



Dorset Health and Wellbeing Board

Date: Wednesday, 27 November 2019
Time: 2.00 pm
Venue: Committee Room 1, County Hall, Dorchester,
DT1 1XJ

Membership: (Quorum 5)

Rebecca Knox (Chairman), Forbes Watson (Vice-Chairman), Louise Bate, Alan Clevett, Sam Crowe, Spencer Flower, Tim Goodson, David Haines, Mathew Kendall, Laura Miller, Patricia Miller, Sarah Parker, John Sellgren, Tanya Stead, James Vaughan, Seth Why and Simone Yule

Chief Executive: Matt Prosser, South Walks House, South Walks Road,
Dorchester, Dorset DT1 1UZ (Sat Nav DT1 1EE)

For more information about this agenda please contact Helen Whitby 01305 224187 - helen.whitby@dorsetcouncil.gov.uk



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A G E N D A

Page No.

1 APOLOGIES

To receive any apologies for absence.

2 MINUTES

3 - 8

To confirm the minutes of the meeting held on 30 October 2019.

3 DECLARATIONS OF INTEREST

To receive any declarations of interest.

4 PUBLIC PARTICIPATION

To receive questions or statements on the business of the committee from town and parish councils and members of the public.

5 URGENT ITEMS

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

6 2019 /20 BETTER CARE FUND Q2 REPORT

9 - 16

To consider a report by the Executive Director of People - Adults, Dorset Council.

**7 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN
ACTIONS FOLLOWING REPORT 18-016-599**

17 - 26

To consider a report by the Executive Director for People - Children, Dorset Council.



DORSET COUNCIL - HEALTH AND WELLBEING BOARD

MINUTES OF MEETING HELD ON WEDNESDAY 30 OCTOBER 2019

Present: Cllrs Rebecca Knox (Chairman), Forbes Watson (Vice-Chairman), Louise Bate, Alan Clevett, Sam Crowe, Spencer Flower, Tim Goodson, David Haines, James Jackson, Rebecca Kirk, Laura Miller, Claire Shiels, James Vaughan, Seth Why and Simone Yule

Officers present (for all or part of the meeting):

Charlie Coward (Active Dorset), Martin Kimberly (Active Dorset) and Helen Whitby (Senior Democratic Services Officer)

15. Apologies

Apologies for absence were received from Mathew Kendall, Patricia Miller, Sarah Parker, John Sellgren and Eugene Yafele. Claire Shiels and Rebecca Kirk attended as reserve members.

16. Declarations of Interest

No declarations of disclosable pecuniary interests were made at the meeting.

17. Minutes

The minutes of the meeting held on 26 June 2019 were confirmed and signed.

18. Public Participation

There were no statements and questions considered at the meeting.

19. Urgent items - Our Dorset Looking Forward

The following item of business was considered by the Chairman as urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The Board had considered an early draft of the plan but the change of meeting date meant that an updated version could be considered before it was submitted to NHS England (NHSE) on 1 November 2019.

The Board considered a report by the Chief Operating Officer, Dorset Clinical Commissioning Group, on Our Dorset Looking Forward, the latest draft of Dorset's local five-year strategy responding to the national NHS Long Term Plan.

The Chief Operating Officer explained changes made since the Board last considered the plan and highlighted areas where action was still needed. The next version would be submitted to NHSE on 1 November 2019 and the final

draft submitted on 15 November 2019. At a recent meeting, the NHSE had highlighted that the plan underplayed activity within Dorset. This information would be added to the Executive Summary.

It was requested that the Chairman have sight of any significant changes to the plan prior to its final submission. This was agreed.

Particular attention was drawn to the Transformation Map 2020/21 to 2023/24 set out on the final page of the report, for the Board's need to monitor the plan and for any issues to be reported to it.

The financial and delivery challenges were recognised and that it would take a collective effort by all to succeed in translating the plan to delivery on the ground. This would require the Primary Care networks and community care to work more closely together to improve the wider determinants of health for young and old.

The plan should work seamlessly with plans from other organisations and with the Chairman of Dorset Community Action now being a Board member there were opportunities for their greater involvement.

