

REPORT TO CABINET

Title: **ADULT SOCIAL CARE – RESOURCE ALLOCATION**

Date: 29TH July 2010

Member Reporting: Cllr Simon Dudley

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Wards affected: All wards will be affected by this report.

1. SUMMARY

- 1.1 The Department of Health's policy of "Putting People First" requires councils to introduce Self Directed Support and Personal Budgets on a universal basis by 2011/12. Councils are encouraged to adopt a transparent methodology for calculating a "Personal Budget", this methodology is generally known as a Resource Allocation System (RAS). This report describes the components of the proposed RAS, the approaches available to the Council in developing a RAS. This report sets out the recommended RAS for consideration by the Cabinet. The Appendix to this report sets out in full how it is proposed that this methodology will work.

2. RECOMMENDATION

That the Resource Allocation System for Adult Social Care set out in the Appendix to this report be approved.

What will be different for residents as a result of this decision?

Agreement to the Resource Allocation System will enable the full introduction of self directed support and personalisation to residents in the borough. This will benefit those requiring social care support to by enabling them to take more control of their lives. This will benefit the council taxpayer as under personalisation residents' social care outcomes should be met more efficiently.

3. SUPPORTING INFORMATION

Background

- 3.1 The Department of Health (DH) introduced in December 2007 a policy entitled "Putting People First" whereby all Councils in England are required to change how they deliver social care and support to their residents. The Council's policy under the DH "Fair Access to Care" guidance (revised March 2010) is that residents assessed to have critical or substantial needs are eligible for support. Under "Putting People First" and the Direct Payments guidance (December 2009) eligible residents are encouraged to have "self directed support" and will have "personal budgets" to help achieve that. A

personal budget will be set following a self directed support care assessment, at a level that should enable residents to achieve their social care outcomes. A personal budget may be managed by the Council on behalf of the resident or managed directly by the resident or their financial representative under existing Direct Payments. A resident can use their personal budget to purchase services such as homecare, day services, employment or other opportunities, or meals on wheels, that they require in order to meet their care needs, or they may use this budget to meet their requirements in other ways that suit their individual circumstances.

- 3.2 There are number of social care services that are inappropriate for the personal budget methodology, for instance where these services are to be provided as a matter of urgency or that the NHS to provide, or where the Council does not have the power to charge for services. The main services that will be excluded from the process will include intermediate care services provided for up to 6 weeks, community equipment provision and some training opportunities. In the longer term Councils may provide residential care by means of a personal budget, and this is an option the Council could consider in the future.
- 3.3 The Council will not necessarily subsidise all of each person's personal budget. A resident may have financial resources or welfare benefits of their own, that after paying for daily living expenses and costs related to their disability, could lead to a contribution towards their Personal Budget. If the service user's financial resources are less than their Personal Budget then the Council will fund the difference by topping-up the service users own resources to the level of their Personal Budget (this will be arrived at following a financial assessment under the new contribution policy to be implemented in 2010/11).

Components of a RAS

- 3.4 A RAS will generally commence with a questionnaire that a resident completes, either on their own, or with advocacy or care management support. This support may be provided in a variety of ways, including their family, their friends, the voluntary sector and where necessary by Council commissioned support. This is known as a Self-Assessment Questionnaire (SAQ). This SAQ asks a number of questions about the resident's needs and the help they may have available to meet their needs. Answers are recorded in a format that allows for the completed questionnaire to be scored. Each SAQ is then translated into a sum of money, and so provides an indication of the appropriate level of the personal budget. The SAQ used for the pilot project can be found in the appendix to this report. Please note that a review of the terminology used in this SAQ is currently in progress, however it is not proposed to amend the methodology or the scoring that this encompasses. A fuller assessment of needs is envisaged in cases where needs are complex, or a holistic approach to the person's situation, and for which additional professional assessment (such as safeguarding, Occupational Therapy) is required. The carer or family support to the assessed person would also taken into account in the process.

National Context

- 3.5 Although all Council's are required to adopt a transparent approach to public funded social care (see the DH Direct Payments guidance December 2009), it is not a

requirement to adopt a RAS, and a small number of Councils have not done so. Those that have, either use a commercially available RAS product known as “FACE”, or will have developed their own RAS with reference to a document known as the Common Resource Allocation Framework which was developed by a group of 18 authorities working for the Association of the Directors of Adult Social Services.

