

Department of Community Services

Purchasing Guidance and Directives

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SUMMARY

1. This guidance has been produced to ensure consistent practice across the Council in determining how best to meet the assessed needs of Service Users. There are a number of factors to consider:
 - What needs will the Council meet?
 - What is the most effective way of meeting those needs?
 - Which means of provision achieves best value for the Council?
2. This document sets out a framework by which consistent decisions can be made that ensure the Service Users receives the best possible service from the Council within existing resources. To achieve this it is important to get an accurate match between the needs to be met and the care provided. It is difficult to change a care package if needs have not changed and if needs have changed but the care remains unadjusted, the Council can find itself over-providing at the expense of services to other Service Users.
3. It is important to ensure that care packages reflect progression and that as individuals become more independent through the development of new skills, the care package can be adjusted to reflect this.
4. The Council can only meet critical and substantial needs, but will not necessarily meet all these needs if they can be met in different ways e.g. by universal services. There should be no unmet critical or substantive needs, but the Council will evaluate whether these needs are already being met before determining what services it will provide itself. It will seek to maximise external income and contributions in respect of the care provided.
5. Although Service User choice is central to the assessment process, the exercise of choice cannot over-ride the Council's statutory duty to exercise its functions with regard to economy, efficiency and effectiveness.

INTRODUCTION

6. The eligibility criteria and the FACS thresholds set by Wiltshire County Council, are the means by which the Council balances its statutory duties under social care legislation with its duties to manage its resources effectively.
7. The Department of Health advised in its guidance on FACS that “if the estimated costs of providing services to individuals with needs in this (i.e. the highest) band equals the resources locally available to adult social care, then the Council’s eligibility framework would simply comprise the critical band. If a council’s resources could cover the cost of services for individuals whose needs fall within the critical or substantial bands, then the Council’s eligibility criteria should comprise the critical and substantial bands and so on”.
8. By meeting the needs of Service Users economically and efficiently the Council is able to provide care and support to a greater numbers of Service Users. In Wiltshire, Members have agreed to meet both critical and substantial needs.
9. The Council would only provide care at home if it were more economical to do so than provide care in a residential setting. However, if the Council is to incur additional costs to ensure a Service User can remain in their own home then this must be a reasonable decision having regard to the long term interests of the Service Users and the cost of doing so where there is a critical or substantial need. Decisions in relation to care planning, may be, in part, determined by resource availability in the sense that the cheaper of two adequate alternatives can be offered as a discharge of the Council’s statutory functions.

PRINCIPLES

10. The principles underpinning this guidance are:

- Community based packages of care will be made as cost effectively as possible.
- Decisions about packages of care will be made after taking into account the type and scale of specific service user needs and the costs involved in meeting those needs.
- If additional net costs are proposed in order to keep a Service User at home, the additional costs will have to be requested through the funding panel and justified as there will be occasions where a more expensive community based package can avoid higher longer term costs in the future. The reasons should be recorded fully on appendix C and sent to Assistant Director, Finance and Performance for audit purposes.
- Service users rights of choice of care home will be fully respected and recorded, within the resources available to the Council at the time.
- Service users wishes to remain at home will be respected but there is no absolute legal or human right to choose to stay at home and access social services assistance.
- A service user's ability to pay, for their care should not be taken into account when undertaking the Community Care Assessment services.
- Where service users are entitled to apply for support from the Independent Living Fund, they will be encouraged to do so.
- To ensure care managers can focus on their core work, once a service users needs have been identified, services to meet those needs will be arranged and negotiated by the brokerage team.
- Block contracted and pre-purchased services will be used as a priority over all other services.
- The Advice and Assessment teams will screen all referrals and put in place packages of care where appropriate or refer service users to other services.
- Reviews are a key way of managing the level of service provided to ensure its appropriateness, and to monitor the effectiveness of care plans.

MEETING ASSESSED NEEDS WHILST ACHIEVING BEST VALUE

11. Assessments are key to decision making. An up to date (i.e. no older than twelve months) review of a person's needs should be held on file and this should clearly define the objectives of care, outcomes being sought, and the levels and types of support required to meet needs and manage the associated risks. If there is a significant change of circumstances, a review of the assessment should be carried out as soon as possible.
12. Assessing needs and providing services are different activities, exercised under different legislation. The assessment itself is of a person's risk to independence in the absence of social care and will not, therefore define the service that will be provided. Furthermore, although the needs and wishes of service users and carers will be taken into account in deciding what service to provide, the exercise of service user preference alone should not lead to additional costs being incurred. The Council is not obliged to provide anything more than the cheaper of any adequate appropriate alternatives consistent with meeting the service user's assessed needs..
13. Investigating a person's own resources and support networks, and maximising the use of these, is a legitimate part of the assessment process. If someone has financial resources, it may be of advantage to them to continue to pay for some services that meet their own needs. We can, and should, take this into account and disregard these needs for the purposes of assessment. If the costs of the service to meet the assessed need is then equal to or less than we would normally expect to pay for care in a care home, then this will enable the service user to maximise their choice to stay in their own home.
14. It is appropriate to say to Service Users that their options can be increased if they are willing to contribute their own resources towards purchasing care privately, or providing it through willing carers.
15. It should be stressed that it is not appropriate to make provision of service to meet assessed need conditional on the Service User or a third party making a financial contribution to the cost of the service to meet the assessed needs.