Resolved

1. That the direction of travel within the plan be approved
2. That delegated authority be given to the Integrated Care System Leader (Tim Goodson), after consultation with the Chairman, to approve the final version of the plan for submission to NHSE on 15 November 2019.

20. 2019 /20 Better Care Fund Plan Approval

The Board considered a report by the Head of Commissioning - Adult Social Care, Dorset Council, which sought the Board's approval of the Better Care Fund (BCF) Plan 2019/20. The Board had given delegated authority in June 2019 to the Executive Director for People - Adults after consultation with the Chairman to sign off the plan which was submitted to NHS regional teams in September 2019. The Board also received a presentation from the Head of Commissioning.

The Portfolio Holder for Adult Social Care and Health recommended that the plan be approved but suggested that future reports include practical case studies and their impacts.

The presentation provided an overview and information about the national policy framework for 2019/20, content of the BCF plan for 2019/20, expected impact for 2019/20, a summary of BCF income, BCF metrics and the winter pressures scheme.

Members noted: work with partners was being undertaken in order to project future needs, identify hot spots and the care that would be needed within them; how costs were being limited; work with the community rehabilitation team to assess people's need for therapy; how feedback from reablement users was captured and used; the move to working together more closely in order to meet BCF Targets; steps being taken to reduce hospital admissions by intervention at home; the availability of emergency care work so that patients could return home even if care packages were not in place; and steps being taken to speed up the assessment process.

The Chairman welcomed future reports including more illustrations of how the BCF was making a difference, recognised the role of organisations assisting communities to help maintain people's independence and wanted examples of good work to be rolled out to other areas.

Attention was drawn to current BCF funding of £132m and questions asked as to whether there was evidence to show its impact, whether progress was fast enough and whether what worked or not informed future actions. The Head of Commissioning confirmed that what worked and did not work was taken into account but work undertaken had had a medium rather than high impact. Whilst ambition had not been high there had been a significant number of challenges in the last couple of years. There were a number of positives, including the positive effect of the winter pressures schemes on the acute trusts, so much so they were now funding winter pressures initiatives themselves. Although officers were now better able to predict trends for need it was important for information to be accessible and this was not the case currently. He asked the Board to help with this.

The Chairman reminded members of their ownership of the BCF which was jointly managed by Dorset Council and the Dorset Clinical Commissioning Group. It was partnership work which would ensure that people were safe and well and she emphasised the need for better links with prevention officers with regard to delivery of the BCF.

Resolved

1. That the 2019/20 BCF Plan be approved.
2. That future reports include practical case studies and their impacts

21. Sustainability Transformation Plan - Update with a Focus on Prevention at Scale

The Board considered a report by the Consultant in Public Health which provided an update on key highlights from across the STP as a whole and progress on prevention at scale since the last meeting.

The Director of Public Health presented the report highlighting: opportunities through Our Dorset Looking Forward to progress work started under the STP and focus on the wider determinants of health; the need for organisations to share intelligence; how prevention was being embedded within council services and the adoption of a whole system approach; that more NHS funding would lead to more accessible services; that £1m was needed to fund prevention at scale work over the next three years; that in order to increase impact areas to focus on should be identified and how these could be resourced; that some investment was at risk of not being maintained; and the Board's role to ensure that there was no duplication of services.

The Chief Constable explained that any new funding now came with priorities attached and that these were aimed at reducing crime and prevention of harm. He was keen to look at harm and violence reduction as his force's contribution to prevention at scale. The Fire Authority representative added that although they could not contribute funding, they could help in other ways and share information about the vulnerable people they came into contact with.

There was some discussion about county lines and whether there could be early intervention work done in schools before children reached crisis stage. The Chief Constable explained that he had a small team who visited schools and their programme was being refreshed and updated. Once this was completed, he would liaise with Dorset Council as to how this could be used to raise awareness. The

Assistant Director for Commissioning and Partnerships drew attention to the fact that many vulnerable children did not go to school.

