



Adults and Safeguarding Committee

19 September 2019

Title	Community support update
Report of	Chairman of the Adults and Safeguarding Committee
Wards	All
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Urgent	No
Key	No
Enclosures	None
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Summary

Following the member's item on the Medium Term Financial Strategy (MTFS) savings line on community based care at the committee meeting of 5 June 2019, this report presents the information on implementation of this MTFS item.

Officers Recommendations

1. The Adults and Safeguarding Committee is asked to note the contents of the report.

1. WHY THIS REPORT IS NEEDED

- 1.1 At the meeting of 5 June 2019, the Committee considered a member's item on the MTFS item in relation to community based care and requested that officers bring a report on the matter to the next meeting of the Adults and Safeguarding Committee, to include an update on the implementation of the proposal, including the number of individuals that have been placed in residential care without being given the option to remain in the community. This report provides this information.
- 1.2 It has become clear following representations to officers and committee members that the wording of the original proposal could have been improved. It is regrettable that the original wording has caused some misunderstanding about the intended proposal.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The purpose of this report is to give an accurate and clear picture of how individuals are assessed, care and support plans are formulated, and to confirm that no resident has been denied a choice of community based care to meet assessed eligible care needs.
- 2.2 The member's item asked that officers provide the Committee with an update on implementation of the proposal, including the number of individuals who have been placed in residential care without being given the option to remain in the community by default.

Overview

- 2.3 Barnet achieves good outcomes for people who access care and support from the council and has a strong record on measures of independent living and satisfaction. For example, the most recently available national survey and performance data¹ show that:
 - 75.8% of people feel in control of their lives, compared with 71.2% in our nearest neighbour councils and 70.1% in London.
 - 63.6% of people who use adult social care in Barnet are extremely or very satisfied with their care and support, compared with 60.7% for our nearest neighbours and 59.3% in London.
 - 83.7% of Barnet people say those services made them feel safe and secure, which is equal to our nearest neighbours and better than the London average of 82.2%.
 - 80.9% of adults with mental health needs live independently, considerably better than our nearest neighbours (67.1%), the London average (61%) and the England average (57%).
 - 78% of people with learning disabilities live independently, again better than our nearest neighbours (70.9%), London (73.3%), and England 77.2%.

¹ 17/18 ASCOF data used as final 18/19 dataset not available until autumn 2019

- The council also achieves high levels of direct payments (37%, compared to 28% for London and England)
- The council has received national recognition for its strengths-based social work practice and use of telecare. 25% of people who access care and support from the council use telecare.

2.4 The Local Government Association's (LGA) benchmarking data for value for money in adult social care framework² published earlier this year to councils shows that Barnet has very low levels of residential care admissions. In the LGA report, Barnet is in the top decile of performance in England, with:

- The 4th lowest level of residential care admissions in England for people over 65.
- The 15th lowest level of residential care admissions in England for people of working age.

2.5 As can be seen from the performance set out above, the council is a strong proponent of independent living and has developed and commissioned numerous alternatives to residential care. For example, the council is investing over £51m in the development and construction of three new extra-care schemes for the borough, which will create an additional 155 extra-care flats, including 2-bedroom apartments so that families can stay together. This is in addition to the 100 extra-care units already in the borough. The first of these new schemes, Ansell Court, opened in the spring of this year and has been designed especially for people with dementia.

2.6 The council is also expanding its Shared Lives offer by establishing a new dedicated scheme and has in place a comprehensive supported living framework.

2.7 The council has invested in a specialist support team for the carers of people with dementia. This is an evidence-based model originally developed in Australia; where training, advice, intensive support and practical help are given to family carers living with people with dementia, to enable the cared-for person to remain at home. This scheme has been successful in preventing residential care admissions of Barnet residents.

2.8 The Business Planning 2019-2024 report included a proposal as follows: "Meeting eligible needs in the most cost-effective settings, rather than prioritising community-based placements, with an expected impact of £425k." The appendix to that report provided further detail, stating that "the council will have due regard for use of resources when support planning to create more cost-effective support plans. This will mean considering the full range of care options to meet eligible needs (e.g. residential care), rather than offering community-based placements (e.g. supported living) by default. The saving level assumes that new clients are placed in cheaper accommodation settings where appropriate, and is calculated by assuming 50% of the current differential between

² <https://lginform.local.gov.uk/reports/lgastandard?mod-metric=4282&mod-period=1&mod-area=E09000003&mod-group=AllLainCountry&mod-type=comparisonGroupType>

high cost community placements and the maximum usual price for a residential placement is saved.”

- 2.9 In 2018-19 Barnet Council supported 1,711 individuals aged 18-64 and 3,553 individuals aged 65+ in the community at a cost of £46.3m; and 322 individuals aged 18-64 and 927 individuals aged 65+ in a residential or nursing home setting at a cost of £30.5m.

