and reassess needs against revised criteria.

3. Current Arrangements

- 3.1 The City Council has a duty under S47 of the NHS & Community Care Act 1990 to assess people who appear to need community care services, and on the basis of that assessment decide whether it is necessary for the Council to provide services in order to meet identified needs. Since community care arrangements were introduced in 1993 assessments have been differentiated between assessments for services on the one hand and full needs assessments on the other, on the basis of presenting needs.
- 3.2 The difficulty with this approach is that it did not provide consistency in the way people with similar risks to their independence and need for community care services were responded to i.e.:-
- Previous arrangements for differential assessments did not always ensure that an holistic approach was made to assessing a person's needs, risks and circumstances when allocated a service focused assessment;
 - Eligibility criteria for one service area may be tighter than another based on the levels of demand and the availability of resources; it also does not facilitate the development of comparative performance data.
- 3.3 Similarly the lack of a consistent and effective case review policy in adult services has meant that continued eligibility for service provision has not always been determined and some people have continued to receive services after their circumstances have improved and risks have diminished.

4. Principles of the New Guidance

- The Council should not operate eligibility criteria for specific types of assessment, but should tailor the assessment to the person's needs and circumstances (these issues will be addressed through the implementation of the Single Assessment Process.).
- The Council should make only one eligibility decision with respect to people who have been assessed for community care services i.e.: are they eligible for social care services or not.
- The Council should promote a non-discriminatory approach to assessment and service provision by ensuring eligibility is based on needs and risks to independence, and not, for instance, on age, disability, or service availability.
- The Council should not operate eligibility criteria for different services, but should arrange the most appropriate and cost-effective help by matching services to eligible needs.
- People's presenting needs should be assessed and their eligible needs prioritized according to the risks to their independence in both the short and medium term if support is not provided, taking account of a longer-term preventive view of needs and circumstances.
- People whose needs have critical consequences for their independence and/or safety should be supported ahead of those with needs that have substantial consequences and so on.

- People's needs and circumstances must be reviewed on a regular basis to determine continued eligibility for services and appropriateness of service provision.
- The Council is required to focus resources and other local factors on helping those in greatest immediate or longer-term need, and be prepared to move resources from one budget head to another where necessary.
- The Council is required to review its eligibility criteria on a regular basis, and having determined its criteria it should ensure that services are in place to meet eligible needs.
- The Council should promote a wider community approach to prevention, involving Primary Care Trusts, supporting people and health promotion.

5. The Eligibility Framework

5.1 The eligibility framework has been constructed to enable the types and levels of risk in areas of life, which are central to a person's independence and well being to be identified.

5.2 The levels of risk have been graded into four bands that describe the seriousness of the risk to a person's independence, or other consequences, if needs are not addressed. The four bands specified by the DoH are:

- Critical
- Substantial
- Moderate
- Low

5.3 Priority One: Critical

Where there is an immediate risk to a person's life and/or independence requiring intervention within 24 hours.

- Life is, or will be, threatened.
- Significant health problems have developed or will develop.
- There is, or will be, little or no choice and 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.

5.4 **Priority Two: Substantial**

Where the lack of intervention *within 10 working days* could lead to the loss of independence and could lead to the person's health and safety being put at risk.

- 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 many 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

5.5 **Priority Three: Moderate**

Where the support needs are perceived, but lack of early intervention will not result in a loss of independence, with any consequence risk to health and safety, response will be made within one calendar month.

- 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.

5.6 **Priority Four: Low**

Response on a case by case basis but may often involve redirection to alternative services.

- There is, or will be, an inability to carry out one/two personal care or domestic routines.
- Involvement in one/two aspects of work, education or learning cannot or will not be sustained.
- One/two social support systems and relationships cannot or will not be sustained.
- One/two family and other social roles and responsibilities cannot or will not be undertaken.

5.7 The four areas identified by the DoH as being central to maintaining a person's independence are:

- Autonomy
- Health and safety
- Managing personal and other daily routines
- Involvement in family and wider community life

These four factors have been used to construct a framework to identify the risks attached to various needs and circumstances within different areas of independence. The Council's

responsibilities is to determine which of these needs and circumstances will be eligible for the provision of social care services in Leicester.