Attention was drawn to the fact that many organisations held information about vulnerable people, some of whom would be known to multiple organisations. This information was not shared currently. The Chief Constable agreed to take the lead in progressing data sharing across organisations. Members were asked to arrange for their intelligence leads to contact the Chief Constable to progress this.

One member gave an example where a few people had used council buildings during the evening for an activity and that this had now grown into a network within a deprived area. He hoped that more could be done through Primary Care Networks on a locality basis. Population management was about overlaying data in order to come to a different view as to who was vulnerable and the approach that was needed.

The voluntary sector representative explained that his focus was on supporting the Primary Care Networks and he would provide an initiative outline, including data collection.

Resolved

1. That the update on STP highlights and highlighted progress on prevention at scale be noted.
2. That the ongoing work be supported, within the Board and back in their respective organisations and communities.
3. That the Chief Constable take the lead in progressing data sharing across organisations.
4. That members ask their intelligence leads to contact the Chief Constable to progress data sharing.

22. Physical Activity Strategy

The Board considered a report by Active Dorset on the Physical Activity Strategy. They also received a presentation from Martin Kimberly and Charlie Coward, Active Dorset.

The presentation covered the scale of ambition for the strategy, set out key stakeholders, the health benefits of physical activity, examples of system changes being made in the secondary care and primary care pathways, changes being made in localities and in the workforce, why a strategy was needed, gaps in knowledge, the strategy needed to be in addition to Our Dorset, the two options to be considered and the need for the Board to identify a member champion for the Strategy.

Members noted that the Strategy covered Dorset, Bournemouth Christchurch and Poole Council areas and aimed for a more co-ordinated approach. The Board was asked to choose between Option 1 (Commissioning and external report. Tender anticipated at £20-30,000) and Option 2 (a Joint Strategic Needs Assessment (JSNA) process supported by all Health and Wellbeing Board member organisations. This would have low or no cost but would rely on officer time and organisational engagement). The Board was also asked to appoint a Champion for the Strategy.

There was some discussion about the two options, how behavioural change could be encouraged, the Board's influence over planning and local authority services, and how better use of resources might encourage people to be more active.

If Option 2 was adopted, it was suggested that the Local Enterprise Partnership and the Local Nature Partnership (LNP) should be involved. The LNP had links to the natural choices agenda which encouraged people to become more active and the benefit of exercising in the natural environment was highlighted. It was also suggested that social care and health professionals should signpost people to Livewell and activities within their areas.

One member drew attention to her experience of using Livewell's activity finder and the Director and Assistant Director of Public Health were asked to ensure that it and links to other sites were working.

Attention was drawn to the fact that Dorset Council reports now included reference to the impact of climate change but more that could be done to embed this within all areas of the Council. It was also noted that Dorset County Council reports had included reference to the impact on health and wellbeing being but this had not crossed over to the new Council. The Leader of the Council agreed to consider whether more could be done across the Council's services to encourage people to be more active.

Members agreed that Option 2 should be progressed and noted that the Bournemouth, Christchurch and Poole Health and Wellbeing Board had also agreed this as the way forward. The Chairman agreed to act as the Board's Champion and would receive regular feedback on progress.

Resolved

1. That Option 2 be adopted (a Joint Strategic Needs Assessment (JSNA) process supported by all Health and Wellbeing Board member organisations. This would have low or no cost but would rely on officer time and organisational engagement.)
2. That the Chairman act as the Board's Champion for the Strategy.
3. That the Director and Assistant Director of Public Health ensure that Livewell's activity finder and links to other sites were working.
4. That the Leader of Dorset Council consider whether more could be done to encourage people to become more active across the Council's services.

23. Pharmacy Application Process

The Board considered a report by the Director of Public Health on how pharmacy applications were considered and recommendations to enable the Board to carry out its role as statutory consultee and respond as required.

The Board was notified of any applications for changes to pharmacies. Delegations were sought to allow the Director of Public Health to decide whether a response was needed and, in cases where a response was required or there might be a significant impact, the Chairman and Portfolio Holder for Adult Social Care and Health would be consulted. Some changes would continue to be reported to the Board.

