

Report of the Director of Adult Social Services

Report to Health and Wellbeing and Adult Social Care Scrutiny Board

Date: 21st September 2011

Subject: Adult Social Care Public Consultation and Engagement Processes

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of Main Issues

1. Consultation and engagement with customers and the wider community forms an integral part of any significant service change within Adult Social Care and there are specific statutory requirements to consult.
2. This is a time of unprecedented change for Adult Social Care nationally and locally, leading to substantial service redesign in Leeds with associated consultation and engagement requirements.
3. Consultation and engagement takes place at many levels within Adult Social Care and part of the core business of the service is involving individuals in planning their care.
4. Adult Social Care has a sound understanding of the principles of effective consultation and engagement and some good examples of putting them into practice successfully
5. The directorate has also identified examples of less successful consultation and engagement and the reasons for this. From this, areas for improvement have been identified.
6. From a corporate perspective Adult Social Care has a comparatively clear and comprehensive approach to consultation and involvement and a strong culture of

involving people in service development and decision-making that is not always found in other parts of the council.

Recommendations

7. Members are asked to note the contents of this report.

1 Purpose of this report

- 1.1 This report sets out the consultation requirements for Adult Social care, the principles adopted and the context within which consultation and engagement takes place. The approach of Adult Social Care to customer consultation and engagement is outlined along with the strengths of the current approach and areas identified for improvement.

2 Context

- 2.1 Consultation and engagement with customers and the wider community forms an integral part of any significant service change within Adult Social Care. In addition, there are specific statutory requirements to inform, consult or involve people, groups and organisations on any changes that are likely to be affected by the actions of the local authority, which is covered in more detail in section 3 of this report. If consultation and engagement is not undertaken adequately the Council's decisions could be subject to challenge through the judicial review process.
- 2.2 This is a time of unprecedented change for Adult Social Care nationally and locally. Legislative changes and government policy have led to significant changes, for example increased choice and control through self directed support and an increasing focus on partnership working and service quality. Additional factors in Leeds have been the need, identified through benchmarking, to deliver increased productivity and efficiency, particularly from directly provided services. Service redesign to develop more flexible, responsive and relevant services for the future has also necessitated a redesign of staffing structures and working practices. The focus of service change is to deliver improved services and outcomes for customers, although increasingly this is within the context of reducing resources.
- 2.3 Whilst there is a broad consensus around the policy direction set out by national government, public spending constraints have heightened tensions and brought forward timescales to help address budget pressures. Some of the major service transformation programmes have involved the closure of some Council buildings and these changes have generally been more emotive than those that have not involved a reduced buildings base.

3. Requirements to Involve and Consult

- 3.1 Part 7 section 138 of The Local Government and Public Involvement in Health Act 2007 (which came into force on the 1st April 2009), places a general duty on all Best Value Authorities (excluding police authorities) to involve "*representatives of local persons*"; it pays particular attention to public accountability, community

engagement and customer satisfaction in meeting local needs. The phrase “*representatives of local persons*”, refers to a mix of local people that is a balanced selection of the individuals, groups, organisations and businesses that the authority considers likely to be affected by, or have an interest in, the local authority function.

- 3.2 `Improving Life Chances for Disabled People Report (2005)` , made a commitment that disabled people in Britain should have full opportunities and chances to improve their quality of life and be respected and included as equal members of society. This includes disability organisations and disabled people being involved early on in policy and service development on a systematic basis.
- 3.3 `Putting People First: A shared vision and commitment to the transformation of adult social care` (December 2007) sought to be the first public service reform programme that recognised that real change will only be achieved through the participation of users and carers at every single stage. This ministerial concordat set out the shared aims and values which would guide the transformation of adult social care, and recognised that the sector will work across agendas with users and carers to transform people’s experience of local support and services. One of the elements of the transformation was the requirement for local authorities to support at least one user led organisation to develop networks which ensure that people using services and their families have a collective voice, influencing policy and provision.
- 3.4 Local Authorities have a duty under s149 of The Equality Act 2010 to have due regard to:
 - The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - The need to take 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.