Implementation

- 2.10 The Care Act 2014 sets out obligations that the Council will always follow when agreeing a care and support plan with a person; and there is no change to Barnet’s commitment to considering personal circumstances, views and preferences in each and every case. The council continues to comply with all its duties under the Care Act (2014), meeting eligible needs through a wide range of care and support options, including commissioned voluntary sector prevention services, enablement, home care, telecare, supported living, extra care, equipment, adaptations, direct payments, carer support, along with residential and nursing care where appropriate.
- 2.11 Barnet Council maintains standard operational procedures to guide social work practitioners in their work with residents. The procedures are designed to ensure that practitioners follow Care Act requirements and Barnet’s strengths-based approach to adult social care. The procedures in place in the council’s adult social care service state that if a practitioner wishes to recommend a residential placement, they have to evidence that they have “*considered other options first: a DFG (disabled facilities grant), Telecare, Supported Living, Extra Care, Shared Lives, Homeshare, or adaptations to general purpose housing*”. They must also set out “*a clear rationale for why the person needs a change of accommodation setting now*”. The standard operating procedures also set out that practitioners should “*consider carefully whether the options being considered will affect the person’s relationships with their friends and family. For example, one member of a marriage or established partnership may be assessed as requiring residential care, but the other member will remain in the community. You need to comply with the Human Rights Act 1998 and respect the person’s right to privacy and family life under Article 8 of the European Convention on Human Rights.*”
- 2.12 The change agreed by Committee as part of the MTFs proposals was put in place to ensure that, when costs to support an individual in their home were likely to exceed the costs in a residential home, the worker undertaking the support planning with the individual considers residential care as well as community options. It should be noted that the final care and support plan is agreed between the person and the council, and would be based on meeting the individual’s eligible needs and the agreed outcomes in the support plan. It remains the case that residential care would be the proposed option only if the person was exercising choice and in agreement with this approach. The council’s assessment and eligibility policy, agreed by this Committee in March 2015, remains in place.

- 2.13 Legally, a local authority cannot take resources into account in assessing eligible needs; however, resources can be considered when considering the provision necessary to meet that identified eligible need. There is also a duty to involve the individual concerned in the care planning process, which has to be person centred. All reasonable steps have to be taken to reach agreement on provision, but the care plan does not have to only reflect the individual's choices. From time to time, there can be differences of opinion in respect of the support options to meet eligible needs between councils, individuals and families. This is a factor that pre-dates the development of this MTFS line. Where this happens the council's approach, like that of other local authorities, is to work through the issues in dialogue with the person (and their family if relevant and with the person's consent), through the continuing support planning process, to achieve a jointly agreed support plan.
- 2.14 In the three months of 1 April – 30 June 2019, 11 people have been supported with community based care and support plans with a cost higher than residential care, ranging from £622 - £1,459 per week, with an average of £857 per week. This compares to a quarterly average of 14 people placed in high cost packages in 2018/19. It should be noted that this latter figure is the quarterly average and it is to be expected that there will be fluctuations in numbers between individual quarters.
- 2.15 In the three months of 1 April – 30 June 2019, only 5 adults aged 18-64 and 47 adults aged 65 and over have moved permanently into a residential or nursing setting. The quarterly average for 2018/19 was 6 adults aged 18-64 and 47 adults aged 65 and over.
- 2.16 The Council recognises that a change in accommodation has a profound impact on the life of an individual and any move is considered very carefully before being recommended. No individuals with the mental capacity to make a decision as to where they should reside have been placed in residential care against their wishes. For those lacking mental capacity to make this decision, a best interest process is always followed as prescribed by the Mental Capacity Act 2005, normally involving family members and if needed, the Court of Protection. No one has been placed in residential care against the recommendation of a best interest process. For those individuals with mental capacity to make decisions but who may not strongly express their feelings about their preferred support, it is established good practice for social care practitioners to work to ensure that the voice of the individual is clearly heard in the support plan. The standard operating procedures require practitioners to gather the wishes and feelings of people and record these in the case management system as part of the assessment and care planning process. This is something that would be scrutinised as part of sign-off by management when the practitioner has completed their recording of the support plan. It should be noted that the council does not have any legal power under the Care Act to require any person to enter residential care or indeed to accept a community based support plan.
- 2.17 The Care Act statutory guidance refers to dealing with disputes about care and support plans as follows:

In the event that the plan cannot be agreed with the person, or any other person involved, the local authority should state the reasons for this and the steps which must be taken to ensure that the plan is signed-off. This may require going back to earlier elements of the planning process. People must not be left without support while a dispute is resolved. If a dispute still remains, and the local authority feels that it has taken all reasonable steps to address the situation, it should direct the person to the local complaints procedure. However, by conducting person-centred planning and ensuring genuine involvement throughout, this situation should be avoided.

2.18 The council adheres to this guidance. There have been no such disputes this year (from April 2019) regarding disagreement with a residential or nursing home placement. There have been no complaints regarding disagreement with a recommendation of a residential or nursing home placement. There have been three complaints from family members who wish for their relative to move into a residential or nursing home where the council's recommended option has been the individual remaining in their home to stay better connected to their local community.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 N/A

4. POST DECISION IMPLEMENTATION

4.1 N/A

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Barnet Council's corporate plan 2019-2024 sets out a commitment to supporting residents to live 'happy, healthy, independent lives with the most vulnerable protected'. It also sets out as an objective "supporting our residents who are older, vulnerable or who have disabilities, to remain independent and have a good quality of life". The plan goes on to set out that this will be delivered through:

- "Opening new Extra Care schemes for people that need additional support to remain living independently
- Providing enablement services that help people regain or increase their independence
- Using technology to enhance independence and assist with care
- Offering support for carers of people with dementia
- Providing equipment that allows people to stay more independent at home"

5.1.2 The approach taken to assessment and support planning is in support of this objective.

5.1.3 The priorities of the council are aligned to the delivery of the Health and Wellbeing Strategy.

5.2 **Resources (Finance and Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The total adult social care net budget for 2019/20 is £97.6m of which £79.2m is the budget for the purchasing of care. The Adults and Safeguarding Committee savings programme will enable the council to meet its savings target as set out in the MTFs, to deliver £6m of savings in 19/20 across the total budget. The saving for this particular savings line will be tracked by comparing the differential of cost for individuals that have been supported with community based care and support plans with a cost higher than residential care compared to previous years.

5.3 **Social Value**

5.3.1 N/A

5.4 **Legal and Constitutional References**

5.4.1 Whilst a local authority cannot take resources into account in assessing eligible needs, it is settled law that resources can be considered when considering the provision necessary to meet that identified eligible need (*Regina v Gloucestershire County Council and Another, Ex Parte Barry*: HL 21 Mar 1997).

5.4.2 Following the Implementation of the Care Act 2014 and the Care and Support Statutory Guidance, there is a clear duty to involve the person in the care planning process, which has to be person centred. All reasonable steps have to be taken to reach agreement on provision, but the care plan does not have to only reflect the subject's choices.

5.4.3 The statutory guidance (Care and Support Statutory Guidance) refers to keeping the person at the centre of any assessment, as follows:

6.30 Putting the person at the heart of the assessment process is crucial to understanding the person's needs, outcomes and wellbeing, and delivering better care and support. The local authority must involve the person being assessed in the process as they are best placed to judge their own wellbeing. In the case of an adult with care and support needs, the local authority must also involve any carer the person has (which may be more than one carer), and in all cases, the authority must also involve any other person requested. The local authority should have processes in place, and suitably trained staff, to ensure the involvement of these parties, so that their perspective and experience supports a better understanding of the needs, outcomes and wellbeing.

5.4.4 Section 151 of the Local Government Act 1972 states that: "without prejudice to section 111, every local authority shall make arrangements for the proper administration of their

financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs". Section 111 of the Local Government Act 1972, relates to the subsidiary powers of local authorities.

5.4.5 Local authorities owe a fiduciary duty to council tax payers, which means it must consider the prudent use of resources, including control of expenditure, financial prudence in the short and long term, the need to strike a fair balance between the interests of council tax payers and ratepayers and the community's interest in adequate and efficient services and the need to act in good faith in relation to compliance with statutory duties and exercising statutory powers.

5.4.6 The Council's Constitution (Article 7, Article 7 – Committees, Forums, Working Groups and Partnerships) sets out the responsibilities of all council Committees.

5.4.7 The responsibilities of the Adults and Safeguarding Committee can be found here: <http://barnet.moderngov.co.uk/documents/s47983/08Article7CommitteesForumsWorkingGroupsandPartnerships.doc.pdf>. Responsibilities include:

(1) Responsibility for all matters relating to vulnerable adults, adult social care and leisure services.

(2) Work with partners on the Health and Well Being Board to ensure that social care interventions are effectively and seamlessly joined up with public health and healthcare and promote the Health and Wellbeing Strategy and its associated sub strategies.

(3) To submit to the Policy and Resources Committee proposals relating to the Committee's budget for the following year in accordance with the budget timetable.

(4) To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.

(5) To receive reports on relevant performance information and risk on the services under the remit of the Committee.

5.4.8 The council's Financial Regulations can be found at: <http://barnet.moderngov.co.uk/documents/s46515/17FinancialRegulations.doc.pdf>

5.4.9 Proposals that relate to savings resulting from operational decisions being made in a different way are by their nature only ever estimated savings during the business planning process. Decisions on care packages will continue to be made on a case by case basis, within the legal framework. The saving is therefore an indicative saving and its deliverability will be dependent on a number of factors.

5.5 Risk Management

5.5.1 All high cost packages, whether for support in the community or in a residential setting,

are approved by an assistant director. This helps provide assurance that appropriate decisions are being taken that are fully compliant with the responsibilities set out in the Care Act.

5.5.2 The council has an established approach to risk management, which is set out in the Risk Management Framework. Risks associated with the saving proposals will be outlined within the theme committee reports as each proposal is brought forward for the Committee to consider.

5.6 Equalities and Diversity

5.6.1 Equality and diversity issues are a mandatory consideration in the decision-making of the council. The Equality Act 2010 and the Public-Sector Equality Duty require elected Members to satisfy themselves that equality considerations are integrated into day-to-day business and that all proposals emerging from the business planning process have taken into consideration the impact, if any, on any protected group and what mitigating factors can be put in place.

5.6.2 The public-sector equality duty is set out in s149 of the Equality Act 2010. A public authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.6.3 Having 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 involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) 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; and
- c) Encourage 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.

5.6.4 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include steps to take account of disabled persons' disabilities.

5.6.5 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, the need to:

- a) Tackle prejudice; and
- b) Promote understanding.

5.6.6 The relevant protected characteristics are:

- Age;

- Disability;
- Gender reassignment;
- Pregnancy and maternity;
- Race;
- Religion or belief;
- Sex; and
- Sexual orientation.

5.6.7 The equalities impact for meeting eligible needs in more cost-effective settings was carried out in accordance with the council's framework and included an analysis of new clients who received a home-care package at a higher cost than residential care in 2017/18 (this was used as an equivalent of the cohort that would be affected by the change in 2019/20). This showed a potential negative impact where a council-funded community placement is the individual/family preference. However, the scale of the impact was assessed as minimal as the following mitigations and considerations were made clear:

- The views of the client, family and carers will continue to be considered throughout assessment and support planning. The approach outlined in detail in this report shows how this is carried out in practice and how steps are taken to ensure choice is exercised and agreement reached.
- The groups identified as potentially being disproportionately impacted are not more likely to be affected directly because of the specified characteristic, but because they are over-represented in social care cohorts due to the interrelation between these characteristics and social care need.
- Eligible needs (under the Care Act), and therefore statutory duties, will continue to be met. Eligible needs include 'developing and maintaining family or other personal relationships' and 'accessing and engaging in work, training, education or volunteering'. This protects against the practice change isolating clients from their families / carers or the community. In continuing to apply a strengths-based approach and in development of alternatives to residential care, the service will also continue to focus on achieving positive outcomes for all clients, regardless of accommodation setting.
- Carers assessments and support plans are offered through LBB and the commissioned Barnet Carers Centre service.
- Potential gaps in provision for various equality strands will be monitored and addressed by our Commissioning and Care Quality functions.

5.6.8 Any shift in provision from high cost community to residential placements will be monitored again at the end of quarter two which will allow for 6 months of data. As part of this review the equality impact assessment will be refreshed. In addition, all existing surveys and other feedback mechanisms which capture client and carer concerns and satisfaction with the service they receive will be factored into this review.

5.7 Corporate Parenting

5.7.1 In line with Children and Social Work Act 2017, the council has a duty to consider Corporate Parenting Principles in decision-making across the council. The outcomes and priorities in the refreshed Corporate Plan, Barnet 2024, reflect the council's commitment to the Corporate Parenting duty to ensure the most vulnerable are protected and the needs of children are considered in everything that the council does. Young people in care, and care leavers, who, when aged 18, meet eligibility criteria for adult social care, will be affected by these proposals in the same way as other adults who require support under Care Act (2014) criteria.

5.8 Consultation and Engagement

5.8.1 Consultation was undertaken on the medium term financial strategy which included this proposal.

5.8 Insight

5.8.1 N/A

6. BACKGROUND PAPERS

6.1 Member's item – the Right to Independent Living
Adults and Safeguarding Committee, 5 June 2019
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=698&MId=9924&Ver=4>

6.2 Assessment and Eligibility policy for adults in need
Adults and Safeguarding Committee, 19 March 2015
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=698&MId=7933&Ver=4>

6.3 Business Planning 2019-2024
Adults and Safeguarding Committee, 26 November 2018
<http://barnet.moderngov.co.uk/documents/s49810/Business%20Planning%202019-2024.pdf>

6.4 Adults and Safeguarding Committee's annual delivery plan
Adults and Safeguarding Committee, 18 March 2019
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=698&MId=9475&Ver=4>