CONTROLLING CARE PACKAGE SIZE

16. Needs that fall outside the critical or substantial criteria will not be met by targeted DACS provision. The Council is obliged to balance the needs of its service users with its financial responsibilities to the tax payer. Only in exceptional circumstances will the cost of a domiciliary care package exceed the cost of alternative, appropriate, legal and Human Rights compliant, means of meeting critical and substantial needs. Different benchmarks will clearly arise for different service user groups, and some care packages will have an element of “front loading” so that, over time, service users are supported to be increasingly independent and support can be expected to reduce.
17. Generally, the opportunity for people to have their social care needs met at home extends to the point where the cost of doing so is less than or equal to the cost of meeting their needs via provision of an alternative appropriate service.
18. Setting best value cost ceilings is good practice but FACS guidance states: “if spending above the ceiling can make a difference to an individual, then the Council should consider doing so”.
19. Examples of where an exceptional additional cost may be considered in order to maintain a service user at home include:
 - Providing necessarily culturally sensitive services
 - Compassionate circumstances i.e. terminal illness
 - The carers or service user are providing either financial resources or additional practical help to reduce the costs of care, in order that the Council can provide care to meet the assessed needs.
 - The long term costs are expected to reduce if the service user remains in the community.

DOMICILIARY SERVICES

20. Care packages are aimed at service users with critical or substantial needs only.
21. Normally for the first 6 weeks of every new package of care (or re-started one), the in-house Homecare service will provide the care. During this time Homecare's will focus on re-enablement work and to assist the service user with maximising their potential.
22. At the end of this 6 week period the Service User will be allocated to a block contracted domiciliary care provider through the brokerage team.

Bathing:

23. Individuals who require help with bathing will generally receive this service on a weekly basis unless there are specific reasons why this would not be appropriate. When assessing people for assistance with bathing, consideration needs to be given as to whether the provision of equipment might enable the person to continue managing their own personal care tasks independently.

Meals:

24. Wherever possible, consideration should be given to restoring, or developing, the service user's ability to provide meals for themselves. Reliance on the Council's contracted service with Sodexo should not be seen as the first option. Prior to referring a service user to Sodexo, the decision to provide a contracted service should be made by the funding panel. Consideration should be given to the provision of the frozen meals service provided by Sodexo. The provision of a weekend hot meals service should be avoided wherever possible as the costs are significantly higher.

OTHER CARE SERVICES

Residential and Nursing Home Packages:

25. A Service User has the right to exercise a preference for the care home they wish to live in, and there may be reasons why a bed that has not already been paid for by the Council may be considered acceptable. A service user must be informed of their rights under the Choice of Accommodation Directions 1992.
26. However, guidance from the Department of Health is clear that “one of the conditions associated with the provision of preferred accommodation is that such accommodation should not require the Council to pay more than they would usually expect to pay”. Where a Service User wishes to pursue an option that is not the best value option for the Council, they are permitted to pay the additional cost from their own resources in certain limited circumstances. An example of this is the 12 week property rule.
27. Where it is necessary to make a placement out of county, the price paid by the Council for those placements should be equal to, but not exceed, that paid by the host authority.
28. All Service Users are required to pay the full cost of their care except where they are unable to meet that cost. Where they are unable to meet the cost, the amount that they will pay will be determined by financial assessment. Every Service User being considered for residential / nursing care will be advised in writing of this requirement and provided with an assessment form to complete where they are unable to meet the full cost of their care.
29. Where a Service User is able to meet the full cost of their care for the foreseeable future then they will not normally be placed by the Council into a contracted bed. Instead they and their family will be provided with information and guidance to make private arrangements directly with the care home provider. An example of exceptional circumstances might be where the service user has no relatives and is unable to arrange his or her own affairs or the Service User is only able to pay full cost for a short period of time.
30. Where the Council makes a placement of a full cost payer and the service user wishes to be placed in accommodation that is more expensive than the Council would normally be expected to pay, then the Council should obtain agreement in writing from the Service User (or their carer) prior to the placement. That agreement (appendix 5)

shall be to the effect that the service user will normally have to move to another home if:

- The Council has to assist with funding because the service user's resources are depleted.
- The accommodation occupied by the service user still costs more than the Council is willing to pay
- There is suitable accommodation elsewhere for the service user.