The duty applies to all decisions taken by public bodies, including policy decisions and decisions on individual cases. Due regard must be given before and at the time that a particular policy that might or will affect disabled people is being considered by the public authority in question. The application of this duty is generally made via the undertaking of an Equality Impact Assessment on the policy or service change. Recent successful challenges to Local Authority decisions in relation to service change have arisen due their failure to comply with their equality duty. In some of the judgements, the failure to comply with the equality duty carried with it the conclusion that the consultation was inadequate.

- 3.5 HM Government have produced a `Code of Practice on Consultation` (version 3 July 2008) which sets out what people can expect from the Government when it runs formal, written consultation exercises on matters of policy or policy implementation (copy attached at Appendix 1). This Code does not have legal force and does not apply to consultation exercises run by local authorities unless they explicitly adopt it, but the principles it sets out are relevant in the local government context.

- 3.6 Local Involvement Networks (LINKs) which were established in March 2008, aim to give citizens a stronger voice in how their health and social care services are delivered. Run by local individuals and groups and independently supported - the role of LINKs is to find out what people want, monitor local services and to use their powers to hold them to account. From October 2012, LINKs will be replaced by Local Healthwatch organisation. One of the roles of a Local Healthwatch organisation will be to ensure that the views and feedback from people who use services, carers and members of the public are integral to local commissioning.

4. Adult Social Care Approach to Consultation and Engagement

- 4.1 Consultation and involvement in Adult Social Care operates at various levels and with a variety of stakeholders. At an individual customer level, consultation and involvement is at the heart of care planning and this is an integral part of the day to day business of Adult Social Care. For potential changes at an individual service level, customers, their carers and relatives are consulted, with advocacy provided if required. Whole service redesign involves customers, their carers and relatives and also a wider group of stakeholders who may be affected by the proposals less directly and/or in the future. This can include partner organisations and section 5 provides more detail on working with our partners. For any service changes, elected members are key stakeholders and their views are sought accordingly.
- 4.2 Adult Social Care has adopted a set of principles that underpins the planning and undertaking of consultation and involvement activity. These are contained in a Consultation Strategy that was approved by the Directorate Management Team in August 2006, and are contained in Appendix 2.
- 4.3 With regard to specific service proposals, these range from changes affecting an individual or a small number of individuals; to changes that affect a single service or policy; through to whole service transformation. The approach taken on consultation and involvement depends on a number of factors:
- The degree of change proposed. Changes can affect an individual or a small number of people, a single service or whole service change. As an example, Individual Service Users and their carers/family members are regularly involved in making decisions about their care needs and the services that they receive, but every service user may not contribute to consultations that are undertaken on whole service transformation, though they will be provided with the opportunity to contribute.
 - The people that the change will impact upon in terms of their accessibility needs (communication, access and dietary needs)
 - The other stakeholders that may be affected have an interest in or can influence the service or policy change.
 - The timescale available to undertake the consultation.
 - The degree of influence that the stakeholders can have in the decision
 - The use that will be made of the consultation outcomes. For example do we need qualitative or quantitative information, or a mix of both, to help inform our plans? Also, if the outcomes of the consultation will be used by Elected Members to make policy or service change decisions, then Officers acting on behalf of Elected Members to obtain customer intelligence, must ensure that it meets their needs.

- 4.4 Other factors may also influence the consultation and involvement plans, such as the resources available to undertake the consultation including staff time and the money available to finance the consultation.
- 4.5 There are a number of models used to consult with stakeholders. Generally a number of models are used at any one time as any one consultation or engagement model will not suit all stakeholders and not all stakeholders will have the same degree of involvement or influence. Our approach to consultation and engagement, therefore, reflects the needs of the service and the stakeholders and is flexible to meet emerging needs and requirements.