FACE

- 3.6 The FACE RAS product differs in approach to the Common RAS in that it consists of a comprehensive detailed questionnaire that attempts to determine the final level of personal budget a resident requires. In contrast the Common RAS is based upon a much simpler questionnaire that provides an estimate of a resident's financial requirements (an indicative personal budget) to meet their needs, and allows Council's Adult Services staff, or external support, to assist the resident to determine the support plan and the detailed costs of services.

COMMON RAS

- 3.7 The Common RAS was developed by the Association of the Directors of Adult Social Services (ADASS) under DH project management, and included 18 Councils and a group of citizen leaders. This built upon the work undertaken by the “In Control” project that had piloted personal budgets for People with a Learning Disability in a number of Councils. This was not an attempt to produce a definitive RAS, but rather to provide “a framework that offers an opportunity to add value to any existing or developing system, or to accelerate thinking in relation to any new arrangements in respect of a resource allocation system” and “a RAS cannot give a precise estimation of the cost of everybody's needs in every circumstance, but it should be sufficient to provide a ballpark figure for the majority of users that can be adjusted up or down, depending on individual circumstances.”
- 3.8 The RAS that is recommended in this report, has been developed by RBWM officers after consideration of both the Common RAS and FACE. This in-house RAS builds more upon the methodologies and questionnaires of the Common RAS rather than FACE.

RBWM RAS

- 3.9 The proposed RBWM RAS has been developed from the principle in the Common RAS. It provides an indicative budget allocation that may be adjusted up or down depending on individual circumstances following the assessment and completion of a support plan. All Personal Budget allocations in excess of the indicative allocation will require approval by the budget manager, or a Risk & Funding Panel. The Council's budget will provide for some personal budgets in excess of the indicative allocations, and indeed will expect a number of allocations to be below the indicative allocation.
- 3.10 The recommended RAS has one set of questions for all care groups, that is for people with learning disabilities, for older people, for people with Mental Health problems and for people with physical disabilities. However the scoring of these questions and translation of the scores to an indicative allocation does vary with care groups. The requirement for this variation was apparent from the modelling of current care

packages undertaken in the establishment of this RAS. The DH has indicated that authorities should over time look to develop a single RAS that covers all care groups to ensure equity to all residents, but it recognises the difficulty with this. The benefits of this methodology are that professional expertise can combine with the residents' views to set a personal budget and thereby able to take account of all known circumstances rather than allowing for an "impersonal" systematic allocation.

Pilot Implementation

- 3.11 The proposed RAS has been used since the "go live" date of Self Directed Support in February 2010. Up to the 22nd June this year, 79 residents had been assessed under the RAS and 62 of these have been assessed to require a personal budget, however of these only 10 to date had the level of the Personal Budget finalised. As expected the indicative allocation arising from the RAS has generally adjusted in order to arrive at an personal budget allocation, within budgets for the service. As a result of the staff feedback, it is not considered necessary at this stage to amend the RAS and it is proposed to continue to use the version of the RAS to bring all current service users onto Personal Budgets. This will provide consistency, and fairness, and will enable a more helpful analysis of the data to inform future developments.

RAS Updating

- 3.12 It is proposed to review the impact of the RAS later in the year, when a significant number of existing service users have been assessed within the RAS and Personal Budgets, in order to decide whether changes may be necessary for the next financial year. Should it be decided to amend the RAS then it is proposed to bring this amended RAS to Cabinet in February 2011 for consideration. An annual review of the RAS within the budget setting cycle is planned and as is the future unification the scoring for all care groups as noted under paragraph 3.10 above.

Appeal

- 3.13 Should a resident be dissatisfied with the personal budget allocation they are allocated following this process then they are able to appeal this decision to the Risk and Funding Panel referred to para 3.9 above. Alternatively they may appeal using the Directorate's complaints procedure.

4. OPTIONS AVAILABLE AND RISK ASSESSMENT

4.1 Options

	Option	Comments	Financial Implications
1.	Approve the Pilot RAS for full use in the rollout of self directed support to all existing service users. Recommended	This option will enable an acceleration in the roll out of self directed support (SDS), bringing benefits to both existing service users, and savings to the Council Tax payer.	Revenue. The Directorate's financial strategy assumes efficiencies arising from personal budgets. Capital. None

	Option	Comments	Financial Implications
2.	Continue with the RAS as a Pilot for new service users and selected existing service users.	This would delay the full implementation of SDS, and as a result will the Council would be unlikely to meet its DH targets in this respect.	Revenue. Planned savings would be delayed. Capital. None
3.	No longer use the RAS at all.	This would halt the Councils implementation of SDS.	Revenue. Planned savings would be unachievable. Capital. None.

