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**Decision Session - Cabinet Member for  
Health, Housing and Adult Social Services**

1 August 2012

Report of the Assistant Director (Adult Assessment and Safeguarding)

**Changes to Eligibility Criteria for Adult Social Care****Summary**

1. This report reflects on public consultation and seeks Cabinet Member approval to change the eligibility criteria for adult social care from Moderate, Substantial and Critical to Substantial and Critical.

**Background**

2. The Fair Access to Care Services (FACS) framework was introduced in 2003. Its aim was to enable councils to stratify need for social care support in a way that is fair and proportionate to the impact it will have on individuals and the wider community, taking into account local budgetary considerations.
3. Each Council has to decide each year which of four bands of risk it will consider eligible for a community care service funded by the Council. This must be based on its calculation of how much it would be likely to cost to meet every band and then comparing that with the amount of money it has available to spend on adult social services. Annex A provides a summary of the FACS level definitions.
4. Further guidance issued by the Department of Health in 2010 requires Councils to ensure that they are not neglecting the needs of their wider population. For example, people who do not meet the eligibility threshold should still be able to expect adequate signposting to alternative sources of support.
5. In February 2012 the Council set a two year budget which delivers savings of £19.7m across the council.

The budget included growth of £3m, with £1.5m of this allocated to adult social care in recognition of the demographic pressures increasing demand for support. The budget also agreed over £2m of efficiency savings within adult social care including the review of eligibility levels to ensure that we use the resources available in the most cost effective way possible.

6. The Council therefore agreed to undertake consultation on the need to increase the eligibility level for council-funded adult social care in York. Members agreed that if a change was agreed, £150k a year of the savings made (£390k full year) should be reinvested in alternative, community support to those with moderate level needs.
7. The Association of Directors of Adult Social Services has identified that nationally 83% of social service authorities are now operating at Substantial and Critical levels for their eligibility criteria. This reflects the extent to which local authorities have needed to refocus in the light of reduced funding but also changing demographics. For York, Census data released this month shows an increase in those aged in the city between 85-89 of 30% and a 34% increase in aged 90plus residents. The implications of this growth in demand for social care services at a time of continued reductions in national funding requires a local response.

### **Consultation**

8. The consultation has been undertaken with all residents who are actively supported by adult social care, with letters sent to 3861 residents. Good practice would necessitate that any changes to eligibility criteria requires consultation with all who receive services. The information was made available in a number of formats, including Easy Read, CD, and was printed on yellow paper for those with visual impairments. The questionnaire was kept as simple as possible, but because of the technical nature of the issue was not produced in a separate easy read version. Unfortunately some residents did receive the wrong eligibility designation on their letters. There were a number of reasons for this, with some people's needs having changed since the last assessment of their eligibility, and some having been recorded wrongly in the first place. Two hundred people were sent letters of apology when it emerged that an error in the data reports had pulled through the wrong information for them.

This did cause distress and was highly regrettable. The error was corrected as soon as it was discovered

9. The information and the questionnaire were also available on line through the council website and residents in the city were advised of the consultation through the council newsletter, Your Voice, and information was also contained in the newsletter of York LINK.
10. Council partners were invited to respond through our Partnership Boards. Voluntary sector organisations were offered the opportunity to respond through the forums, organised through York Council for Voluntary Service, for mental health, older people and learning disabilities.
11. Communication with senior officers of the Vale of York Clinical Commissioning Group and York Foundation Trust Hospital has taken place at the Long Term Conditions Steering Group.
12. Care Management staff were given the opportunity to comment on the options at two staff conferences in May.
13. A dedicated email address and phone number were set up for any queries or questions from residents. Ninety people made contact and were offered support, reassurance and information they requested. Several of the queries received were concerns about questions in the equality monitoring information.
14. York Independent Living Network (YILN), the Valuing People Partnership Board (VPPB) and York Local Involvement Network (LINK) have raised concerns about the consultation process. These concerns were that people, particularly those with a learning disability, would not be able to understand the information or questions and concerns that the four weeks allowed for return of questionnaires was not enough time. Some individuals have raised similar concerns. Senior officers have met with the representative groups to discuss their concerns and to engage further with them in the consultation process.
15. Annex B contains the summary of the analysis of returned questionnaires. 1234 responses were received, a 31% return rate, giving a confidence level in the results of plus or minus 2.8%. This in comparison to surveys of this nature is judged as an excellent rate of return.