Resolved

1. That delegated authority be given to the Director of Public Health to respond (or not) to applications for relocation.
2. That delegated authority be given to the Director of Public Health, in consultation with the Chairman and Portfolio Holder, to respond to applications where a response is required or where the potential impact may be significant.

24. **Work Programme**

The Board considered its work programme.

The Chairman suggested that the informal session of the meeting on 27 November 2019 be used to look at how the Board functioned, actions and joint responsibilities which would lead to members having responsibility for their work programme. It was also suggested that future informal sessions provide an opportunity for individual members to raise particular issues or areas of concern they faced in order to get advice, views or support from other members on how these could be addressed or resolved. This approach was supported by Board members.

Attention was drawn to the new Primary Care Networks and the lack of representation from education and schools. The Assistant Director for Commissioning and Partnership agreed that Primary Care Networks and other governance arrangements could be better joined up and agreed to look at this.

The formal meeting on 27 November 2019 would comprise reports on the Better Care Fund and Education Health Care Plans.

The Voluntary Sector representative would provide information on his area, how data could be coordinated and what facilities were available to support the Board's work.

The Board also agreed that future meetings should start at 1.00pm and other venues be used so that Board members could see prevention at scale work in localities.

Resolved

1. That the informal session on 27 November 2019 be used to look at how the Board functioned, actions and joint responsibilities.
2. That future informal sessions provide an opportunity for individual members to raise particular issues or areas of concern they faced.
3. That the formal session on 27 November 2019 would consider reports on the Better Care Fund, Education Health Care Plans and information on the voluntary sector.
4. The Voluntary Sector representative provide information on his area, how data could be coordinated and what facilities were available to support the Board's work.
5. That future meetings start at 1.00pm and be held at other venues where prevention at scale could be demonstrated.
6. That future meetings start at 1.00pm and, where possible, be held at venues where members could see prevention at scale work in localities.

Duration of meeting: 1.00 - 3.10 pm

Chairman

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Date of Meeting: 27/11/2019

Lead Member: Laura Miller – Lead Member for Adult Social Care and Health

Lead Officer: Tony Meadows – Head of Commissioning – Adult Social Care

Executive Summary:

The Better Care Fund (BCF) is the current national policy approach for integrating health and adult social care. It has been running since 2014/15. The BCF spans both the NHS and local government and seeks to join-up health and care services, so that people can manage their own health and wellbeing and live independently in their communities for as long as possible. The policy brings together resources from the NHS and local government and requires local plans to be produced and overseen by each Health and Wellbeing Board across England.

Planning guidance for 2019/20 was not released until July 2019 with the submission date for national assurance by NHS England for 27th September 2019. The guidance sought to simplify the previous planning approach and bring in the Winter Planning Grant to BCF Plan. A strategic narrative for the BCF Plan has been developed to reflect the strategic context of STP and ICS and address a number of key lines of enquiry set out within the planning guidance.

The 2019/20 BCF plan has largely been a rollover of 'as is' from 18/19. The schemes have built upon the success from the plan and include:

1. Support for carers;
2. Maintaining independence;
3. High impact changes/supported hospital discharge/ Home First;
4. Integrated health & social care locality team;
5. Strong & sustainable care markets.

The BCF Plan was submitted to NHS England on the 27th September and has since received regional approval and is going through the national approval process. Due to the planning timescales, there is no requirement to provide a Q2 BCF performance up-date to NHS England, the first report will be Q3.

In October the Dorset Health & Well-Being Board approved the Dorset BCF Plan for 2019/20. There was a request that future BCF reporting contain a case study to highlight examples of how integrated working through the BCF has improved outcomes, this will be provided through a presentation to the board.

Equalities Impact Assessment:

Equalities Impact Assessment (EqIA): N/A

Budget:

The overall income from the BCF is summarised below with the winter pressures grant being included this year:

Funding Sources	Income
DFG	£3,659,664
Minimum CCG Contribution	£26,761,222
i-BCF	£10,375,745
Winter Pressures Grant	£1,708,771
Additional LA Contribution	£57,990,500
Additional CCG Contribution	£31,642,000
Total Pooled Budget	£132,137,902

Risk Assessment:

There were a number of risks attached to the BCF. These included the delay in publication of the national planning guidance and uncertainty about the 19/20 uplift and its affordability for the Clinical Commissioning Group, however these issues have been addressed.

