

SCRUTINY BOARD (ADULT SOCIAL CARE)

WEDNESDAY, 12TH NOVEMBER, 2008

PRESENT: Councillor J Chapman in the Chair

Councillors S Andrew, S Armitage,
P Ewens, Mrs R Feldman, C Fox,
T Hanley, A Hussain, T Murray and
E Taylor

CO-OPTEE: Sally Morgan – Equality Issues

37 Chair's Opening Remarks

The Chair welcomed Members of the public in attendance at the meeting.

The Chair welcomed Sandra Newbould a new Principal Scrutiny Advisor who will shortly be taking over the duties for the Board from Steven Courtney.

38 Declarations of Interest

There were no declarations of interest reported at this point in the meeting. (Refer to Minute 41 below).

39 Apologies for Absence

Apologies for absence were received on behalf of Councillor D Coupar, Joy Fisher – Co-optee Alliance of Service Users and Carers and Sandie Keene, Director of Adult Social Services.

40 Minutes - 15th October 2008

RESOLVED – That the minutes of the meeting held on 15th October 2008, be confirmed as a correct record.

41 The Mental Capacity Act 2005

The Chair welcomed the following Officers to the meeting who outlined the report and responded to Members' questions and comments:-

Dennis Holmes – Chief Commissioning Officer
Dave Shields – Service Delivery Manager (Adults)

Members noted that the Mental Capacity Act 2005 was based on the following five key principles:

- (a) A presumption of capacity.
- (b) Right of individuals to make their own decisions.

- (c) Right not to be treated as lacking capacity merely because of unwise or eccentric decisions.
- (d) Needs to ascertain what is in the best interests of the individual.
- (e) Least restrictive intervention.

The Board was advised that the Act was a wide ranging piece of legislation potentially affecting the lives of many thousands of citizens in Leeds and the main provisions were aimed at protecting the interests of the most vulnerable people in our community. The Board was also advised that the main provisions of the Act set out in the report that were introduced since 2007 were:

- **Independent Mental Capacity Advocacy (IMCA)** Service becoming operational.
- Two new **Criminal Offences** are introduced of ill treatment and wilful neglect.
- **Capacity Defined**, the Act sets out the criteria for assessment, and codifies existing Common Law it also sets out a clear decision specific test.
- **Best Interest Checklist** – the Act provides a checklist that decision makers must work through in deciding what is in the person's best interests and how to decide this.
- **Acts in connection with Care/Treatment** ('Section 5 Acts'). For the first time there is law to protect carers, healthcare and social care staff from liability when acting in connection with care or treatment for those who lack capacity under Section 5.
- **Lasting Powers of Attorney** (LPA's) appointed in advance by someone if s/he should lose capacity – able to make health and welfare decisions as well as property and affairs if authorised.
- **A new Court of Protection** - the new court will have jurisdiction relating to the whole Act so its remit includes social care and health decisions when appropriate.
- **A new Public Guardian** – who will supervise Court of Protection deputies and powers of attorney, and work with all agencies in relation to any concerns with these roles.
- **Court Appointed Deputies** (to replace receivership's) – this structure replaces current receivership and deputies are able to make welfare, financial and most health decisions as authorised by the Court.
- **Advance Decisions** (formerly known as Advance Directives or Living Wills) – there will be statutory rules with safeguards and strict formalities so that people can make an advance decision about refusing medical treatment.
- **Research Issues** – there are very clear guidelines that protect the person who lacks capacity.
- **Deprivation of Liberty Safeguards** (DoLS) which are incorporated into the Mental Capacity Act and which also feature prominently in the implementation of the Mental Health Act 2007. The safeguards create two new legal entities:

- **Managing Authority** (Care Homes/Hospitals) who provide care and must request authorisation to deprive the liberty of an individual who may be deemed lack of capacity.
- **Supervising Bodies** who may organise assessments and issue authorisations if assessments require them to do so. Leeds Adult Social Services will undertake both functions which will require appropriate processes, governance, management and operational arrangements to be put into place to assure the independence of decision making.

A brief overview of the key points detailed within the report was provided and the main areas of clarification and discussion were as follows:-

- The process for deciding that a vulnerable person is in need of support. In response, the Officer reminded the meeting that anyone applying for support would automatically be referred to the 'Best Interest Assessment Unit' who work on behalf of the person in need of support. The assessment tests are far more thorough and cases are now better recorded and regularly reviewed as individual circumstances are known to change frequently.
- The process when vulnerable people are in need of assistance in handling their finances. In response, the Officer reminded the meeting that there are new Powers of Attorney and care protection governing finance and other aspects of care.
- The need for accredited training on the Mental Capacity Act 2005 and clarification on when the local authority would implement this training. In response, the Officer informed the meeting that a whole range of training was being implemented and supported by Adult Social Care. Arrangements were also being made for training within various partner organisations such as Leeds PCT and the Police Authority, including the use of e-learning packages.
- How the general public would be made aware of the implications of the Mental Capacity Act 2005.
- In response, the Officer informed the meeting that there have been an extensive range of materials provided by the Department of Health (DoH) which can be accessed through the Council's website. Members were also advised that raising public awareness was a longer-term issue and would include a range of service user/ carer events. A specific government grant to help to raise awareness had also been made available.
- Implications of the Act on locked doors/wards in Care Homes and Hospitals. In response, the Officer referred to the Deprivation of Liberty Safeguards and informed the meeting that under the Act all patients would receive an individual assessment to determine their capacity to maintain their safety. The Board was advised that the safety of patients was of paramount importance rather than the smooth running of an individual hospital or care home.
- Assurance that the local authority will be ready and the necessary requirements in place when the Mental Capacity Act becomes effective in

April 2009. In response, the Officer informed the meeting that the Adult Social Services Department already had an Implementation Plan and work to implement the conditions of the Act was on-going. It was also stressed that full implementation was dependent on the cooperation of partners and effective partnership working.