5. Working with Partner Organisations.

- 5.1 Adult Social Care has a strong history of working with partner organisations across Leeds City Council, Health and the Third Sector, including Service User and Carer led organisations and groups. This includes working in partnership to undertake consultation and involvement activity on areas of joint interest or on other areas where it is conducive to do so.
- 5.2 Adult Social Care is a member of the Corporate Consultation Group and through this group contributes to the development of the work undertaken by the Strategic Involvement Group (the SIG). Officers of Adult Social were instrumental in developing the SIG, but the Corporate Consultation Manager now represents the Council's interest on this group with a 'mandate' provided through the Corporate Consultation Group.
- 5.3 Within the Third Sector, Adult Social Care works closely with Leeds Involving People¹ to develop Service Users and Carers to be involved in the work of the directorate and its consultation and involvement activity. Developments with this independent organisation includes:
- Developing and supporting Service Users and Carers to be involved in the training of adult social care staff from the customer perspective
 - Production of Customer Experience DVDs, video journals and diaries to improve the customer experience
 - Developing standards for customer involvement which will link into the work that is being undertaken corporately and across the partnership (through SIG).
- 5.4 Adult Social Care funds and supports a number of service user and carers peer led independent groups including The Alliance of Service Experts, that act as challenge organisations to the department.

6. Successful Consultation and Engagement

- 6.1 For consultation to be successful both the stakeholder and the local authority must be satisfied with the process, and if possible, the outcomes. Consultation and engagement requires significant investment from both the stakeholders and the

¹ Leeds Involving People is a charitable organisation managed by Service Users, Carers and Patients

local authority and so both need to believe and understand that there is some tangible benefit to the activity.

- 6.2 From a stakeholder perspective a successful consultation exercise is one in which stakeholders are involved before any decisions or detailed proposals are made; where the boundaries of their influence is clear; where they feel that the local authority is being transparent in their approach; where they feel that they have an opportunity to put forward their views and that these views are taken into account in the decision making process; and where there is feedback about how the outcomes of the consultation and engagement have been used. For consultation to be successful, the decision does not have to match the consensus of those putting forward their views, but where the recommendations differ from this consensus the reasons need to be clearly explained. However, if there are factors other than the outcomes from the consultation that will affect the decision, then these should be clearly stated at the start of the consultation process.
- 6.3 From the Council's perspective for consultation to be successful the investment must help the authority achieve its business outcomes. In more recent times challenges to the consultation process have affected some of our business plans, shifting the focus away from the merit of the proposals.
- 6.4 There are several examples within Adult Social Care in recent years of consultation and engagement and subsequent implementation of changes that have been delivered successfully. These include the review of charges for non-residential services, the Independent Living Project and the redesign of the learning disability day care service. The consultation and involvement at an individual customer level that is an integral part of the care planning and review process is also an example of consistent good practice within Adult Social Care.
- 6.5 There was an extensive consultation process in 2008 regarding some quite significant proposed changes to the charging policy for non-residential services. The most significant change was taking savings into account for the first time. The consultation included working with a group of service users and carers in the design of the consultation, the development of proposals and the preparation of the equality impact assessment, with the group taking some responsibility for the consultation and its outcomes. Additional income of £2m was generated with negligible adverse reaction from customers and carers. Further changes to the charging policy were approved by Executive Board in July 2011 following another successful consultation process, although implementation is from 1st October so customers reactions to the final decision are not yet evident.
- 6.6 The Independent Living Project has significantly increased the housing options for people with a learning disability. Through the Independent Living and Holmsley Green projects, 58 bungalows, houses and blocks of flats have been developed on 30 sites across Leeds. A number of customers have been supported to take up tenancies in mainstream housing or to buy a home in their own right.
- 6.7 The Fulfilling Lives service supports 800 people through the provision of services and activities during the day. The modernization project has and continues to enable Adult Social Care to move some of the services from larger centres into buildings shared with others. The project has successfully opened new community bases at Hillside, John Charles and Tech North which has enabled the department

to close an outdated building at Moorend. In addition, a wide range of community, voluntary and faith sector organizations have been commissioned to deliver activities in partnership with the service.