All the commissioning partners involved in the BCF are under significant financial pressure in the face of growing demand and complexity of need.

The top two risks previously reported within Dorset County Council's Corporate Risk Register were:

- Capacity, capability and financial pressures on partner organisations impact negatively on the delivery of the Better Care Fund objectives
- Better Care Fund performance targets are not met placing funding at risk

Other Implications:

Performance associated with the Better Care Fund is a joint priority for health and social care and feed into the delivery of the aims of the Sustainability and Transformation Plan.

Recommendations:

It is recommended that:

Health & Well-being Board note the progress against the BCF metrics.

Reason for Recommendation:

The BCF Plan has been developed jointly by Dorset Council and Dorset CCG and builds upon the work achieved within the previous Plan.

Appendices:

Background Papers:

2019/20 BCF Policy Framework

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/821676/Better_Care_Fund_2019-20_Policy_Framework.pdf

2019/20 BCF Planning Guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/821675/BCF_Planning_Requirements_2019-20_DHSC_1.pdf

Officer Contact

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Better Care Fund – Report for Q2 2019/20

1. Introduction

- 1.1 The Better Care Fund (BCF) is the current national policy approach for integrating health and adult social care. The Better Care Fund (BCF) spans both the NHS and local government and seeks to join-up health and care services, so that people can manage their own health and wellbeing and live independently in their communities for as long as possible. The policy requires local plans to be produced and overseen by each Health and Wellbeing Board across England and has been running since 2014/15.
- 1.2 This report sets out the performance of the previous Dorset Health and Well-Being Board area against the 2019/20 Better Care Fund Plan for Q2.
- 1.3 There has not been a BCF return to NHS England this quarter because the 2019/20 BCF plan is currently going through the national assurance process after received a recommendation for approval by the regional BCF teams. Subject to national sign off, letters of recommendation will be issues by mid-December.

2. BCF Plan Delivery

- 2.1 The 2019/20 BCF plan has largely been a rollover of 'as is' from 18/19. The schemes have built upon the success from the plan and include:
 - 1. Support for carers;
 - 2. Maintaining independence;
 - 3. High impact changes/supported hospital discharge/ Home First;
 - 4. Integrated health & social care locality team;
 - 5. Strong & sustainable care markets.

3. National Performance metrics

- 3.1 The 2019/20 BCF Policy Framework confirmed that the four national metrics from the 2017/19 plan were to be carried over, with the only change that the DTOC target was to change to a whole system target rather than by organisation so a wider system approach.
- 3.2 The National Delayed Transfers of Care (DTToC) targets for 2019/20 were released in June 2019 and set within the planning template. Where an area has not their expectation, there are to work to achieve it as soon as possible.
- 3.3 The target for non-elective admissions was given to the CCG as part of the NHS Operating Plan guidance.

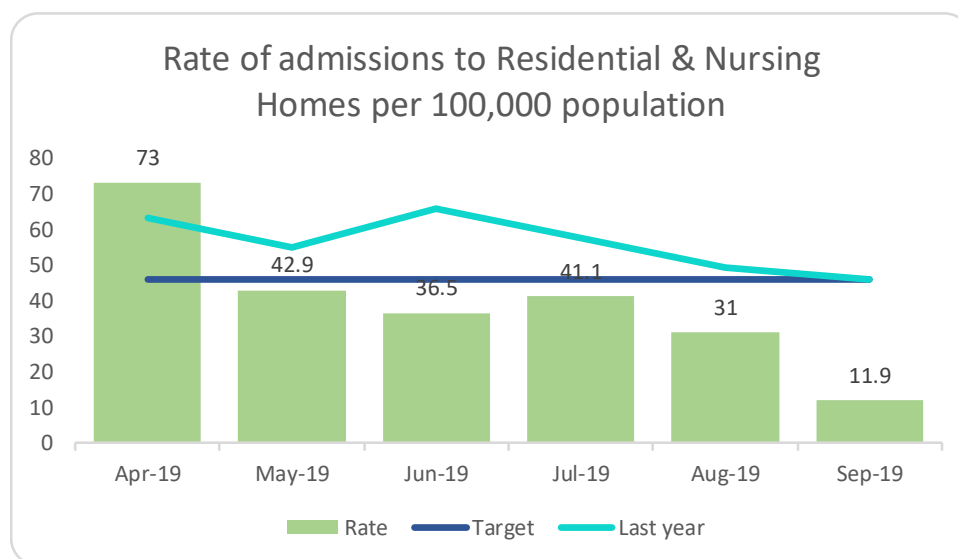
3.4 The targets for both permanent admissions to nursing homes and reablement were set locally as part of the planning process and based upon the last couple of years' performances as well as national and local benchmarking.

