



Report of: Executive Member for Health and Wellbeing

Meeting of:	Date	Ward(s)
Executive	16 July 2015	All

Delete as appropriate	Exempt	Non-exempt

SUBJECT: Care Act Eligibility Criteria Policy

1. Synopsis

- 1.1 This report describes Islington Adults Integrated Community Service’s eligibility policy: its alignment with the government’s National Eligibility Criteria (Care Act 2014), and explains how the policy will be applied in Islington.
- 1.2 The aim of the policy is to ensure consistent implementation of the Care and Support (Assessment) Regulations 2014 and fair and transparent application of the national eligibility framework for adults in need of care and support, and for their carers, as outlined in the Care and Support (Eligibility Criteria) Regulations 2014.
- 1.3 This report recommends that London Borough of Islington should adopt the National Minimum Eligibility Criteria as its policy for determining eligibility for adults with care and support needs. As a consequence, the existing ‘Moderate’ eligibility shall cease to apply and in its place the National Minimum Eligibility Criteria will come into effect from April 2015.
- 1.4 Although this report concentrates on the eligibility for adults with care and support needs, it is important to note that from April 2015 there will also be for the first time national minimum eligibility criteria for carers which local authorities must adopt.
- 1.5 The London Borough of Islington has long recognised the importance of providing effective early support by setting its eligibility criteria at “Upper Moderate” and above under the previous FACS system. Islington will continue to provide the same level of early support to people under the new arrangements introduced by the Care Act 2014. Based on the outcome of a comparative case analysis and of the precise wording of the new criteria, it is believed that people who would previously have been eligible for a service because they had “Upper Moderate” needs, will continue to be eligible for services. The way in which the Council will do this is described in the report below.

- 1.6 The London Borough of Islington also understands the importance of offering preventative support to residents and the positive impact such support can have on the outcomes that residents can achieve by preventing, delaying or reducing the amount of funded support that residents may need. To further support this approach Islington is also extending its preventative offer as described below.

2. Recommendation

- 2.1 To agree that the National Minimum Eligibility Criteria will be London Borough of Islington Eligibility Policy (appendix 1) for adults with care and support needs and that the national minimum eligibility criteria for carers is adopted from April 2015.

3. Background

Eligibility Criteria for Care and Support

- 3.1 One of the major planks of the Care Act is the introduction from April 2015 of new national minimum eligibility criteria for adults with care and support needs which all councils must follow. This is set out in section 13 of the Act. The detail of the new criteria is contained in The Care and Support (Eligibility Criteria) Regulations 2014.

The Care and Support (Eligibility Criteria) Regulations 2014 came into effect on 1 April 2015. Instead of having four different bands of eligibility as set out in set out in the 2010 guidance on eligibility criteria for adult social care "*Prioritising need in the context of putting people first*" (commonly referred to as the "FACS" criteria) people will be assessed as having needs which are 'eligible' if they meet the following threshold;

- 3.2 In summary an individual with care and support needs will meet the minimum eligibility if:
- (a) their needs arise from or are related to a physical or mental impairment or illness
 - AND**
 - (b) as a result they are unable to achieve two or more specified outcomes
 - AND**
 - (c) as a consequence there is, or is likely to be, a significant impact on their wellbeing, as defined under section 1 of the Care Act.

An adult's needs are only eligible if they meet all three of the above conditions.

- 3.3 The eligibility for adults with care and support needs is to be assessed without regard to the support provided by carers. Therefore, a person may be eligible under the Care Act without LBI necessarily having to provide significant services. In practice most people assessed as eligible will probably have their needs met by a combination of care and support provided by the council and/or their carer, if they have one. The increased rights for carers under the Act should help carers to perform this role on a sustainable basis. Support from the voluntary sector and the wider community can also be an appropriate way of meeting needs in some cases.
- 3.4 Safeguarding has separate criteria and therefore if safeguarding issues are identified, care and support can if necessary be provided regardless of whether the individual meets the minimum eligibility for care and support.
- 3.5 It is considered that the new criteria create a threshold that is lower than the previous substantial level under FACs, and is more in line with the upper moderate level which applied in LBI. It is therefore recommended that London Borough of Islington should adopt the new National Minimum Eligibility Criteria as the eligibility criteria for care and support from April 2015.
- 3.6 As the new minimum criteria is thought to offer a similar threshold for accessing care and support as the "upper moderate" level previously applicable in LBI, it is thought to be reasonable to adopt the national minimum as LBI's offer.