31. An approach to the PCT to consider continuing care funding should be made in any case where the Service User has complex health and social care needs. The service user can access continuing care funding in a care home or home setting. In this case, the care manager should seek the advice of the Continuing Care Worker.

32. If the service user is not eligible for continuing care funding, a RNCC assessment should be requested from the lead nurse in the locality.

Transport:

33. Where a service user is assessed as being eligible for day care, this should not automatically lead to the provision of transport to that service. This should be the subject of a separate part of the overall assessment. All transport provision should be commissioned following an appropriate assessment and confirmation that the service user meets the criteria for transport.

34. All requests for transport should be considered by the appropriate funding panel.

Respite:

35. Informal carers may be assessed as requiring a break from their caring role through the provision of respite services to the cared for person. All respite needs to be agreed by the funding panel. Up to a maximum of 8 weeks per annum may be allocated for respite services.

Direct Payments:

36. The Council can make direct payments for all community care services they would normally arrange or provide. The following conditions must be met:

- Is eligible for service
- Consents with capacity in their own right
- Is not ineligible under the regulations
- Can manage the payment, albeit with assistance
- The cost of the direct payment must not exceed the cost of provision of a direct service

Independent Living Funds

37. Care packages costing the Council £200 per week or more should automatically trigger an application for ILF top up funding for people between the ages of 16 and 66.
38. These funds are intended to support people to live independently in their own homes. To qualify for ILF support the service users needs to meet the following criteria:
- Be entitled to the higher rate care component of Disability Living Allowance
 - Have capital of less than £18,500
 - Expect to live independently at home for at least the next 6 months
 - Not be a service user covered by Section 28a funding.
39. Further advice on making an application can be obtained from the Intranet.

Block Contracts:

40. These are to be used before purchasing care under spot contracts (subject to the choice of accommodation rules).

Appendix 1

CHECKLIST FOR FUNDING PANELS

1. Have the service user's needs been properly identified under FACS?
2. Does the care package only meet those risks that the Council is obliged to fund?
3. Is there a costed care plan? Is this acknowledged by the service user to have been consulted upon or where they lack capacity, by their advocate or carer including:
 - Details of assessed needs
 - Assessor's view of the risk arising from the situation
 - Details of the outcomes expected from the services to be provided
 - Details of the agreed service provision and costs of providing the service
 - Details of any charges to be paid, or of direct payments arrangements
 - Evidence that universal services have been considered
 - Evidence that where a spot contract is proposed that block contracts are unable to meet the needs and that 3 quotes for the provision of care under a spot contract have been obtained.
 - Completion of the Fair Pricing Tool for all placements and packages for people under 65 years.
 - Details of any application to ILF
4. Is the package developed to address an immediate crisis?
5. Are intended outcomes clear? Is the package short term for the achievement of specified outcomes? Is the service provider aware of this?
6. Is there a review date?
7. Is the person eligible for continuing health care funding?
8. The net price of the care package must not exceed the net price of the most cost effective option to meet the identified needs. (Appendix 1A – Benchmarks)

9. Does the care plan identify which elements of critical and substantial risks are to be met?
10. Has the assessment been examined with the service user to see if any of the eligible needs can be met with assistance from other agencies?
11. Has a financial assessment been carried out?
12. Has an Individual Placement Agreement or ISCI been completed?

Appendix 2

REVIEWS

All packages agreed by funding panel must be reviewed within an agreed timescale and reported by the panel.

The purpose of the review is to:

- Establish how far the service has met the outcomes
- Re-assess the needs and circumstances of the service user
- Determine whether the service user is still eligible for Council support
- Confirm or amend the current care plan or lead to closure
- Determine if universal services are now available to meet the needs rather than Council commissioned services

Panels must:

- Ensure that packages agreed that are not reduced on review are explained. For learning disability service users, reviews should demonstrate that planned outcomes and consequent changes in care packages are being achieved. Where they are not, explanations need to be given to panel.
- Ensure that the necessary changes to services are recorded and made.
- Monitor that reviews are taking place.
- Ensure reviews identify if the service user still meets the eligibility criteria
- Ensure some degree of linkage between the eligibility criteria within the high FACS criteria.

Appendix 3

PRACTICE GUIDANCE ON CARE AND COMMISSIONING OF SERVICES

Implementing the Care Plan:

1. The aim should be to achieve the stated objectives of the care plan with the minimum intervention necessary. The focus of the care plan should be on the outcomes to be achieved. The inputs should also be detailed as well as the outputs.
2. The starting point must be consultation with the service user and/or carers with the emphasis on supporting their contribution. A successful care plan will have taken account of the service user/carers contribution and have looked at how objectives may be met.

Allocation of Resources:

3. One of the most difficult tasks is to allocate how long tasks take. This will be agreed with the brokerage team who have specialist knowledge in this area.
4. Care plans should encourage creativity and not look to statutory resources without considering universal services as a means by which needs can be met.