3.5 Metric One – Non-Elective Admissions

- **Metric:** Total non-elective spells (specific acute) per 100,000 population
- **Outcome sought:** A reduction in the number of unplanned acute admissions to hospital
(Awaiting update from CCG)

3.6 Metric 2 – Admissions to Residential & Nursing Homes

- **Metric:** Long term support of older people (aged 65 or over) met by admission to residential and nursing homes per 100,000 population.
- **Outcome sought:** Reducing inappropriate admissions of older people into residential care
- **Target:** 550 admissions per 100,000 was set locally. The target for 2018/19 was 535 but year-end performance was 585.

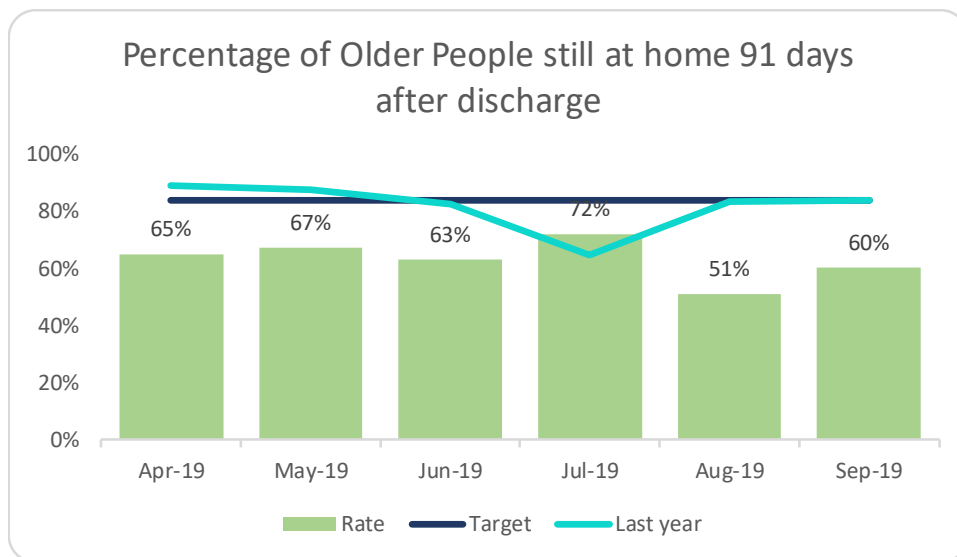


3.7 Although the half year performance x2 equals 472.6, our year end performance will be considerably higher than that once all data lag has caught up. However, it would be reasonable to say that based on current performance, we could expect to come in close to target for the year.