6.8 The main factors contributing to the success of these projects were:

- Open sharing of information, proposals and issues with stakeholders particularly with people using the services which demonstrated transparency and built confidence in the integrity of the process.
- Service users and carers were involved at the earliest possible time so that they could influence the work of the project. In addition the influence of the stakeholders was not unduly restricted, which made them feel that they were very involved in the process.
- The degree/level of the influence that stakeholders could have was clearly stated in all consultation documentation.
- Flexibility within the process to meet emerging stakeholder consultation needs
- Sufficient time was allowed for the consultation.
- Sufficient opportunities for anyone who was affected by or interested in the proposals to be involved.
- Feedback from the consultation was regularly provided to stakeholders including details of how their views were taken into account
- Clear direction from the project sponsor with the project team then empowered to develop proposals

7. Less Successful Consultation and Engagement

7.1 There are examples in recent years of consultation and engagement that has been less successful and where there has been some negative reaction to service changes. A selection of the service user and carer community may have a negative reaction to a proposed service or policy change. However, it is where the consultation process is not robust and this then impacts on the decision making process that difficulties arise.

7.2 Some of the reasons why these consultations were less successful are as follows:

- The consultation was not transparent and the stakeholders were led to believe that they had greater influence over decisions than they actually had.
- There was insufficient planning and identification of stakeholders and their needs.
- Limited consultation methodology was used.
- Good practice and the lessons learned from previous consultation not consistently applied.
- Information that would enable stakeholders to put the proposals into context was not always provided.
- There was insufficient clarity provided on the reasons for the consultation, especially where they are in respect of national policy change and budget imperatives

- Feedback was not provided on the outcomes from the consultation and how this had been used to influence the decision.
- The time allowed for the consultation process. Proposed changes to policies and services take some time to develop within the directorate and this can lead to insufficient time being available for the consultation process. This also means that there is little room for flexibility within the process to meet emerging stakeholder needs and policy/service change issues.
- Guarantees made to stakeholders during the consultation period that were not adhered to, for example in relation to the provision of information and copies of the minutes of meetings.

8. Compliance with Corporate Guidance

- 8.1 Adult Social Care is an active member of the corporate consultation group. The corporate consultation manager has been asked to comment on the relative strengths and weaknesses of consultation delivered by Adult Social Care in the context of the whole council and general good practice. The comments received are set out below.
- 8.2 “In June 2011 the Corporate Governance and Audit Committee accepted the 2011 Annual Statement on community engagement. This found that while the council carries out a great deal of community engagement work, there is a need to improve consistency and coordination across the council. A particular weakness was the provision of feedback on the outcomes of engagement to participants and the wider community.
- 8.3 From a corporate perspective Adult Social Care has a comparatively clear and comprehensive approach to consultation and involvement and a strong culture of involving people in service development and decision-making that is not always found in other parts of the council. However, there is always room for improvement. It should be noted that the areas for improvement listed below are not unique to Adult Social Care but the risk and impact of challenge to poor (or perceived poor) consultation processes is comparatively high for this directorate and so every effort should be made to ensure these issues are addressed now.
- We need to communicate regularly with service users and communities to inform them how we are using results of consultation. This is particularly important if time has passed since they gave their views, as not everyone will remember or recognise the link between a past consultation and a decision we make later on. We need to be confident that the recent massive changes to our context (e.g. spending reductions, government policy) haven't made past consultation evidence less valid.
 - The fact that engagement work is delivered from different services within the directorate can lead to difficulties in presenting the full picture of the volume and quality of engagement work carried out.
 - The directorate has strong relationships with partners due to the nature of its work, but more might be done to share consultation and involvement work, in particular on cross-cutting issues such as community assets, with other directorates. As with the rest of the council, Adult Social Care needs

to make better use of the coordination and efficiency opportunities presented by the Talking Point system.

- There is inconsistent quality of recording the findings from group discussions or interviews with Adult Social Care stakeholders. These interactions appear well managed and sensitively delivered, and have the potential to be re-used in cross-cutting work such as the Joint Strategic Needs Assessment. Poor recording of the findings limits this use, and devalues the effort that went into capturing the information. It also increases the risk of challenge to decisions, if the evidence does not adequately reflect what happened in the consultation.”