4.2 Risk assessment

4.2.1 The risk with the RAS is predominantly financial, and lies mainly in the calibration of SAQ points and their translation into budget allocation. If too much budget is awarded then the Directorate will face significant pressures on its resources and will not meet its financial targets. However if too little budget is awarded then all stakeholders in the process will lose confidence in the system and less effort will be made to hold actual budget allocations close to the base allocation. By the proposal to use a baseline RAS there is less opportunity for the over allocation of resource. Close monitoring of approved personal budgets against RAS allocations will be required to ensure the system is working as planned.

5. CONSULTATIONS CARRIED OUT

5.1 Due to the nature and complexity of the issues it was not considered appropriate to consult with service users on the development of the RAS itself, however the SAQ was piloted with a small number of service users. It is proposed to survey a number of residents in a structured way once they have experienced the entire SDS process in order to obtain their views of all aspects of this process. This survey is planned for the autumn this year.

6. COMMENTS FROM THE OVERVIEW AND SCRUTINY PANEL

To follow

7. IMPLICATIONS

The following implications have been addressed where indicated below.

7.1 Financial

7.1.1 The gross total of the care budgets that are currently planned to transfer into personal budgets is approximately £10m. It is anticipated that under self directed support, including the use of direct payments, that personal budget holders will use the resources available to them to achieve their outcomes more efficiently than under the current methodology whereby services are allocated to service users as the social care profession thinks is appropriate.

- 7.1.2 The change in the focus for commissioning is expected to result in a more efficient use of resources and for medium term planning a factor of 10% savings, (£1m) has been estimated to result from these changes.
- 7.1.3 The RAS on its own will not achieve this level of saving. There will need to be an expansion in range of services available, their manner of provision and changes in the way such services are accessed in order to ensure these saving are achieved. Such changes were discussed in part in the previous month's report to cabinet on Externalisation of Social Care services.

7.2 Legal Implications,

The statutory framework in respect of resource allocation and a local authority's statutory obligations regarding assessments and service provision has not changed and that the duty to assess for possible community care needs and to meet any resulting eligible need, remains the local authority's responsibility. The legal implications in respect of the Resource Allocation are clearly set out in the ADASS advice note "Resource Allocation and the Law". The relevant paragraphs are reproduced below.

Duty to assess need: Councils have a number of duties relating to assessment. The Chronically Sick and Disabled Persons (Services Consultation and Representation) Act 1986 gives councils a duty to assess the needs of anyone perceived by the council to be disabled. The NHS and Community Care Act 1990 Section 47(1) imposes a duty on local authorities to carry out an assessment of need for community care services for people who appear to them to be people who may be in need of such services. What constitutes an assessment is not prescribed by statute or case law. The Fair Access to Care Services guidance makes clear that assessment should be proportionate to the person's presenting situation. The assessment process must include a decision by the council (or someone lawfully authorised by the council) on whether the person has eligible social care needs.

Section 47 also requires councils to arrive at a conclusion about potential needs for other agencies' services so that the person can be referred correctly for a decision by those agencies. An assessment incorporates both the decision about eligibility and the identification of what the authority thinks it is appropriate to do, provide or arrange for to meet those needs. The assessment therefore refers to the whole process of identifying needs and planning how to meet them.

In an approach based on self-directed support, people take the lead in identifying their needs and the outcomes they want to achieve, and planning how best to achieve these outcomes. This process can involve completing a self-directed assessment and developing a support plan. The assessment, the personal budget and the support plan must be signed off by the council if the outcome is to be regarded as a completed community care assessment. The council must be satisfied that the proposed support arrangements will meet the person's eligible assessed needs.

Councils have a responsibility to offer advice and support to help people identify the best way to meet their needs. This can include ways to make use of services provided by other agencies and informal support. If there is more than one way seen as appropriate to meet a need, the council can take account in its decision whether the proposed support arrangements are cost-effective. The council also has a responsibility to review the support arrangements to check that they are working in practice and that the agreed outcomes are being achieved.

Fair Access to Care Services guidance (FACS): Councils need to ensure they are acting under the Fair Access to Care Services (FACS) guidance¹⁰. Councils need to make transparent how they are having regard to applying the FACS guidance and making decisions on eligibility. Councils could provide information at first contact making clear how decisions on eligibility are made. FACS descriptors could be incorporated into a RAS tool but this could make the tool more complex and reduce transparency. The decision on eligibility can be made through a separate process to the RAS. Keeping the decisions separate increases transparency.