- 3.7 In making the above recommendation, the following factors have been taken into account from the perspectives of LBI and LBI residents:
- (a) all current service users (including those assessed as 'Upper Moderate') will continue to be eligible after April 2015. They will not be reassessed against the new criteria until their planned review or if their needs change.
- (b) it is believed that individuals who would previously be assessed as 'Upper Moderate', if they were assessed now will still be assessed as eligible if they come forward for the first time after April 2015.
- 3.8 The evidential basis for this view is a combination of analysis of the precise wording of the new criteria and an exercise comparing actual cases against both the current and new criteria.
- 3.9 Appendix 2 contains details of how the current eligibility criteria compares to the new minimum. Appendix 3 considers a number of anonymised cases assessed as 'Upper Moderate' or lower (as per FACs) to show how they would be assessed under the new criteria. It demonstrates that a case assessed now as meeting the 'Upper Moderate' criteria is likely to meet the new national minimum.
- 3.10 In order to compare the criteria against actual cases an exercise was carried out by operational staff who assessed current 'upper moderate' cases against the new national minimum.
- 3.11 The Care and Support (Eligibility Criteria) Regulations 2014 set out the minimum level of need that local authorities are obliged to meet. However local authorities have the discretion to offer support for needs that fall below the minimum eligibility threshold. Lower level needs may be met as a preventative measure to help someone regain their independence, reduce or delay the need for care and support.

In Islington the assessment process will be '**paused**' to see if preventative support can eliminate or reduce needs and restore or increase independence before the assessment process is completed. This support will be reviewed regularly with the aim of ending funded services **within** 6 weeks. By the end of 6 weeks (or before this date as appropriate) the assessment process will be completed and the person will be fully assessed with regards to national minimum eligibility criteria. If the person still needs the support after 6 weeks it's likely they meet the national eligibility criteria.

- 3.2 Islington Council has adopted the National Minimum Eligibility Framework in order to:
- Be compliant with the law, Care Act 2014
 - Determine which needs are eligible by using the eligibility criteria for adults with social care needs and carers, and;
 - Work with the whole community to make sure that the needs and outcomes of vulnerable people in the community can be met in the most effective way, reducing dependency and delaying the need for long-term care and support.

4. Implications

4.1 Financial implications

The implementation of the National Eligibility Criteria (Care Act 2014) will have no direct financial implications for Islington Council.

Any costs arising from the changes in eligibility will be met by the non-recurrent funding received from the Department of Health for the New Burdens Funding for Adult Social Care. This funding is to support Local Authorities for the implementation of the Care Act.

4.2 Legal Implications

The care and support provisions in Part 1 of the Care Act 2014 (“the Care Act”) which introduces a new legal framework for adult social care, came into effect on 1 April 2015. The provisions in Part 1 in respect of the funding reforms, namely the cap on care costs, extended means test, rights of self-funders to have their needs met by the local authority and direct payments for residential care will come into effect on 1 April 2016.

Section 13 of the Care Act 2014 introduces new national eligibility criteria for adults with needs for care and support and carers. Section 13(1) provides that having carried out a needs assessment or a carer’s assessment local authorities must proceed to determine whether a person’s needs are “eligible” needs, in other words, whether they meet the eligibility criteria set out in regulations. “Eligible” needs are those needs of a level or nature which the local authority may be under a duty to meet.

Section 20 of the Care Act, gives carers parity with the people they look after in terms of their entitlement to an assessment and support, consequently the Regulations also set out a new eligibility threshold for carers.

Guidance on interpreting the eligibility criteria for adults and carers is set out in chapter 6 of the Care and Support Statutory Guidance.

A local authority which had been providing services to adults with needs at a level lower than that which is described in the Regulations is required to consider carefully any proposals to restrict local eligibility to those needs described within the minimum threshold. If having done so it was apparent that individuals would be adversely affected by the change, the local authority would be required to consult with the local population prior to making such a change to its eligibility policy. “

4.3 Environmental Implications

There are no clear significant environmental implications related to the adoption of this policy.

4.4 Equality Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

An Equality Impact Assessment was completed on 8th May 2015.

5. Conclusion and reasons for recommendations

5.1 To adopt the Eligibility Policy for Islington Adults Integrated Community Services

- To ensure compliance with the Care Act 2014
- To direct resources to those most in need
- To support a proactive and preventative approach
- To promote well-being
- To meet needs in the most effective way, reducing dependency and promoting independence.

Appendices

- Appendix 1 - Eligibility Policy
- Appendix 2 - Comparison of FACs 2010 Moderate Risk to Independence with The Care Act 2015

National Eligibility Criteria

- Appendix 3 – Case Study Analysis

Final report clearance:

Signed by:

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