16. Annex C contains written responses from partners. These have been received from York Older Peoples' Assembly, and the Valuing People Partnership Board. York Independent Living Network's submission was a note of a meeting with officers, including the questions asked and answered. The issues raised at the meeting are included in Annex C.

### **Options**

17. Option 1: To agree the change to City of York's Eligibility Criteria to Substantial and Critical and to confirm that £150k a year will be invested in alternative support within the community to help meet moderate level needs. Paragraphs 31-39 of this report demonstrate how agreement to this additional reinvestment of funding would further support the council's commitment to preventative and early intervention services.
18. Option 2: To confirm that the eligibility levels will remain unchanged at Moderate, Substantial and Critical, and require the necessary savings to be found from elsewhere within adult social care budgets. Inevitably this would involve consideration of other reductions in service delivery to social care customers.

### **Analysis**

#### **Consultation responses**

19. 61.8% of respondents to the consultation questionnaire agreed that we need to change the eligibility level to protect those with higher needs. 30% disagreed, 8.2% did not answer.
20. Responses from partners express a disappointment that it is necessary to consider this option, and a preference to avoid it if possible. There is, however, an acceptance that it may be necessary to do so in a time of austerity, with the council's budget so significantly reduced.
21. Responses show concern that those who fall within the moderate levels, who receive support, need that support and concern about the impact on their lives if we do change our eligibility criteria.

There is also concern that peoples needs will increase without early forms of support being in place. These issues are considered in paragraph 27.

22. There were also concerns from partners and from care management staff that increasing our eligibility criteria could limit progress on personalisation and restrict choice and early intervention and prevention. There is, however, a real interest in helping to shape how we would invest the £150k to develop more community and user led universal options. These concerns are considered in paragraphs 31-35.
23. There are also concerns about potential impact on carers if we withdraw support to some residents. This is considered in paragraph 27.

### **Impact on current service users**

24. Annex D provides a summary of a desk top analysis of the needs of residents with a moderate designation when the consultation was undertaken in May. The changes will affect all customer groups. The support currently provided ranges from check visits, to practical advice and support with shopping, bills and paperwork and to day time activities and support to shower or bathe or with meals.
25. In the original budget proposal it was estimated that around 170 people could be affected by any change. This is still a reasonable estimate based on the number of people who are at moderate levels but excluding those who are supported only by equipment and/or telecare, together with those who are entitled to mental health aftercare and those whose needs appear to have changed since the last designation of eligibility (184).
26. It is not proposed to remove equipment or telecare support because it would not deliver any savings. It is also proposed that equipment and telecare will remain as part of our preventive offer, based on evidence that it can and does reduce the need for more intensive support and allows people to retain their independence.
27. The implications for each resident potentially affected will be different and will be considered individually through a personal review of their circumstances with them and their carers.

The review will consider whether their needs have changed and, if they have not, will look at whether support can be withdrawn without increasing their risk level. The position of any carers will be taken into account in this assessment. No carer will be pressured to offer support which they may be unwilling or unable to provide. No support will be removed until the review has taken place and alternative support found. Residents will be able to appeal against the outcome of any review decision.

28. If the York eligibility criteria changes, personal reviews will be planned over the summer and anyone affected will be contacted in August to advise them of the next steps.
29. The review will offer people information about alternative ways they may access the support they need, which may include telecare or equipment, or accessing universal services or support from existing or new community provision. For some people there may be additional costs, but others will be able to use the money they currently contribute to the costs of their support as they choose.
30. Annex E provides a refreshed equality impact assessment for the proposed changes. Within the business of adult social care a change of this nature will inevitably have an impact on the protected characteristic communities. In particular it impacts on older people, disabled people and carers and on women, who tend to live longer and are more likely to be carers. The impact of the changes can be mitigated through the use of the new investment in community and preventive support, as well as our current preventive 'offer'. If the proposal is not agreed alternative savings within adult social care will need to be found and these are also likely to impact adversely on the same communities.

