

MAYOR AND CABINET		
Report Title	Consultation on Adult Social Care : Eligibility Criteria and Charging	
Key Decision	Yes	Item No. 4
Ward		
Contributors	The Executive Director for Community Services, The Executive Director For Resources, Head of Law	
Class	Part 1	Date: April 18 2007

1. Summary and Purpose of Report

- 1.1 The report seeks approval from the Mayor and Cabinet on the plans to consult with users, carers and stakeholders on proposed revisions to the eligibility criteria for adult social care and changes to the Council's policy on charging for non-residential care services. The Mayor and Cabinet are asked also to approve the consultation documents which will be made available to the public.
- 1.2 As part of the process for setting the 2007/08 budget, the Mayor and Cabinet considered savings proposals that relate to a change in the eligibility criteria threshold for adult social care services and to the Council's charging policy for non-residential care. In essence, the proposals recommended amending the threshold for eligibility for services by dividing the "substantial" category into greater substantial and lesser substantial, to prioritise greater substantial and to review the charging policy to increase clients' contributions to care costs where they have the financial means to pay.
- 1.3 In accordance with guidance issued by the Department of Health, before deciding whether or not to implement a change to the eligibility criteria or the charging policy, a public consultation must be carried out. This report sets out the plans for that consultation and attaches the documents that will be issued as part of that consultation.

2. Key Recommendations

The Mayor is asked:

- i) To agree the consultation schedule at Annex A which provides details of the planned consultation events and the consultation methods that will be employed, and lists the stakeholders who will be consulted;
- ii) To approve the draft documents that are attached at Annex B. The documents will form the information pack that will be issued as part of consultation and provide details of the proposed changes to the Fair Access to Care eligibility

criteria and policy on charging;

- iii) To note the comments made by the members of the Healthier Communities Select Committee at their meeting on 22 March 2007;
- iv) To delegate to the Executive Director for Community Services the authority to finalise the detailed arrangements for the consultation process; and
- v) To note that officers will prepare a report on the outcome of the consultation which will be presented to the Healthier Communities Select Committee and to Mayor and Cabinet after the summer recess. This allows a three month consultation period, although this timescale can be extended if required.

3. Policy Context

- 3.1 The Council provides a range of services to adults with social care needs. In providing these services, the Council must comply with current legislation and guidance issued by the Department of Health and other relevant bodies, including Fair Access to Care Services (FACS) – Guidance on Eligibility Criteria for Adult Social Care and Fairer Charging Policies for Home Care and other non-residential Social Services – Guidance for Councils with Social Services Responsibilities.
- 3.2 In allocating resources to adult social care services, the Council seeks to ensure that those with greatest need receive the community care services they need to maximise their independence and to enable them to live in their own homes in their local communities wherever possible. Eligibility for adult social care is judged against the statutory national framework set out in Fair Access to Care Services (FACS). The framework applies across all user groups who may be in need of community services and must be applied equitably. When the FACS guidance was first introduced in Lewisham, members set the threshold at a point which split the moderate band into moderate and moderate at risk of deterioration. In 2005, in response to budget pressures, the threshold was further amended so as to raise eligibility to moderate only.
- 3.3 Once clients are deemed eligible for statutory social care services under FACS, a package of care is agreed and, in accordance with the Council's published policy on charging, a further assessment is carried out to determine whether or not the client has the financial means to contribute to the cost of their care.
- 3.4 Where councils indicate that they intend to amend the eligibility criteria or to amend their policy on charging, they are required to carry out consultation in accordance with statutory guidance.
- 3.5 Lewisham Council is one of a number of authorities who have consulted, or are currently consulting, on changes to their eligibility criteria and/or charging policies. 70% of councils provide only to those classed as substantial & critical and 12% of councils are considering a change to critical only.

4. Scrutiny of consultation plans

Healthier Communities Select Committee

- 4.1 The consultation plans and information pack were considered by the members of the Healthier Communities Select Committee on 22 March 2007.
- 4.2 The Select Committee stressed the need to ensure that all interested parties, particularly service users, had the opportunity to comment on the proposals and stated that feedback should be accepted in any format. Members also said that care should be taken when analysing the results to ensure the views of vulnerable people and their carers' were fully reflected. Members of the Select Committee welcomed the commitment to extend the consultation period if required and noted that the consultation period would also be extended to take account of any public holidays. The Select Committee recommended that the consultation pack provide full details of available advocacy services to enable people to access support to understand the proposals and submit comments and responses.
- 4.3 The select committee made the following specific comments on the draft questionnaire:
- i) redraft section 2 question c) asking which of the charging proposals the respondent would support, to include the "none of the above" option and to give respondents the opportunity to comment on how they feel about the options, as opposed to narrowly asking which charging proposals they support.
 - ii) section 2 question c) option 6 – "Redefining the capital threshold" is reworded and/or an explanation is provided to illustrate what this means and the threshold this relates to.
- 4.4 The Select Committee requested that a summary of the feedback from the consultation be reported back to the committee.
- 4.5 In response to the Committee's comments, officers confirmed that views on the proposals would be accepted in any format and the questionnaire was only one tool available. Officers will ensure that appropriate assistance is given, including advocacy, to service users to enable them to engage fully with the consultation process. Officers have amended the questionnaire in light of the suggested changes and will report back to the select committee on the outcome of the consultation.

