

Item No.	Classification: Open	Date: 11/02/03	MEETING NAME Executive
Report title:		Best Value Review of Disabilities	
Ward(s) or groups affected:		Borough wide, with specific relevance for those residents with disabilities	
From:		Strategic Director of Social Services, Head of Social Inclusion and Best Value Manager	

RECOMMENDATION(S)

1. That the draft vision for the Best Value Review of Disabilities as set out in Appendix B be agreed by Executive as the basis for improvement of Council services to people with disabilities.
2. That those improvements already being implemented as part of service plans are noted by Executive.
3. That Executive note that Disabilities is being considered by Community Support Scrutiny Sub-Committee in February and March 2003, and that this report, and Executive's response to it, will form part of their consideration.

BACKGROUND INFORMATION

4. The crosscutting Best Value Review of Disabilities and Special Educational Needs commenced in 2000. A comprehensive programme of consultation with residents and stakeholders formed the core of this review, together with information gathering to assess how Southwark compared to best practice in other authorities. An interim challenge was held with Cabinet Members in September 2001. With regards to SEN, the partnership agreed with WS Atkins in 2001 that the issue should be dealt with more substantively after the new arrangements were given a chance to operate.
5. An emerging draft vision was presented to a panel of Executive Members in October 2002. The following are the key issues for action as found by the Review.

KEY ISSUES FOR CONSIDERATION

6. The Review of Disabilities was an early cross-cutting Best Value Review undertaken by the Council. As such the Review process has been valuable in raising the profile of the issue, identifying gaps across the various functions, and giving people with disabilities an opportunity to challenge existing arrangements. It also highlighted the complexities of undertaking a cross-cutting review that is not driven by service provision but relates to the holistic needs of a specific group of people.
7. The resulting draft vision diagnosed historic difficulties in developing

corporate engagement on disability issues and in proactive implementation of policy, systematically across the Council. During the course of the Review greater co-ordination of the future strategy began to be fostered under the overall Equalities and Diversity agenda, and through the social care agenda. This report on the Review seeks to recognise the current improving corporate position (*detailed also in the report to Executive on Equality, Diversity and Community Cohesion*), while clarifying the policy direction and various improvement plans. A key resource issue emerging from the Review relates to options for day services.

8. At the core of the vision emerging from this Best Value Review is the development of the Council's role in tackling social exclusion faced by people with disabilities and supporting independent living. This needs to be done through;
 - Building on the Council's community leadership role, ensuring decisions take into account the views and needs of disabled people;
 - Improving access to the full range of Council services;
 - Providing specific services to enable people with additional requirements to lead fulfilling lives;
 - Improving our record as an employer of people with disabilities.
9. The Review has focused on six key areas for improvement to support this vision. The policy implications for each are described below.

Policy implications

Improving the Corporate Approach towards the Disability Discrimination Act

10. Part III of the DDA requires that from 2004 providers of goods and services make reasonable adjustments to the physical features of their premises to overcome physical barriers to access. This, together with the introduction of the Local Authority Equality Standard as a Best Value performance measure, have provided a catalyst for renewed focus on the general Council approach to non-discriminatory service provision.
11. The challenge posed in the Review centred on the absence, prior to 2002, on a clear strategy for meeting statutory obligations and an accountability for making sure this happened. Comparisons with authorities with more advanced approaches, such as Lewisham and Hammersmith & Fulham, emphasised the need for a coherent and senior management-led initiative which forced all departments to improve their responses.
12. The areas for improvement originally identified by the Review are currently being addressed within the Equalities and Diversity report. In summary these are:
 - **Strengthening accountability and leadership.** A Chief Executive-led Equalities Group is commissioning a disability consultant to develop in early 2003 a Disability Equality Scheme evaluating those services and policies which impact most upon people with impairments and disability.

- **Acting to make adjustments to premises.** An audit of 116 operational properties has been undertaken in order to identify measure necessary under the DDA to improve accessibility by the public and employees. The findings of the audit, including proposed priorities and investment implications are being developed by officers.
- **Developing staff awareness.** Central disability awareness training has been ongoing during 2001/02 (and take-up is high) and opportunities will be increased, including sign language courses. It is also proposed that a Disability Access Guide be produced during 2003 to outline Council commitment to accessible service delivery.