- Whether any general training had been arranged with Member Development for Members of Council to attend briefing sessions or seminars regarding the implications of the Mental Capacity Act 2005.
- In response, the Officer informed the meeting that to date there had not been any specific sessions arranged for Members of Council, but was something that might usefully be arranged for the early part of 2009.

The Chair thanked officers for their attendance.

RESOLVED -

- (a) That the content of the report, specifically the progress made to date in implementing the Act and the plans being progressed to raise greater awareness among the public of its provisions and implications, be noted.
- (b) That any outstanding issues referred to above be dealt with by those Officers now identified within the minutes and reported back to Board Members.
- (c) That a further report detailing progress in implementing the requirements of the Act be presented to the Board meeting in March 2009.

(Note: Councillor E Taylor declared a personal interest in the above item in her capacity as a nurse who works for Leeds Community Mental Health).

42 Leeds Joint Strategic Needs Assessment (JSNA)

The Directors of Adult Social Services, Children's Services and Public Health, submitted a joint report which invited the Board to consider the progress made in producing the first **Leeds Joint Strategic Needs Assessment (JSNA)**.

Appended to the report were copies of the following documents for the information/comment of the meeting:-

- Public, Patient, Service User and Carer Feedback (Annex A refers)
- High Level Plan to improve joint planning and commissioning through JSNA (Annex B refers)
- Summary of the JSNA Data Pack (Annex C refers)

The Chair welcomed the following Officers to the meeting who responded to Members' questions and comments:-

- John England – Deputy Director (Partnerships and Organisational Effectiveness)
- Alison Beal – Department of Health
- Lucy Jackson – Public Health Consultation, NHS Leeds (Leeds PCT)

A brief overview of the key points detailed within the report were provided and Members sought clarification on a number of issues, including:

- Balancing the provision of both primary care and adult social care services across the City and focussing on specific areas of identified need (i.e. Super Output Areas)
- Whether or not any analysis had been undertaken regarding the health and wellbeing needs of people on benefits as a specific / defined group of people.
- Whether the results of producing the JSNA and the closer partnership working that should result had any impact on organisational structures.
- Focusing on long-term planning and the impact that this may have on the ability to respond flexibly to emerging issues.
- The need for the Council and its partners to collectively trust the data collected.
- The role of Area Management in providing and collecting data and publicising information on a locality basis.
- The need to ensure the data available feeds into the decision making processes of the Council and its partners.

The Chair thanked Officers for their attendance

RESOLVED –

- (a) That the contents of the report and appendices be noted.
- (b) That a further update report be submitted to the 11th March 2009 meeting.
- (c) That any outstanding issues referred to above be dealt with by those Officers now identified within the minutes and reported back to Board Members.

Note: Councillor Andrew left the meeting at the conclusion of the above item

43 Work Programme

The Head of Scrutiny and member Development submitted a report inviting Members to consider and approve the current work programme for 2008/2009.

Appended to the report was a schedule of items for future Scrutiny Board meetings and details of the established Working Group. Also attached to the report was an extract from the Forward Plan of Key Decisions for the period 1st November 2008 to 28th February 2009 and the minutes of the Executive Board meeting held on 8th October 2008.

In brief, the main points of discussion were:

- Minute 95, Executive Board meeting held on 8th October 2008 (Resolution (f)) requesting this Board to monitor progress of the personalisation agenda. It was suggested that the Proposals Working Group meet on Friday, 12th December 2008 at 2.15 p.m. to consider the personalisation agenda and the Board's potential involvement

- Confirmation of the next Adaptation Working Group on 15th December 2008 to consider the adaptations framework and performance management.
- Confirmation of an additional Adaptations Working Group meeting for Monday, 12th January 2008 at 10.00 a.m. to consider the issues around Value for Money - Customer Service and User Feedback.
- Consideration of the draft Dignity in Care statement at a future meeting.
- Confirmation that the Chair of the Healthy Leeds Partnership (Councillor Lancaster) be invited to a future meeting of the Board to discuss the work of the partnership and any interface with the work of the Scrutiny Board.

RESOLVED –

- (a) That the report and information appended to the report be noted.
- (b) That, subject to the necessary rescheduling matters identified at the meeting, the work programme be agreed.

44 Date and Time of Next Meeting

An additional meeting of this Board has been arranged to consider the Income Review for Community Care Services – Consultation on Monday, 24th November 2008 at 10.00 a.m. (Pre-meeting scheduled for 9.30 a.m.)

The next scheduled Board meeting will take place Wednesday, 10th December 2008 at 10.00 a.m. (Pre-meeting scheduled for 9.30 a.m.)

(The Chair thanked Members for their attendance and the meeting concluded at 12.05 p.m.)