### **Prevention, early intervention and alternative support**

31. The Council already has a strong focus on prevention and early intervention, and a framework of preventive support which is in line with the proposals in the recent White Paper on adult social care. Changes to eligibility criteria will not change or undermine this approach, and investment from the £150k will support further development of community and prevention aspects of the personalisation agenda.

The infographic depicting the current and new care and support system as set out in the Executive Summary of the White Paper is included as Annex F. The White Paper proposes that the proposed new system will provide:

- better information and advice to help people live well
- more support within communities to meet lower level needs
- reablement services and crisis response
- intensive care and support

32. In York, resources have already been realigned within the care management service to increase the resource available at the 'front end' and thereby offer more advice and signposting. New prevention services were also developed in the voluntary sector over the last four years including a signposting service for older people. The new Health Watch organisation will provide additional signposting capacity within the city.
33. The right to a Community Care assessment is not subject to the FACS eligibility criteria. Anyone who may have community care support needs at any level will still be entitled to an assessment. We already have a reablement service which is growing in capacity as a result of a change in provider last year. Access to the six-week reablement assessment service will also not be subject to the eligibility criteria. The reablement service works with a new 'Intensive Support' care management team to help people increase their independence, and reduce the need for ongoing support. This current investment in our expanded reablement service is supporting more people discharged from hospital and any change to the FACS eligibility criteria will not alter or adversely impact on our ability to continue to do so.
34. Signposting and advice will still be available to those whose assessed needs do not meet eligibility levels, and the council has supported the voluntary sector's bid to create a 'one stop shop' or hub, to co-ordinate access to support from the voluntary sector for health and social care organisations. The hub is to be based in the decommissioned elderly persons home, Oliver House.
35. Telecare and equipment will be continue to be part of our preventive approach, and are likely to be one of the solutions for some customers currently at moderate level.

Our use of telecare monitors continues to grow, helping 1500 people at present to live safely in their own homes.

36. There are a range of housing related support services in place providing help to vulnerable citizens with practical tasks and helping people maintain their independence and wellbeing. A new £312k a year service is being commissioned through the Supporting People Programme to start on 5 November 2012. This will provide four levels of long term support to older people and people with physical disabilities in the city. The support can range from a five minute welfare check to 3.5 hours of support per week. People on low income accessing the service will have the support charge paid for through City of York Council funding of the Supporting People programme. The new service will be available to people choosing to remain in their own home regardless of tenure.
37. Alongside this new service, options for the proposed £150k re-investment are currently being developed from this consultation and from analysis of the support currently received by residents at moderated level. User led groups such as York People First and Lives Unlimited have asked to work with us to develop new user led support options. The Clinical Commissioning Group, are keen to help shape community based responses which can work with the developing Neighbourhood Care Teams. These teams will bring together primary and community health with social care and the voluntary sector to work in a more joined up way.
38. In that context and based on the initial ideas these are some of the options for investment. These will need to be developed to understand how we can use the additional £150k resource available to best effect:
  - support with shopping domestic tasks and meals
  - help to enable people to feel safe using community facilities
  - brokerage or advice service to help find support and activities
  - small sparks to help new user led initiatives set up
  - facilitation for peer support groups
  - support and recognition for carers



39. Services and initiatives of this sort would help build stronger communities and open up opportunities for new enterprises.

### **Council Plan**

40. The Council Plan makes an expressed committed to protecting vulnerable people. The issues considered in this report address the need to ensure at changing financial times, protection is provided to services to the most vulnerable residents. At the same time the report recognises the importance of preventative support to those whose needs are not as significant.
41. The option to invest additional money to support those with moderate needs through alternative support arrangements will also support the council's priority to build stronger communities by encouraging new initiatives to enable vulnerable people to access support, both through the voluntary sector and through user led projects.