Joining-up and Delivering Quality Services to Children with Disability / SEN

13. Extensive and innovative consultation was carried with children, parents and carers and head teachers. The overriding view was of confusion and difficulty in accessing services and dealing with the various agencies. Respondents described “battling” with the processes (with a suggestion being that this discriminated against families less versed in dealing with the system). The examples of good practice in authorities such as Kensington & Chelsea pointed squarely to the need to improve multi-disciplinary working and information sharing between agencies. Improvements need to be made to facilitate multi-agency work and thus improve the quality of services in Southwark, and these include:

- **Better joint-working practices**, including the coordination of social services, education and health disability register information including development of shared databases, co-location of certain health and social services staff in 2003/04, and social worker liaison roles in hospitals.
- **Improved assessment processes**, facilitated by a coordinator working on cases needing multi-agency involvement (£20,000 from the Health Action Zone have been awarded for this role), and the development of ‘fast tracking’ of complex cases.
- **Empowering children in decision-making and preparation for adulthood**, through the promotion of direct payments to 16 and 17 year-olds (within the overall expansion of the scheme), and the development in 2003 of a multi-agency transition plan for children over 14. This will ensure a smooth passage into adulthood and into community care services.
- **Better use of existing resources**, ensuring more effective targeting of Carers Grant, Quality protects and other government funds to priorities of improving respite provision and widening the range of care options available to families.
- **Supporting more children with less acute needs-levels under the Family Support Strategy.** The Council together with key stakeholders in the community will be addressing some of the key issues arising from its Family Support Strategy which have identified a need for more cohesive and multi-agency response to children and families with less acute needs.
- **Speech Therapy** provision throws up key challenges to all agencies due

to national and local shortage with the Health and Social Care field. The Children's Partnership Board is addressing this matter and an action plan is being developed.

Promoting Independence through Community Care Services

14. Residents consulted during the Review suggested a low awareness of assessment procedures and options for care management available. Additionally the quality of the contracted domiciliary care agency was questioned. These issues are being tackled as part of the re-tendering of the current domiciliary care contract. At the same time, comparative data from the Department of Health suggested that Southwark spends around 20% above the Inner London average on Community Care for Physically Disabled Adults. This review has demonstrated the need to further develop Direct Payments to users to allow them to take charge of their own care needs. The main focus for action centres on extending the potential offered by Direct Payments. To this end a specific evaluation done within the Review has recommended:

- **Increasing Direct Payment rates** paid to those in line with other comparable authorities, in order to make independent care management more financially viable for disabled people;
- **Developing a new contract specification for provision of the Direct Payments** scheme which will be tendered early in 2003. Both these actions have been budgeted for, and the target is for a significant increase in those considering and taking up Direct Payments – in line with the top 25% of Inner London authorities by 2004/5.

Promoting Independence through Day Care Services

15. Day Care Services – focused around the Aylesbury Day Centre – has formed a central policy issue of the Best Value Review. Services currently provided within the Aylesbury are expensive when compared with other boroughs and have resulted in higher levels of expenditure on day centre care (up to 40% higher than the Inner London Average).

Both the government agenda – and the Best Value vision - of supporting independent living of people with disabilities suggest that a more modernised, focused approach to day care and a redeployment of resources to ensure appropriate employment, training and leisure opportunities are available, needs evaluation. Other good practice authorities such as Westminster focus clearly on training and employment services through day care support. The Aylesbury Day Centre itself is highly rated by those who attend, and by Members (46% of those consulted rated it as 'good').

However it is noted that the majority of disabled people in the borough do not use the centre, and 'non-attendees' consulted suggested a stigma was attached to its services in its present form.

16. Social Services are currently consulting on Modernising Day Care Services to ensure that future service provision:
- promotes independence, not dependency;
 - are a means by which people with Community Care needs are helped to access resources in the wider community;
 - lead to service users' inclusion in the widest possible range of ordinary daily activities.
 - Are developed around the needs of the individual rather than an institution
 - include vocational training and work, where appropriate.

Whilst consultation has already taken place on some aspects of the services provided at the Aylesbury Day Centre as part of the Best Value Review, further consultation with service users will be needed over any major change. Individual community care assessments are being carried out for each service user to determine the extent to which formal community care needs exist at the centre. This process, along with the evidence gathered as part of this Best Value Review will help inform the content of a future consultation on the proposed range of services to be provided to this client group.