Mayor's Consultation Board

- 4.6 In accordance with Council practice, the consultation plans were also submitted to the Mayor's consultation board for comment and approval. In commenting on the proposals, the board stressed the need for the Council to highlight the support that would be available to assist services users in understanding the proposals and completing the questionnaire. Officers will ensure that all possible assistance will be given to enable service users to fully engage in the consultation process. The plans were passed by the board.

Consultation Project Board

4.7 The consultation process will be overseen by a project board whose membership will include the Executive Director for Community Services and the Head of Strategy. The plan does not yet include finalised dates for all meeting as these are subject to venue availability and staff resources. As recommended in paragraph 2 (iv), officers propose that detailed arrangements such as timings and venues are delegated to the Executive Director for Community Services.

5. **Background**

5.1 Early in 2006, it became evident that the Council was facing significant budget pressures in the area of adult social care. As part of the Council's budget setting process (Strand 3) for 2007/08, the Mayor and Cabinet agreed that a strategic budget review of adult social care should take place. In addition, service specific reviews (of services for older adults and of services for adults with learning disabilities) were undertaken to inform the strategic financial review.

5.2 These reviews were completed in early 2007 and were used to inform the adult social care strategic budget review. As part of the budget process, officers made a number of proposals to members of the Public Accounts Committee on 7 February 2007 on how to bring services and expenditure back in line with the budget. These proposals included amending the threshold of the eligibility criteria and reviewing the charging policy. These proposals went forward to Mayor and Cabinet on 8 and 21 February 2007 and representations were made at these meetings by service users and stakeholder groups.

5.3 In light of the representations made, the Mayor, supported by the Cabinet Member for Community Services, announced at the meeting of Full Council on 1 March that full and meaningful consultations would take place before any changes are implemented. This paper sets out the plans to consult fully on the proposed amendments to the eligibility threshold and the charging policy.

6. **Consultation plan**

6.1 The schedule for consultation is attached at Annex A. In developing the schedule, officers have followed the statutory guidance issued by the Department of Health and the Consultation Code of Practice for the Public Sector issued by the Cabinet Office. The schedule seeks to ensure that all parties with an interest are consulted, that the consultation is properly advertised, that the consultation methods adopted are sound and accessible to all user groups, and that advocacy is available where necessary.

6.2 The consultation is expected to begin late Spring/early Summer and additional days will be built into the timetable to allow for public holidays. The recommended consultation period is one of three months but this will be extended if necessary to ensure full consultation has taken place. The schedule provides opportunities for users, carers, providers and stakeholders to express their views on the proposed changes, and for these views to be fed back into the consultation process for full consideration. The consultation schedule provides for both public meetings and for meetings with specific users, representative groups and providers. In addition, regular meetings between the Executive Director for Community Services and key stakeholders are planned.

6.3 Once the consultation period is completed, a report on the findings of the consultation with recommendations for future action will be presented after the summer recess to the Healthier Communities Select Committee and Mayor and Cabinet.

7. Information Pack

7.1 The documents attached at Annex B will form the information pack which will be issued to interested parties, including users, carers and providers, as part of the consultation. The pack includes information on the proposal to amend the eligibility criteria and proposals to amend the Council's charging policy. The pack will include a questionnaire, details of the consultation meetings and advice on where to get support, advocacy or translation services. Information on the proposals will also be made available in an easily accessible format for adults with learning disabilities or those with other needs.

Eligibility Criteria

7.2 The information pack includes a consultation paper which sets out the proposal to change the threshold for Fair Access to Care Services by restricting eligibility for services to those in Critical and Greater Substantial need. The paper also provides further detail on the typical characteristics of a client assessed as being in Greater Substantial or Critical need. Details are also provided on the typical characteristics of a client assessed as in Lower Substantial need who would, if the new eligibility criteria were to be applied, no longer be eligible for statutory services. The paper provides several scenarios of users who would no longer receive services if the threshold were raised.

7.3 The paper also sets out the impact of the proposed changes on both new and existing users. This means that in some circumstances, services could be taken away from current users, should they fall within either the moderate banding or the proposed new lower substantial banding. It should be noted that services will only be withdrawn from an individual after a full reassessment of needs.

Charging Policy

7.4 The consultation paper on the new charging policy is also included in the information pack.

7.5 The paper sets out current Government policy and statutory guidance for Fairer Charging for non-residential adult social care, and associated practice guidance (updated in 2003). A different set of nationwide arrangements sets out the policy for charging for residential care. The current Lewisham policy and practice was produced in July 2005, and a summary of that position is also included in the paper.