9. Areas for Improvement

9.1 Adult Social Care has a sound understanding of the principles of effective consultation and engagement and some good examples of putting them into practice successfully. There are other examples of less successful consultations and the main areas for improvement identified as a result are:

- A consistent approach to consultation and involvement in Adult Social Care. This includes:
 - Having a clear set of principles about the involvement of stakeholders with particular reference to service users and carers
 - Guidance for staff about applying these principles in practice that is specific to Adult Social Care and will therefore include information about governance and resources available such as access to the Consultation and Involvement Officers
 - Checklists for staff to help ensure that they are considering the right issues before undertaking any consultation and involvement.
- An increasing number of officers are involved in or taking the lead on consultation and involvement without experience, specialist skills or training. It is therefore especially important that consultation and engagement officers are involved to provide advice and any practical assistance they can. Training is being developed with corporate colleagues that staff involved in consultation work should attend. In the first instance, officers of Adult Social Care currently involved in planning and delivering consultation activity, will receive training in the principles to be adopted as detailed in Appendix 2. This work will be rolled out across Adult Social Care within the next 4 months.
- Senior managers have strategic responsibility for consultation and involvement and are involved at key stages of the process. Appropriate officers should then take responsibility for the operational implementation of the consultation plan.
- Ensure that the consultation and involvement activity is not rushed and that there is sufficient time allocated to the process, ensuring that there is room for flexibility to meet emerging needs. For significant service changes the 12 week recommended minimum consultation period will be respected.
- Getting stakeholders, especially service users, carers and members of staff involved as early as possible; having representatives of these groups working with projects and programmes on some of the detail around the proposals and how they are presented to stakeholders is useful and helps show how transparent the process is.

- Ensuring clarity about the reasons for the consultation, especially where these relate to national policy changes and financial imperatives
- Ensuring that the consultation and involvement is genuine and that stakeholders can influence either the decision or the way that changes are implemented, is key both for the short term project or programme proposals as well as our longer terms relationship with stakeholders.

10. Corporate Considerations

10.1 Consultation and Engagement

10.1.1 This report outlined the consultation and engagement process within Adult Social Care. There are no specific proposals within this report that require consultation and engagement.

10.2 Equality and Diversity / Cohesion and Integration

10.2.1 Equality and diversity considerations are integral to the consultation process within Adult Social Care, for example ensuring that information is available in accessible formats. There are no specific proposals within this report that impact on equality, diversity, cohesion and integration.

10.3 Council Policies and City Priorities

10.3.1 Effective consultation and engagement within Adult Social Care supports the Council's priorities as set out in the Health and Wellbeing City Priority Plan and to a lesser extent the Safer and Stronger Communities Plan.

10.4 Resources and Value for Money

10.4.1 There are no specific proposals within this report that have financial implications. However, it should be noted that effective consultation and engagement on major policy issues within Adult Social Care is resource intensive and the directorate has very limited specialist staff to support this work.

10.5 Legal Implications, Access to Information and Call In

10.5.1 There are no specific proposals within this report that have legal implications. However, it should be noted that if consultation and engagement is not undertaken adequately the Council could be subject to challenge through the judicial review process.

10.6 Risk Management

10.6.1 There are no specific proposals within this report that have risk management implications. However, the potential for challenge through the judicial review process if consultation and engagement is not undertaken adequately is a risk to the Council.

11 Conclusions

11.1 Major service transformation in Adult Social Care is taking place against a backdrop of significant public sector funding constraints, growing demand for services and

increasing customer expectations. The directorate has a sound framework in place for stakeholder consultation and engagement and generally puts this into practice well. There are, however, areas that can be improved as set out in section 9 above.

12 Recommendations

12.1 Members are asked to note the contents of this report.

13 Background documents

13.1 Adult Social Care Consultation Strategy, 2006