Improving Employment Opportunities

17. The policy of supporting independence relies on improving disabled people's employment chances (and therefore their economic and social independence). Consultation within the Review showed adult service users concerned that the Council was not active enough in supporting vocational opportunities, which was shared by the majority of staff consulted (only 20% thought the Council gave satisfactory support). There are two aspects to Council activity; direct employment of disabled people in the authority and through its role as community leader.
- **Supporting a Policy of Disabled Employment in the Council.** The position as stated in the Best Value Performance Indicator (BVPI 16) suggest that particular and renewed impetus may need to be placed by both Members and officers to the employment of disabled people. Although some doubt may be placed over the consistency of these figures, the relative position of Southwark (with disabled employment at 1.64% of the overall workforce in 2001/02 [excluding schools], compared to 2.4% in Lewisham and 2.8% in Lambeth) suggests that a more proactive policy may be needed to get the total towards the national average by 2003/4 (currently 1.7% for all upper-tier authorities) is required. The Council has in 2002 satisfied the requirements to apply the "two ticks" (disability aware status) in recruitment and therefore can use the symbol in future where this would be beneficial. The Council's commitment to employment and advice on how to access jobs will continue to be advertised in the disability press in 2003.
 - **Supporting a Policy of Disabled Employment across the Borough.** However is it recognised that simplistic targets for employment alone are

not likely to make real improvements in disabled people's employability. To that end, the Council's influencing role, supporting disabled employment within the borough Employment and Enterprise Strategy, needs to be developed. Social Services have now established a dedicated resource to support the Welfare-to-Work Joint Investment Plan development – this Review has pointed to a need for a **fully cross-departmental and -agency plan** outlining respective roles and responsibilities of organisations towards disabled employment, to be endorsed and implemented by multiple agencies within the Local Strategic Partnership during 2003/04. This will need to take into account any necessary action required to support changes to Day Care Centre services.

Improving Access to Community Services

18. People consulted during the Review expressed frustration at being excluded from 'mainstream' services in the borough. Two particularly prominent areas of concern were transport and leisure activities. Two other current Best Value Reviews are proposing improvements in those areas where the Council has direct responsibility: through the improved street scene and increased disabled crossing facilities in the Highways Review, and through increased accessibility to targeted groups within the Sports Review. (Pending the outcome of the Day Care Services Review, further development of leisure services may be necessary.)
19. Two other Council functions were specifically highlighted in this Review; 'communication' and housing.
 - **Better Meeting Communication Needs.** The suggestion was made – particularly strongly by consultees with sensory impairments – that there was a lack of awareness within the Council about how to properly deal with the range of impairments. Much of the action to meet the DDA will seek to address staff awareness and service responsiveness, but a specific proposal to pilot improved special communication in the Peckham One Stop Shop is being recommended by the Interim Head of Communications & Customer Relations. This will include specific training opportunities for staff (e.g. in British sign language and in communicating with people with visual impairments), coordinated information systems (e.g. through systems designed to be used with disability aids, or through 'outreach' services), reviewed and redesigned publicity material, and mystery shopping to test responsiveness. The cost implications of this project will need to be evaluated and additional funding identified. It is proposed that this pilot is taken forward in 2003/4 as a matter of priority, in order that lessons can be disseminated across all public access points.
 - **Improving the Availability of Suitable Supported Housing.** Concerns were raised from disabled families about the suitability of housing to take account of people's changing needs. Additionally poor communication about the processes of re-housing caused difficulties to people, or confused their expectations. At the same time, the amount spent by Social Services on residential and nursing care for people with physical disability in Southwark has been the highest in Inner London.

The priorities for supported housing will be determined by the Supporting People Commissioning Body (following agreement of the Strategy by Executive in

September), and balance the needs of all client groups. In terms of disabled people, consultation with stakeholders has identified shortages in the number of adapted units of accommodation generally in Southwark, particularly the shortage of adapted temporary accommodation, the need to provide support for those who become disabled in adult life, (there appears to be a lack of supported housing provision spanning the gap between residential rehabilitation units and general need adapted properties, which results in individuals having to remain in registered accommodation for much longer than necessary), and the affordability of supported accommodation.

Future aims are that:

- 5% of all new build social housing in the borough will be built to wheelchair mobility standards, with the remainder built to lifetime homes standards;
- exploring the potential for floating support for people with disabilities in established general needs mobility standard accommodation
- Developing a short term supported housing scheme, for people with disability coming out from registered or rehabilitation schemes, before moving on to general needs adapted units.

Effect of proposed changes on those affected

Resource implications FI/BW/625

This report sets out a broad policy framework for developing the corporate approach to disabilities. A number of the proposals may have potentially significant financial implications in terms of both growth pressures and efficiency savings. It will be necessary during the implementation stage for detailed plans to be drawn up and costed, and the source of funding identified in line with existing budget management arrangements. Areas likely to have significant financial implications to be dealt with by the relevant departments in this way include:

- adaptations to premises to achieve compliance with Disability Discrimination Act standards (to be the subject of a capital bid)
- training and management support for policy implementation
- meeting the communications needs of people with sensory disabilities in line with the Disability Discrimination Act requirements
- changes to increase the responsiveness of services to disabled people
- increasing respite provision, speech therapy and family support for disabled children
- adults day care modernisation (currently subject to consultation as part of the 2003/04 budget process)
- improvement of leisure facilities for disabled people
- providing an enhanced support function to promote the uptake of direct payments
- re-tendering of the disabilities home care contract with a higher level of quality and flexibility in the specification
- developing more supported housing options for people with disabilities and the consequent reduction in expenditure on residential care.

Consultation

A copy of this report will be sent to the Disabilities Forum and the Pensioners Forum.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor & Secretary

Members are being requested to agree the recommendations as set out in paragraphs 1 to 3 of the report.

Disability Discrimination Act 1995

Section 19 of the Disability Discrimination Act 1995 makes it unlawful for a provider of services (including the provision of any goods or facilities) to discriminate against any disabled person.

- (a) In refusing to provide, or deliberating not providing, to the disabled person any service which he provides, or is prepared to provide, to members of the public.
- (b) In failing to comply with any duty imposed on him by Section 21 (duty of providers to make adjustments) in circumstances in which the effect of that failure is to make it impossible or unreasonably difficult for the disabled person to make use of any such service.
- (c) In the standard of service which he provides to the disabled person or the manner in which he provides it to him.
- (d) In the terms on which he provides a service to the disabled person.

From 1 October 2004 Section 21 of the Disability and Discrimination Act 1995 provides that where a physical feature (e.g. one arising from the design or construction of a building or the approach or access to premises) makes it impossible or unreasonably difficult for disabled persons to make use of a service, it is the duty of the provider of that service to take reasonable steps to:

- (a) Remove the features.
- (b) Alter it so it no longer has that effect.
- (c) Provide a reasonable means of avoiding the feature (Section 21 (2) DDA 1995)

Since 1 October 1999 it has been the duty of a provider of services to provide a reasonable alternative method of making the service in question available to disabled persons (where a physical feature makes it impossible or unreasonably difficult for a disabled person to make use of such a service) and to take such steps as are reasonable in all the circumstances of the case to change a practice policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of a service which the provider provides or is prepared to provide to other members of the public.

Children with disabilities

Services for disabled children are primarily provided under part III Children Act 1989 and Section 2 of the Chronically Sick and Disabled Persons Act 1970.

Section 17 (1) Children Act 1989 places a general duty on every Local Authority to safeguard and promote the welfare of children within their area who are in need and so far as is consistent with that duty to promote the upbringing of such children by their families by providing a range and level of services appropriate to those children's needs. For the purposes of the Act a child should be taken to be in need if he is disabled. The guidance on providing services to children with disabilities is contained in the Children Act 1989: Guidance and Regulations Volume 6.

Under Section 2 of the Chronically Sick and Disabled Persons Act 1970 places a duty upon Local Authorities to make arrangements to provide the services specified in the Act where that person is ordinarily resident in the Local Authority's area and it is necessary in order to meet the needs of that person for those arrangements to be made. The matters specified are as follows: -

- (a) The provision of particular assistance for that person in his home.
- (b) The provision for that purpose of, or assistance to that person in obtaining, wireless, television, library or similar recreational facilities.
- (c) The provision for that person of lectures, games, outings or other recreational facilities outside his home or assistance to that person in taking advantage of educational facilities available to him.
- (d) The provision for that person of facilities for, or assistance in, travelling to and from his home for the purpose of participating in any services provided by or with the approval of the Authority.
- (e) The provision of assistance for that person in arranging for the carrying out of any works of adaptation in his home or the provision of any additional facilities designed to secure his greater safety, comfort or convenience.
- (f) Facilitating the taking of holidays by that person, whether at holiday homes or otherwise and whether provided under arrangements made by the Authority or otherwise.
- (g) The provision of meals for that person whether in his home or elsewhere.
- (h) The provision for that person of, or assistance of that person in obtaining, a telephone and any special equipment necessary to enable him to use a telephone.

Special Educational Needs

The Local Authority, any person providing nursery education, and any person employed by them, must have regard to the provisions of the code of practice on special educational needs (Section 123 School Standards and Framework Act 1998). Therefore provision should be made for identification and assessment of and special educational provision for all children with special educational needs.

Community Care Services

Section 47 of the NHS and Community Care Act 1990 imposes a duty upon Local Authorities to carry out an assessment of the needs of any person who may be need of community care services for whom they may provide or arrange such services.

The general prohibition against direct payments for disabled adults was partially removed by the Community Care (Direct Payments) Act 1996 which provides:

Section 1 (1) where:

- (a) An Authority have decided under Section 47 of the NHS and Community Care Act 1990 that the needs of a person call for the provision of any Community Care Services;

The Authority may, if the person consents, make to him, in respect of his securing the provision of any of the services for which they have decided his needs call or.... they have decided to provide (or arrange to provide), a payment of such amount as, they think fit.

The direct payment scheme is discretionary. Direct payments must relate to the users community care assessment. Direct payments may only be made to persons who can manage (alone or with assistance) such payments.

Day care services

Social Services Authorities are required to proved two separate types of service under Section 2 of the Chronically Sick and Disabled Persons Act 1970 (see above). Firstly recreational facilities, these are complementary to home based services and must be provided outside the persons home. Secondly educational facilities, this may be either home based or otherwise. Service can be provided by facilitating access to an existing educational facility.

Under Section 45 of the Health Services and Public Health Act 1968. Social Services Authorities have the power to make arrangements for promoting the welfare of elderly people. Such arrangements can include the provision of meals and recreation in the home or elsewhere. Recreation includes day centres. The Local Authority may provide the services alone or by employing independent or private providers. (HSPHA 1968 Section 45 (3)).

Under powers conferred under the NHS Act 1977 the Secretary of State has made directions (LAC (1993) 10 appendix 3) empowering (but not obliging) Social Services Authorities to make domiciliary care arrangements. These services can only be provided for the purpose of either preventing illness, or for the care or after care of a person suffering or recovering from an illness. The directed services include the provision of centres or other facilities for training them or keeping them suitably occupied and the equipment and maintenance of such centres.

Under the same direction Social Services Authorities are obliged by the Secretary of State to make arrangements for the purpose of preventing mental disorder, as well as for persons who are or who have been suffering from mental disorder. The directed services include the provision of centres (including training centres and day centres).

Consultation around modernising day care

With regard to consultation this should satisfy four criteria.

- (1) The consultation must be taken at a time where proposals are still at a formative stage.
- (2) Sufficient reasons for any proposal should be given to allow intelligent consideration and response.
- (3) Adequate time must be given for consideration and response.
- (4) The consultation responses must be conscientiously taken into account in finalising a decision. This is not the same as requiring responses to be followed.

Employment opportunities

Section 4 of the Disability Discrimination Act 1995 makes it unlawful for an employer to discriminate against a disabled person both prior to and after employment. It is the duty of an employer to make reasonable adjustments to any arrangements or the physical features of any premises occupied by the employer which place the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled.

Housing

In relation to persons who are “substantially and permanently handicapped” (Section 29 National Assistance Act 1948) but not those whose need arises solely through age or temporary illness disabled facilities grants are available under the Housing Grants, Construction and Regeneration Act 1996. The grant is payable to disabled occupants who are either owner occupiers or tenants. The Housing Authority is charged with deciding whether it is reasonable and practicable to carry out the proposed adaptation works and is required to have regard to the age and condition of the dwelling or building. In deciding whether the proposed works are necessary and appropriate to meet the needs of the disabled occupant the Housing Authority must consult the Social Services Authority.

s.21 National Assistance Act 1948 gives Local Authorities duties and powers in relation to the provision of residential accommodation. A duty is imposed in respect of persons aged eighteen or over who by reason of age, illness, disability or other circumstances are in need of care and attention which is not otherwise available to them.

The case of R(Batantu) v Islington BC (2000) held that once a Local Authority had carried out an assessment under s.47 NHSCCA 1990, which identified a need for accommodation, the Local Authority was under a duty to provide such accommodation under s.21 NAA 1948. The case involved a Local Authority tenant who was in immediate need of rehousing to more suitable accommodation. The Court of Appeal have subsequently held in the case of R(Wahid) v Tower Hamlets LBC that where an applicant is assessed as receiving suitable care and attention and his need for suitable accommodation is not urgent no duty under s.21 arises.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
<i>Best Value Review Background Papers, including Consultation Reports</i>	<i>Corporate Best Value Team</i>	<i>Michael Walker 7525 3616</i>

APPENDIX A

Audit Trail

32. This section must be included in all reports.

Lead Officers	<i>Chris Bull, Strategic Director, Social Services; Mike Carroll, Best Value Manager; Nathalie Hadjifotiou, Head of Social Inclusion</i>	
Report Author	<i>Jamie Nevin, Assistant Director, Performance & Business Support (Social Services)</i>	
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Dated	<i>31st January 2003</i>	
Key Decision?	<i>No</i>	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes/No	Yes/No
<i>Departmental Finance Manager</i>	Yes	Yes
Executive Member	Yes	No (report approved)
Date final report sent to Constitutional Support Services		3/2/2003