### **Implications**

#### **Financial**

42. The Council budget assumes an £80k saving this year and £160k saving next year. These savings are net of the proposed £150k reinvestment in alternative support options.
43. If the eligibility levels are not changed alternative savings at these levels will be required. Within adult social care any alternative savings are likely to affect those at higher level needs as well as those at moderate level.
44. There is no indication at this stage of the year that other areas of the council budget are able to make additional savings to avoid the need for this proposal.

#### **Equalities**

45. Annex D contains the equality impact assessment which has been refreshed following the consultation and analysis of residents likely to be affected. Equality issues are summarised in paragraph 30.

46. Any alternative savings options within adult social care would require an EIA, and would also be likely to have equality impacts given the nature of the business.

### **Legal**

47. The recommendations in this report have been arrived at having regard to the statutory guidance from the Department of Health in respect of eligibility criteria. Considerable weight must be placed on that guidance given its status.
48. In reaching a decision the Cabinet Member must apply normal decision making principles giving due weight to all relevant factors and ignoring any which are irrelevant. In doing so, a balance will have to be struck between the council's budgetary requirements and the impact on individuals of any decision. The outcome of the consultation process is something that must be conscientiously taken into account in considering the recommendations.
49. The Cabinet Member is well aware of the requirements of the public sector equality duty which require her to have due regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
50. In having due regard to the need to promote equality of opportunity particular regard must be had to the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; to taking steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it and encouraging persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
51. In considering these matters the Cabinet Member will need to particularly consider the services which are proposed to be withdrawn, the likely impact on those affected, the mitigation measures described in the report and the arrangements set out in paragraph 27 for assessing the impact on individuals. The impact assessment set out at Annex E will be of assistance in doing so.

52. Regard will need to be had to contractual provisions when making changes to any services delivered under commissioning arrangements. Direct payments agreements require four weeks notice to be given before funding is withdrawn.

### **Other**

53. There are no HR, crime and disorder or information technology implications to this report.

### **Risk Management**

54. The risks associated with this report have been assessed as moderate, within the council's risk framework. These risks will need to be regularly monitored. The risks are:
- **Financial:** If the change is not made there will be a gap in the council budget and alternatives savings will need to be found
  - **Legal:** It is possible for a legal challenge to be made to a decision to change FACS levels. This risk is mitigated by following government guidance, ensuring adequate consultation and consideration of equality impacts.
  - **Stakeholder:** If we change the eligibility criteria and do not ensure alternative support is available to residents currently supported with moderate level needs we would put people at risk. This can be managed by undertaking individual reviews and ensuring support and advice to find alternative options

### **Recommendations**

55. The Cabinet Member is asked to consider:
- Option 1: To agree the change to City of York's Eligibility Criteria to Substantial and Critical and confirm that £150k a year will be invested in alternative support within the community to help meet moderate level needs.

Reason: To protect the needs of that the needs of those people with higher needs and to develop alternative support for those with moderate level needs that promote their wellbeing and independence. To support the change to more community based and user led support as part of the personalisation agenda.

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**Report Approved****Date** 23 July 2012**Cabinet Member responsible for the report:**

Cllr Tracey Simpson-Laing  
 Cabinet Member for Health, Housing and  
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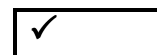
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**Wards Affected:****All**

**For further information please contact the author of the report**

**Background Papers**

(Prioritising need in the context of *Putting People First: A whole system approach to eligibility for social care. Guidance on Eligibility Criteria for Adult Social Care, England 2010*).

**Annexes**

Annex A: Summary of the FACS level definitions.

Annex B: Summary of the analysis of returned questionnaires

Annex C: Written responses from partners

Annex D: Summary of a desk top analysis of the needs of residents with a moderate designation when the consultation was undertaken in May

Annex E: Equality Impact Assessment

Annex F: Executive Summary of Caring for our future: reforming care and support (White Paper July 2012)