Maximising Income:

5. It is important to ensure that service users maximise their income through ensuring they receive all their financial entitlements. This includes Independent Living Fund that allows service user to claim up to £420 per week to meet needs that do not fall within the Fair Access to Care Critical and Substantial Criteria.

Brokerage Team:

6. All funded resources are sourced through the brokerage team. Upon receipt of a request form they will source services and options that can meet those assessed needs. The brokerage team will work closely with the DACS Contracts team to engage in price negotiations where required for placements. This will be done utilising the Fair Pricing Tool.

STATUTORY FRAMEWORK

1. Under the **Local Government Act 1999** local authorities are required to exercise their duties with regard to the need to achieve economy, efficiency and effectiveness.
2. **The National Health and Community Care Act 1990** made the assessment of need for community care services a duty for local authorities. The purpose of this assessment is to find out what people's needs are, taking into account their problems and circumstances, and to make sure that services suit people's needs.
3. The 1990 Act created a duty to assess but it did not create a duty to provide services. Services are provided under the following Acts:
 - **Part III of the National Assistance Act 1948**
 - **Section 45 of the Health Services and Public Health Act 1968**
 - **Section 21 of, and Schedule 8 to, the NHS Act 1977**
 - **Section 117 of the Mental Health Act 1983.**
 - **Chronically Sick and Disabled Persons Act 1970**
 - **(Choice of Accommodation) Directions 1992 and guidance LAC (2004) 20**
 - **Disabled Persons Act 1986 and LAC (2004) 20**
4. If, during an assessment under the 1990 Act, an authority finds that a person is disabled the local authority must also assess the person under the provisions of the Disabled Persons Act 1986.
5. The Government's White Paper, Caring for People states that:
6. "assessments should take into account the wishes of the individuals and his or her carer, and of the carer's ability to continue to provide care...efforts should be made to offer flexible services which enable individuals and carers to make choices".
7. LAC 2004 (20) states the client choice should not lead to the Council incurring costs that exceed "what the authority would usually expect to pay".
8. The guidance "General principles of Assessment for Adult Social Care: Policy Guidance" was issued under section 7(1) of the Local Authority Social Services Act 1970 and took effect from April 2002. The problems and issues of adults in contact with councils with social services responsibilities should be assessed with reference to the general principles set out in this guidance. For social care provision,

assessment is one of the stages of the care management process identified in the Department of Health's Caring for People policy guidance of 1990 and the subsequent practice guidance "Care Management and Assessment: Practitioner's guide".

9. When assessing someone in touch with secondary psychiatric services, reference should be made to the national Service Framework for Mental Health (Department of Health 1999) and the booklet "Effective Care Co-ordination in Mental Health Services – Modernising the Care Programme Approach" Department of Health 2000. For older people, reference should be made to the National Service Framework for Older People (Department of Health 2001) and to detailed guidance on the single assessment process. For people with learning disabilities, reference should be made to "Valuing People: A New Strategy for Learning Disability for the 21st Century" (Department of Health 2001).

Appendix 5

Dear.....

You were offered a place in a care home where the fees are within the rates normally paid by the Council. However, you have chosen a home where the fees are more than those usually paid by the Council.

In doing this, the Council requires you to sign this letter to acknowledge that you understand that the Council reserves the right to move you to another care home if:

- The Council has to assist you with funding your current home because you do not have sufficient money to continue to pay your own fees.
- If the care home continues to cost more than the Council is willing to pay.
- If there is suitable alternative accommodation available.

Yours sincerely,

On behalf of Wiltshire County Council

I acknowledge that I have read the above and understand its contents

Signed

Dated

Appendix B

FUNDING APPLICATION

NAME OF CLIENT.....

CARE FIRST NUMBER.....

LOCALITY.....

DATE OF PANEL SUBMISSION.....

ELIGIBILITY CRITERIA

Tick as appropriate

- CRITICAL** Risk of major harm or danger, or major risk to independence, now or in the next few days.
- SUBSTANTIAL** Risk of significant harm or danger or significant risk to independence, now or in the next three months.

Remember: All applications must have been subject to the new flow chart (appendix a) to determine provision of service:

1. Has the user been asked if they can use their own resources (not just financial) as an alternative to meeting the need?

Evidence:

2. Can the user's family / friends offer an alternative to meet the need?

Evidence:

Appendix B

3. Are any resources available in the community that could meet the need?

Evidence:

RISK IDENTIFIED IF COMMISSIONED SERVICE IS NOT PROVIDED (please detail)

ADDITIONAL INFORMATION

Please attach:

- Client summary
- Statement of needs
- Care Plan
- Risk assessment if applicable
- Completed appendix b

NAME OF CARE MANAGER: