

# North Tyneside Council Report to Cabinet 13 April 2015

## ITEM 6(b)

Title: Meeting Eligible  
Social Care and Carer  
Needs Policy

Portfolio(s): **Adult Social Care**

Cabinet Member:

**Councillor Lesley  
Spillard**

Report from Service

Area:

**Adult Social Care**

Responsible Officer:

**Jacqui Old, Head of Adult Social Care**

**Tel: 0191 643 7317**

Wards affected:

**All**

## PART 1

### 1.1 Purpose:

As part of the implementation of the Care Act 2014 which comes into force on 1 April 2015, the Authority's Eligibility Policy needs to be updated to reflect the change in legislation, therefore the purpose of this report is to seek Cabinet approval for the ratification of the new Adult Social Care "Meeting Eligible Social Care and Carer Needs Policy".

### 1.2 Recommendation(s):

It is recommended that Cabinet approve the implementation of the new policy.

### 1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 9<sup>th</sup> March 2015.

### 1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2014/18 Our North Tyneside Plan:

Our People will

- Be listened to by services that respond better and faster to their needs.
- Be supported to achieve their full potential, especially our children and young people.
- Be supported to live healthier and longer lives.
- Be cared for and kept safe if they become vulnerable.

## 1.5 Information:

### 1.5.1 Background

The Care Act 2014, which comes into force on 1 April 2015, represents the biggest single change to Social Care legislation and guidance in sixty years. Since 2003 the Fair Access to Care Services policy directive has applied to Adults with Care and Support needs. Within the policy Councils were allowed to set the threshold at which they would meet Adults' eligible needs; in North Tyneside the threshold was set at Substantial and Critical needs, in line with the majority of other Local Authorities.

- 1.5.2 In term of the delivery of the Care Act requirements, the Authority's Eligibility Policy has to be revised in light of the new National Eligibility Criteria which are now set out in Regulations; this is because the existing Legislation and Guidance will be replaced by the Care Act 2014. As there is no longer any discretion in terms of the level of need that Authorities will meet (as there was with Fair Access to Care Services) the policy has been revised to explain how the Authority will meet eligible needs (as opposed to describing the threshold of eligibility).
- 1.5.3 In this context **eligibility should be viewed as a status** (eligible or not eligible); importantly the Authority retains discretion in terms of *how* needs may be met (but not *whether* they are met). The policy should be read in conjunction with the Care Act 2014, the supporting Regulations to that Act and the Statutory Guidance, and alongside the North Tyneside Practice Guidance that has been developed in preparation for the implementation of the Care Act 2014. The Policy has also been developed in line with the Our North Tyneside Plan (Our People) and the Authority's Creating a Brighter Future Together programme, and reflects Cabinet's agreed approach to managing demand and encouraging customers to be more independent. The Policy has been produced by Senior Officers in Adult Social Care, alongside colleagues in Legal Services.
- 1.5.4 The Care Act 2014 introduces a single National Eligibility Criteria for social care needs which all Authorities in England must meet. There is a three part test:
- physical or mental health/illness Needs arising from
  - two of a range of outcomes Inability to achieve
  - there is (or is likely to be) a significant impact on the Adult's wellbeing As a consequence
- 1.5.5 Wellbeing is given a broader (but not exhaustive) description in the Statutory Guidance, and it is identified that Adults with care and support needs are best placed to determine their own wellbeing. "Significant" is given its everyday meaning, and in considering the *significance* of the impact on the individual's wellbeing, the Authority will need to take account of all of the individuals it provides support to, and can take its own resources into consideration.
- 1.5.6 The Care Act 2014 introduces new rights for Carers, including, for the first time, the right for Carers to request support in their own right; putting them on the same legal footing as the people they care for.
- 1.5.7 Section 8.1 of the policy sets out the guiding principles of the approach to meeting needs. It sets out that North Tyneside takes a stepped approach to meeting needs; although it is not necessary to rigorously move through all of the steps, it is necessary to demonstrate why needs cannot be met by a solution outlined in one of the earlier stages. The earlier stages of the stepped approach demonstrates that Adults with care and support needs will be encouraged to access self help/support in the first instance, and that all efforts will be made to

meet an Adult's needs via the use of "universally available support", before the use of a personal budget is considered.

- 1.5.8 The Care Act 2014 sets out a number of ways in which an Adult's needs might be met, including through the provision of universally available support:

Statutory Guidance 10.13 "Needs may be met through types of care and support which are available universally, including those which are not directly provided by the local authority. For example, in some cases needs could be met by a service which is also made available as part of a local authority's plans for preventing or reducing needs for care and support (under Section 2 of the Act). Needs could also be met, for example, by putting a person in contact with a local community group or voluntary sector organisation."

- 1.5.9 The Care Act 2014 gives a clear directive to Local Authorities and their Partners in terms of integration, and gives the Local Authority the power to require their partners to cooperate (and vice versa). It also provides some greater definition in terms of what constitutes "social care", and therefore by definition, what does not. It also reinforces that Local Authorities cannot act beyond their powers, in terms of providing health care.

Statutory Guidance 15.30 "In order to support joint working, it is important that all partners involved are clear about their own responsibilities, and how they fit together. Section 22 of the Care Act sets out the limits on what a local authority may provide by way of healthcare and so, in effect, sets the boundary between the responsibilities of local authorities for the provision of care and support, and those of the NHS for the provision of healthcare."

The Care Act provides a directive for NHS and Social Care partners to work together to ensure the most appropriate use of resources in meeting Adult's needs in a seamless way. In North Tyneside the Local Authority and CCG operate a Shared Care Panel, where discussions regarding those people whose needs straddle health and social care, can be discussed.