7.6 The consultation proposals only relate to charging for non-residential care services. The proposals are intended to simplify the current arrangements, and to generate a higher level of contributions to care costs where people have the financial means to do so.

7.7 Lewisham's current arrangements are more complex, and in some areas more generous, when compared with other local boroughs e.g. maximum weekly charge limit. The current policy on charging is set out in the information pack. Simplifying the position, and making the charges easier to understand and administer, will bring further benefits by reducing the administrative process of carrying out financial assessments.

8. **Risk Management**

8.1 Although any change in the eligibility criteria is, of course subject to the outcome of the consultation and further agreement of the Mayor and Cabinet, officers have already begun to develop a risk management strategy that will be implemented should any change in eligibility be agreed in the future. This strategy will provide a framework to enable officers to identify those situations where needs will quickly increase, to take action to provide individuals with information and advice about other sources of support, and to provide support and adequate time to make alternative arrangements before the removal of services.

9. **Financial Implications**

- 9.1 Adult Social Care Services faces significant budget pressures and must take action to reduce its spending in line with its available resources. The report on the Budget 2007/08 (presented to Mayor and Cabinet on 21 February) identified budget pressures of £7.2m in 2007/08 and included savings proposals of £3.338m in relation to adult social care services. Included in the proposed savings of £3.338 were items relating to eligibility criteria and charging policy. The report also stated that the proposals on eligibility criteria and charging were subject to a period of consultation. Until the consultation has taken place and a further report presented to Mayor and Cabinet on the options available, these savings proposals cannot be realised and funding has been set aside from the Corporate Working Balances, on a once-off basis in 2007/08, to cover the budget pressures in these areas.
- 9.2 The costs of the consultation are expected to be in the region of £40k – £50k which will cover the costs of venues, printing and postage and facilitators. The funding set aside also includes a provision to respond to individual demands, for example for advocacy and translation.
- 9.3 The consultation process will seek to ensure value for money in the arrangements and consultation methods adopted. All costs relating to the consultation will be met from within the Community Services Directorate budget.

10. **Legal Implications**

10.1 Local authorities are required to review and publish their eligibility criteria for social care services, usually on an annual basis, in accordance with a framework and guidance produced by the Department of Health: Fair Access to Care Services (FACS). It provides a framework which categorises needs at four levels; critical, substantial, moderate and low. The guidance allows local authorities to decide which level(s) of eligibility they will meet, taking account of the resources they have available.

Although all authorities must adopt the same framework this does not mean they must come to the same decisions about the levels of eligibility they will meet.

- 10.2 The guidance indicates that where the council has sufficient resources to meet all the eligible needs in one band, but insufficient to meet all the needs in the next band they have the discretion to either separate the band into two sub bands or use professional judgements on levels of risk.
- 10.3 Once a council has decided to change its eligibility threshold, each service user must be reassessed against the new threshold. It is unlawful to withdraw services from individual service users without a reassessment of their care needs that takes into account the impact for that person.
- 10.4 Where a person is eligible to have their care needs met, the DoH guidance states that the council should provide services that are cost effective and appropriate. Care arrangements need to take full account of users wishes and should support the fundamental aim to preserve independence, but the cost of providing care support is a legitimate consideration in determining how people's needs can be met.
- 10.5 Social services have a discretionary power to charge for non accommodation related services. Where a council uses these discretionary powers the charges must be reasonable and there must be procedures for reducing or waiving the charges where it is not reasonably practical to pay. Charging policies must comply with Department of Health guidance issued in 2003 called, "*Fairer Charging policies for home care and other non-residential social services*".
- 10.6 The guidance states that before implementing changes on eligibility or charging, proper consultation should take place with all stakeholders in order to ensure that their views are taken into account.
- 10.7 The suggested period of at least 12 weeks for the consultation period complies with established good practice.

11. **Crime and Disorder Implications**

- 11.1 There are no crime and disorder implications arising from the consultation process.

12. **Equalities Implications**

- 12.1 The plans for consultation seek to ensure that there is meaningful consultation with all those who might be affected by any change. Where necessary, support will be provided to ensure access to the consultation by all groups within the community. Support will include the provision of accessible venues, translation services where requested, advocacy services where required, individual support to assist users to respond to the consultation questionnaire, a telephone helpline, and a BSL interpreter at one of the public meetings. The information pack will be available in large print and in accessible format for those with learning disabilities. An audio version will also be available on request.

13. **Environmental Implications**

13.1 Although the information pack will be printed, the consultation documents will also be available online to download. Where possible, officers and facilitators will travel to meet users at suitable locations such as day centres thus avoiding the need for unnecessary travel by users and their carers.

14. **Conclusion**

The consultation plans seek to follow statutory guidance and established good practice. Consultation must take place on the proposals outlined above before any changes can be implemented and any potential savings realised. The Mayor is asked to agree the recommendations outlined in paragraph 2.