5.9 There are certain parameters, which need to be taken into account:

- The threshold for eligibility can only be set between the levels of risk to independence and not between the areas of independence, i.e. between moderate risk and low risk, for instance, or between moderate risk and substantial risk.
- The Council must provide services to people whom it has assessed as having an eligible need for social care services, i.e. if the Council sets the threshold for eligibility between the Moderate and Low bands, it must ensure that it has the resources to meet the needs identified within the Moderate, Substantial and Critical bands. If it does not it would have to set the threshold higher, say between the Moderate and Substantial bands.
- Where a person has a variety of needs and circumstances, some which are eligible for social care support, and some which are not, the Council is not obliged to meet those needs which fall below the threshold of eligibility, but it may consider it appropriate to do so in certain circumstances for preventative reasons.
- The Council is unable to modify the components of the risk bandings (identified in bold in the framework) as these have been prescribed by the DoH, but the Council can describe the types of needs and circumstances it considers fall within the different levels of risk and areas of independence, and these should be reviewed on regular basis.

6. Impact of FACS on Resource Management

- 6.1 The FACS eligibility framework was welcomed as an appropriate and timely instrument to assist the Council in managing its limited resources. The benefits of the framework lay in its relevance to adults of all ages and with any disabling condition who approach the Council for social care support, and it provides the Council with a legitimate and transparent means of determining resource allocation and eligibility for service based on the availability of resources.
- 6.2 Although the Council does not operate a formal prioritization system for case allocations within adult services, the eligibility framework enables new referrals to be prioritized in terms of the perceived risks to a person's independence based on presenting needs; and for assessed needs and circumstances to be prioritized and recorded in terms of risk and eligibility for service provision.
- 6.3 This enables a new set of performance data to be collated appropriately deployed, and the extent to which particular service areas may be over or under provided for, within the parameters of what the Council has determined as eligible need.
- 6.4 Once the Council has determined the level of risk and the types of need that are eligible for social care support, it is the responsibility of social work staff to apply this, and assess the needs and circumstances of individual's to determine the level of risk which these pose to their independence, evaluated against the risks to their autonomy, health and safety, ability to manage daily routines, and involvement in family and community life. They should consider which risks cause serious harm, and which risks may be acceptable or viewed as a natural and healthy part of independent living.

- 6.5 By identifying the risks attached to various needs and circumstances the assessor is able to determine whether the individual has eligible needs for social care services using the eligibility framework. When determining eligibility the assessor must take account of the support that a person may already be receiving from carers, family members, friends and neighbours, and of the risks faced by them in their caring role.
- If, for example, a person is unable to perform several personal care tasks, but can do so with the help of a carer, and the carer is willing and able to continue caring both currently and in the longer-term, then the person should not be perceived as having eligible needs for social care services.
 - If, on the other hand, the caring relationship is close to breakdown, the person's needs would be eligible for social care services, as there would be a critical risk of the person losing their independence and of the carer developing a significant health problem.
- 6.6 Where a person has eligible needs a care plan will be formulated to arrange for the provision of appropriate services tailored to their particular circumstances, and a decision made about the appropriateness of direct payments. Once the Council has decided that it is necessary to provide services to meet a person's eligible needs it is under a duty to provide those services.
- 6.7 Given the current levels of commitments, activity levels and limited availability of resources, it is perceived that the Council would face serious difficulties in providing care services to meet the needs of people whose circumstances have been assessed as presenting a moderate risk to their independence. The appropriate threshold for determining eligibility for social care services is considered to be between the Moderate and Substantial Bands of risk. The implications of this require the Council to provide social care services to any person whose assessed circumstances present a critical or substantial risk to their independence if services are not provided.

7. Impact on Service Users

- 7.1 If the eligibility threshold is established at the Substantial risk bandings, it is anticipated that a relatively small number of existing service users would not be eligible to receive social care services because the risk to their independence would not be critical or substantial. There would still be identified needs which would probably pose a moderate risk to independence and the Council would be required to seek alternative ways of meeting these needs as part of a preventive strategy.
- 7.2 A considerable amount of work has already been undertaken to identify the opportunities presented by Supporting People in developing alternatives to social care services where a person's primary need is for social support, rather than personal care support, to enable them to live independently.
- 7.3 Similarly assessments of adults with Learning disabilities receiving day care services are also being undertaken to determine the extent of the risk to their independence if services were to be redesigned or stopped. Action is being taken to develop alternative ways of meeting social support needs through Welfare to Work initiatives and facilitating access to further education.

8. Preventive Strategy

- 8.1 The potential impact of revised eligibility criteria on existing service users highlights the need for a clear and coherent prevention strategy. Prevention is also a key theme in other national guidance for all adult service user and carer groups, including The National Service Framework (NSF) for Mental Health (1999), the NSF for Older People (2001), the White Paper Valuing People (2001) and the Carers and Disabled Children Act (2000).
- 8.2 Prevention in terms of social care is the action that is required to prevent or delay loss of a person's independence and to improve their quality of life, and it is therefore imperative that preventive approaches encourage self-determination, choice and dignity, including economic participation for people of working age.
- 8.3 Preventive services should aim to:
- provide people with accessible and timely information and advice so that they can find solutions to their own problems wherever appropriate;
 - promote the community's capacity to respond to low level needs in an informed and preventive manner;
 - assist people to regain their independence so that they can undertake as many tasks for themselves without intervention from social services;
 - prevent people from deteriorating to high levels of dependency and enable them to continue to live in their own homes;
 - diminish the risks of avoidable injuries;
 - improve people's quality of life by increasing their independence and reduce social isolation.
- 8.4 Support from the Carers Special Grant and Partnership Contracts already exist with various voluntary sector organisations and with Health to provide preventive services such as sitting services, day care, lunch clubs, and care and repair schemes; and further work is currently being undertaken with partner agencies to develop supported living schemes

9. Monitoring of FACS Performance

- 9.1 The purpose of eligibility criteria is to support the most effective and efficient use of available resources and to ensure consistency and fairness across the city and across service user groups. It is therefore important that the application of the eligibility criteria is carefully monitored and reviewed on a regular basis.
- 9.2 The FACS guidance requires the Council to audit and monitor its performance of fair access to care services by:
- gauging the extent to which different groups are referred and following assessment go on to receive services;
 - monitoring the quality of the assessment and eligibility decisions of their staff;
 - auditing service effectiveness with reference to care plans and reviews;
 - monitoring the speed of assessment and subsequent service delivery in accordance with the local Better Care Higher Standards Charter and care management quality standards;

- monitoring the timing and frequency of reviews.

9.3 This will be achieved through the performance management and quality systems, which include:

- Fair Access and Quality of Services for Users and Carers performance information within National Performance Assessment Framework (PAF)
- Feedback from Carer and Service User Groups.
- Customer satisfaction and feedback surveys.
- Analysis and evaluation of Complaints and Compliments.
- Internal audit and inspection processes.
- Staff Supervision and Appraisal system.
- Information from external inspections and audits such as, Social Services Inspectorate, District Audit and the Best Value Inspectorate.
- Monitoring financial performance against the FACS categories and service targets.
- Equality Impact Assessment Process

10. Reviewing the Eligibility Threshold

10.1 The FACS guidance requires the Council to review its eligibility criteria annually, and it will therefore be possible to adjust this if the resource position changes or a more accurate assessment of the position can be made.

10.2 The operational effects of operating FACS will be reported to Scrutiny Committee at least annually to enable Members to review Council decisions on eligibility for social care services in line with the Council's financial planning strategy.

11. Financial, Legal and other implications

11.1 Financial implications

"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 pressures on the Community Care (Commissioning) Budgets, it is expected that the expenditure will be contained within the overall Departmental Budgets. The Council would face serious financial difficulties if it were to seek to provide care services to meet the needs of people whose circumstances have been assessed as presenting a moderate risk to their independence."

11.2 Legal implications

These are dealt with in the opening sections above.

11.3 Other Implications

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN SUPPORTING INFORMATION
Equal Opportunities	Yes	Throughout report
Policy	Yes	Whole report
Sustainable & Environmental	No	
Crime & Disorder	No	
Human Rights Act	Yes	Throughout report
Elderly/People on Low Income	Yes	Throughout report

12. Background Papers

- Local Authority Social Services Act 1970, Section 7(1).
- Health: Continuing Care: HSC 2001/015: LAC (2001) 18; Section 31: Health Act 1999 Flexibilities.
- Children and Families: Children Act 1989 and the “Assessment Framework”.
- Carers: “Carers and Disabled Children Act 2000: a Practitioners Guide to Carers’ Assessments”.
- Road Traffic Act 2000.
- Rights and Discrimination: Sex Discrimination Act 1975; Disability Discrimination Act 1995; Human Rights Act 1998; Race Relations (Amendment) Act 2000.
- Information Collection and Sharing Common Law Duty of Confidentiality; Data Protection Act 1998; Human Rights Act 1998; Caldicott Guidance.

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