- 1.5.10 The Care Act 2014 and associated Statutory Guidance, requires that Authorities make available their Resource Allocation Systems (RAS). "*Local Authorities should make their allocation process publically available as part of their general offer, or ideally provide this on a bespoke basis for each person the authority is supporting in a format accessible to them*". The Resource Allocation System (RAS) is the system by which resources (money) is allocated to Adults and Carers with eligible assessed needs; the RAS will only be applied once it is identified that the Adult's needs cannot be met through accessing universally available support. North Tyneside has operated the current RAS since 2010 (with the current price point being set in 2012), and the details of the development and calculation of the RAS are included within the policy; therefore little change is anticipated.

## 1.6 Decision options:

The following decision options are available for consideration by Cabinet

### Option 1

Cabinet may accept the Policy and agree its implementation

### Option 2

Cabinet may reject the Policy and request that further work is done

### Option 3

Cabinet may decide not to have a Policy outlining the Local Authority's approach to meeting eligible needs

Option 1 is the recommended option.

#### **1.7 Reasons for recommended option:**

Option1 is recommended for the following reasons:

- The Care Act 2014 has repealed the FACS guidance and therefore the previous policy is no longer fit for purpose
- There is no longer discretion for the Authority to determine the threshold of needs it will meet
- There is discretion for the Authority to determine its approach to meeting eligible needs
- Therefore whilst there is no requirement to have an eligibility policy, (as eligibility is now defined in law), the lack of a policy which describes the Authority's approach to meeting eligible needs, could leave the Authority open to legal challenge
- The policy will promote a consistent approach to meeting eligible needs, across the social work teams
- The policy has been developed to support the Creating a Brighter Future Together programme, in that it encourages self support/guided support and access to universally available resources, before the allocation of a Personal Budget is considered
- Therefore the policy will support the Authority's aims in terms of managing demand, whilst ensuring that the most vulnerable members of society are safeguarded and cared for and
- The Care Act 2014 requires that the Authority makes available its RAS system and calculation and the policy meets this requirement

#### **1.8 Appendices:**

Appendix: Adult Social Care – Meeting Eligible Social Care and Carer Needs Policy

#### **1.9 Contact officers:**

Stephanie Downey, Senior Manager (Personalisation), Adult Social Care,  
tel (0191) 643 8310

Alison Campbell, Finance Business Manager, tel (0191) 643 7038

#### **1.10 Background information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

(1) The Care Act 2014 – Statutory Guidance

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf)

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

The implementation of the Care Act 2014 is anticipated to increase costs for Local Authorities. Funding has been provided from central government, on the basis of a number of modelling exercises and the 2015/16 Budget reflects the following grant income:

- £0.542 million for Early Assessments;
- £0.351 million for Deferred Payments;
- £0.238 million for Carers, with a further
- £0.597 million allocated via the Better Care Fund.

Nationally there remain concerns that this will not be sufficient, both in terms of new duties to Carers and in terms of extended duties to Self Funders (although the latter will have greater impact in 2016/17). Additionally this funding needs to be considered within the context of the savings that all Local Authorities need to make, and the known pressures on the CCG's finances. Maintaining the current Resource Allocation System will allow the Authority to monitor the impact of the Act on a like for like basis.

### **2.2 Legal**

The legal implications of the implementation of the proposed Policy are set out in the body of the report. The relevant legislation and guidance in relation to this matter is set out below.

- (1) The Care Act 2014 – Primary Legislation  
<http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>
- (2) The Care Act 2014 – Regulations  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366048/43738\\_2902999\\_Regs\\_Affirmative\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366048/43738_2902999_Regs_Affirmative_Accessible.pdf)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/376204/2903119\\_Care\\_Act\\_Negative\\_Regulations\\_Master.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf)
- (3) Care and Support Statutory Guidance, issued by the Department of Health  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf)

In accordance with the Local Government Act 2000 and the regulations made under that Act in relation to responsibility for functions and responsibilities, Cabinet is responsible for determining this matter.

### **2.3 Consultation/community engagement**

#### **2.3.1 Internal Consultation**

Managers and officers within Adult Social Care and Legal Services have been involved in the development of the policy

#### **2.3.2 External Consultation/Engagement**

Guidance sought in relation to the implementation of the Care Act 2014 confirmed that, as there is no change to the Authority's eligibility threshold (because the new National Criteria is at the

same threshold as FACS Substantial and Critical), and as the policy has been updated to reflect the implementation of Legislation and Policy, formal consultation was not required in terms of eligibility. However Adult Social Care has held a large number of coproduction, engagement and information sessions with the community and partners in preparation for the implementation of the Care Act 2014. These engagement sessions provided valuable information, insight and direction in terms of the practice changes required for the delivery of the Care Act 2014. For those areas where the Authority has discretion, the feedback gathered throughout the coproduction, engagement and information sessions, has influenced the changes that have been made.

The Authority has undertaken formal consultation in relation to the financial charging system and the Care Act 2014. There is one reference to this in the policy (brokerage function – 6.3).

## **2.4 Human rights**

The policy confirms that in meeting eligible needs the Authority will uphold the Human Rights Act.

## **2.5 Equalities and diversity**

The policy confirms that in meeting eligible needs the Authority will uphold the Equality Act.

## **2.6 Risk management**

The current Resource Allocation System has been transcribed into the National Eligibility Criteria; it is envisaged that this will allow the Authority to more accurately monitor and track any changes to eligibility and therefore costs, as a result of the change in legislation.

## **2.7 Crime and disorder**

There are no crime and disorder implications arising directly from this report

## **2.8 Environment and sustainability**

There are no environment and sustainability implications arising directly from this report

## **PART 3 - SIGN OFF**

- Deputy Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy