

4th March 2013**Agenda Item: 5****REPORT OF THE CORPORATE DIRECTOR, ADULT SOCIAL CARE,
HEALTH AND PUBLIC PROTECTION****REPORT ON COUNCIL'S RESPONSE TO SURVEY BY EQUALITIES AND
HUMAN RIGHTS COMMISSION ON OLDER PEOPLE AND HUMAN RIGHTS
IN HOME CARE****Purpose of the Report**

1. The report summarises the Council's response to the Equality and Human Rights Commission's survey. This followed up the report and recommendations produced in 2011 in relation to their inquiry into the provision of home care for older people and their human rights.

Information and Advice

2. In November 2011 the Equality and Human Rights Commission (EHRC) launched the final report and recommendations of its statutory inquiry into older people and human rights in home care, [Close to Home](#). The inquiry examined the extent to which the human rights of older people who require or receive home care are promoted and protected by public authorities, together with the adequacy of the legal and regulatory framework.
3. The inquiry was conducted by the EHRC using its legal powers under the Equality Act 2006, and as a result organisations have a legal duty to 'have regard' to the recommendations. Hence the survey in November 2012 which looked to ascertain the extent to which relevant organisations have complied with the inquiry recommendations. The report from the survey will set out the findings that have emerged from the evidence gathered. In order to highlight examples of good practice that have been gathered during the inquiry and assist their dissemination, local authorities may be named in the report with their permission.
4. Our response to the survey was submitted by the required deadline of 30th November 2012. Further to this we were contacted by the research organisation conducting the survey on behalf of the EHRC and asked to provide some supporting material about areas of good practice in Nottinghamshire.
5. The survey was split into 3 main areas: reviewing policies and practices, changes in the law on age discrimination and complying with recommendations from the 2011 inquiry report, around supporting user choice, mainstreaming human rights in home care commissioning

and rewarding and retaining care workers. The survey had to be completed electronically, so the responses have been summarised in this report.

Reviewing policies and practices

6. In relation to our home care commissioning policies and practices we were able to report that we have reviewed them and are confident that there is no age related bias or differential treatment linked to age in care planning and support, as we operate only one resource allocation system (RAS) for all service users. In the supporting information we provided a factsheet on our resource allocation system that is given to service users and carers. The RAS is a method for calculating the average cost of social care support. It is based on the information obtained through the community care assessment and it establishes the value of an individual's personal budget.
7. We also highlighted the number of different methods made available for people to raise concerns and/or make complaints, such as the website, the Customer Service Centre, direct to the Complaints Team or via the Social Worker or Reviewing Officer. Service users are provided with a factsheet – [Have your say](#) – which includes full details of how to make a complaint.

Changes in the law on age discrimination

8. In the section relating to changes in the law on age discrimination we were able to answer that we were already confident that our actions in this area are compliant with the law.

Recommendations on supporting user choice

9. In relation to the recommendations made in the inquiry report we were able to give a number of examples of how we have taken action, and continue to act, to support user choice and to make it easier for older people to manage and arrange their own care. These include:
 - development of the [Support with Confidence scheme](#) – a register of people looking for work as Personal Assistants (PAs). Members of the scheme undergo an enhanced CRB check, provide references and receive essential training. The register is available on the Council website.
 - development of the pre-payment debit card for the cash allocation of direct payments, which makes it easier for individuals to purchase care and support.
 - work in partnership with the Alzheimer's Society on a dedicated post to improve the take-up of direct payments for people with dementia.
 - publication of a list of local micro-providers¹ which includes proof of insurance, CRB checks and references.

¹ micro-providers are small organisations that provide support or care to people in their community, have 5 or less workers (paid or unpaid) and are independent of any larger organisation. They give local people more choice and control over the support they get and offer an alternative to more traditional services

- details of local regulated care services available through the Council website with links to Care Quality Commission and signpost to quality checks.
- an advocacy service commissioned jointly with Nottingham City Council and County NHS. This provides a range of statutory, specialist and peer advocacy via a single point of access. One of the providers is Nottinghamshire Age UK.
- development of a pilot brokerage scheme based within the Short Term Assessment and Reablement Team (START) to help put older people in touch with appropriate care providers.

Recommendations on mainstreaming human rights in home care commissioning

10. Further recommendations within the inquiry report relate to obligations under the Human Rights Act (HRA). In relation to taking steps to mainstream human rights into decision making processes and plans, we were able to cite, and provide, our standardised report template – used at all committees – which requires the report author to take account of implications in relation to human rights and equalities when requesting decisions. In addition an equality impact assessment is required where any new policy or service, or change to these, is proposed.
11. The report also made a recommendation that elected Members should receive training on human rights to enhance their leadership role in the commissioning of care for older people. This has been discussed with the Corporate Director for Policy, Planning and Corporate Services and training on the Human Rights Act will be included in the new induction programme for Members currently under development.
12. There were some questions in the survey around the practice of commissioning visits from care providers that are expected to last 15 minutes or less. We clarified that we do commission 15 minute visits where it is appropriate for activities such as health and wellbeing checks, prompts with medication and meal preparation. However, irrespective of the time allocated we allow providers to spend longer with service users if they need to without recourse to reassessment; so there should never be a constraint regarding provision of personal care. Where longer visits are required over a sustained period we will reassess the service user's needs.

Rewarding and retaining care workers

13. This recommendation relates to ensuring that commissioning practices balance the allocation of resources required to meet assessed home care needs with the need to ensure care providers can provide an appropriate wage for care workers. Although not stated explicitly within current contracts, our arrangements with care providers include sufficient payment to cover for care workers travel time between visits and the costs of the travel, and an enhanced rate for visits in rural areas.
14. We identified in the survey that it is our intention in future home care contracting procedures to consider a more explicit breakdown of how providers will include compliance with the national minimum wage for care staff within their quoted price, and further consideration of the 'living wage' (currently £7.20 per hour outside of London).

Statutory and Policy Implications

15. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

16. The inquiry and the accompanying report highlighted some areas of concern with regard to the commissioning and provision of home care for older people in relation to their human rights. We have reviewed our practices and procedures against the recommendations made in the report and believe these to be sound, although we acknowledge the need to keep these under review. The current re-tender of home based care and support services affords an excellent opportunity to review our practices in light of the report.

Financial Implications

17. There may be financial implications attached to any change in contracts with care providers.

Equalities Implications

18. The inquiry report and recommendations seeks to ensure that local authorities have the processes in place to ensure older people receive appropriate and good quality care and that they are supported to manage their own care wherever possible.

Human Rights Implications

19. The report and recommendations highlight the need to ensure that the human rights of older people who require or receive home care are promoted and protected by local authorities through their commissioning policies and practices.

Human Resources Implications

20. The report highlights the importance of good quality care workers and includes recommendations on the appropriate payment of these staff to reward their input and ensure retention.

RECOMMENDATION/S

- 1) That committee notes the contents of the report.

David Pearson

Corporate Director, Adult Social Care, Health and Public Protection

For any enquiries about this report please contact:

Jennie Kennington
Senior Executive Officer

Constitutional Comments (KK 29.01.2013)

21. The proposal in this report is within the remit of the Adult Social Care and Health Committee.

Financial Comments (CLK 17.02.13)

22. The financial implications are contained within the body of the report.

Background Papers

None

Electoral Division(s) and Member(s) Affected

All.

ASCH104