Once a person has been identified as having eligible needs, councils have a statutory duty to meet these needs. There can usually be flexibility about how that need is met.

Councils should not state that they will not pay more than the highest possible allocation in their RAS. Nor can they peg allocations to particular ceilings such as the cost of a residential home placement or the maximum funding available from the Independent Living Fund (plus the council contribution). This is because there is an unavoidable possibility that there may be only one feasible and appropriate means for the person to have their eligible needs met.

Councils can refuse to fund one appropriate option for meeting need if another appropriate option is available elsewhere at a lower cost as long as it is available and finance is not the only consideration taken into account.

Informal support and family carers: The FACS guidance makes clear that councils should take into account informal support when making decisions on eligibility. Councils are not required to meet needs that are already being met by family carers or other people providing informal support. Councils can take into account informal support in setting the personal budget so long as the council is satisfied that the person providing the support is willing and able to continue to do so. Otherwise the council cannot consider these needs as being met. Carers are legally entitled to an assessment but this does not necessarily lead to a statutory duty to meet those needs. Carers' assessments can be used to understand the situation of the family carer, what informal support is being provided and what impact this is having on the life of the carer.

Discharge of community care responsibilities: The council needs to ensure that it has discharged its duties under community care legislation. To do this it is essential for the council to agree the support plan and the final amount of the personal budget. This decision cannot be delegated to the person or to another organisation. The decisionmaking process needs to be proportionate to the complexity of the person's situation. For example, for lower cost arrangements, the sign-off might be by a team manager. High risk situations might require senior people (informed by discussion between a range of agencies) to make the decision. It is good practice to have a written audit trail of showing how the council has reached its decision.

Challenging decisions: It is important to make sure there is a clear process for people to challenge the council's decisions – including the decision on eligibility, the indicative allocation, the support plan and the final personal budget. The process should be non-adversarial and aim to resolve issues without conflict. This also makes it important for councils to record decisions well and provide reasons for them.

Review: The ability for people to change their minds and change their support arrangements after trying something out is very important and should be built into any self-directed support process, along with 'what ifs' that might arise from decisions to use particular means to meet need, followed by a change of mind. It is therefore important for councils to have a robust review process in place which focuses on outcomes, checks that the support is working for the person, and is meeting their eligible assessed needs.

Equalities legislation: Councils need to consider equalities legislation when developing a RAS. The Equality Bill consolidates existing legislation outlawing discrimination on grounds of gender, race and disability; and makes it illegal to discriminate on other

grounds, notably religion, sexuality and age, in respect of the provision of goods and services including health and social care services. The effect is to rule out treating people in similar circumstances differently solely on grounds of age, where this is to their disadvantage or detriment. Operating different approaches for younger adults and older people could be open to challenge. Councils need to make sure that their RAS challenges rather than maintains inequalities in the way the social care system operates. This is likely to mean needs should be assessed on the same basis for everyone.

Mental capacity: Councils need to make a judgement about each person's ability to answer questions, take decisions or deal with other aspects of the self-directed support process. The presumption of capacity under the Mental Capacity Act does not over-ride this responsibility.

Councils should make information, including questionnaires, available in a range of formats, including easy read and pictures. This will help people who may not have full mental capacity to take part in the process, and is also required to meet the Disability Discrimination Act. Decision-making process (in particular the sign-off of a support plan) should comply with the Mental Capacity Act. The council should:

- take reasonable steps to support the person to make a capacitated decision
- take account of the views of best interest consultees in the person's circle (not merely their carer or nearest relative).
- consider the appointment of an Independent Mental Capacity Act Advocate where this is required or could be beneficial.

Direct payment decisions in relation to incapacitated people will have to comply with the new law and regulations expected in force in November 2009.

If anyone has a safeguarding concern, councils should make sure that the concerns are investigated in line with local guidelines on adult safeguarding.

Deployment options for people lacking capacity must take account of legal principles which govern whether anyone has authority to act for them.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity & Equality
✓	✓	✓	N/A	N/A	✓

Background Papers:

- June 2010 Cabinet Report – Adult Social Care - Service Provider Review
- ADASS Common resource allocation framework October 2009
- Department of Health publications “Putting People First” including,
 - Putting People First - the whole story 20 Oct 2008.
 - Putting People First: a shared vision and commitment to the transformation of adult social care 10 Dec 2007

Authorisation:

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