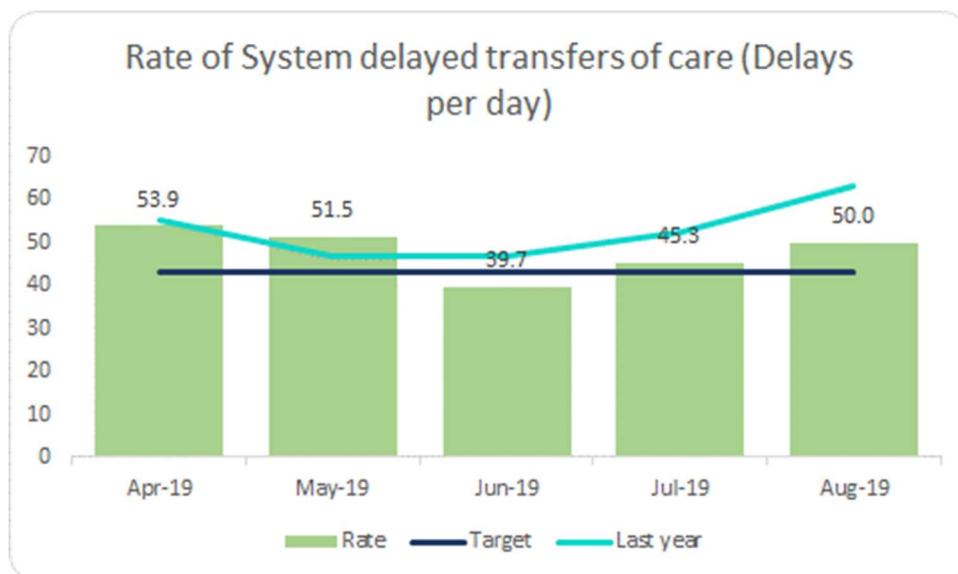
3.8 Metric 3 – Proportion of Older People Still at Home 91 days after discharge from Hospital to Reablement/Rehabilitation Service

- **Metric:** Proportion of older people who were still at home 91 days after discharge from hospital into reablement or rehabilitation services.
- **Outcome sought:** Increase in effectiveness of these services whilst ensuring that those offered the service does not decrease.

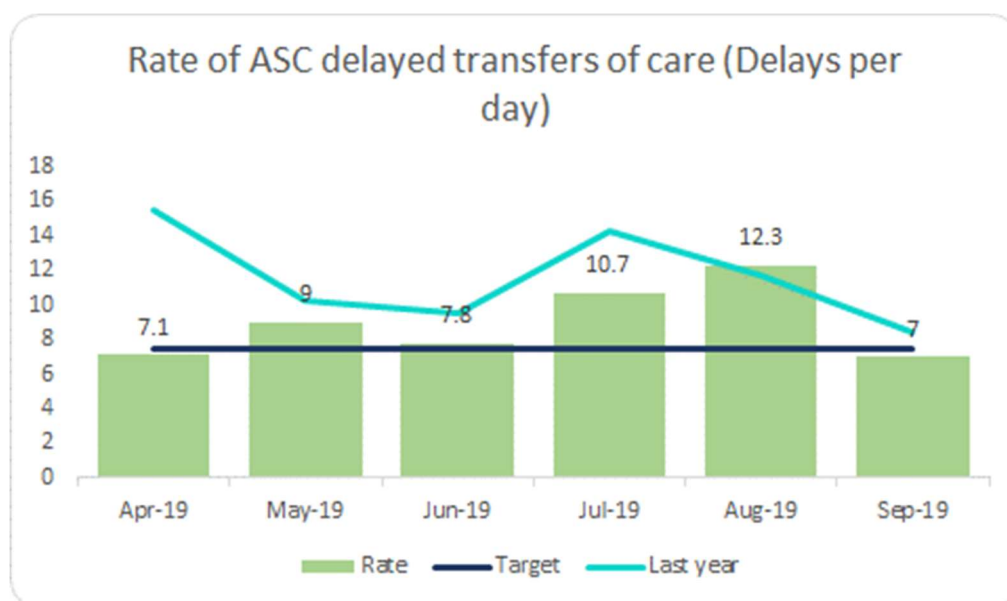
- **Target:** 84% was set locally which is the same as the previous year's performance against a 80% target.



- 3.9 The HWB are currently reporting 63% which is considerably worse than target of 84%. We know performance in this measure will increase for previous months as each later month is calculated due to a lag of data entry on the system. In addition, if we proportionally calculated the number of discharges yet to have a review, our performance will be closer to 80%.
- 3.10 Once a year, for the official indicator ASCOF 2B, we add supported discharges from Health. These figures historically tend to increase our final result. Therefore, 84% as a year end figure looks on plan but a more accurate projection won't be able available until Q3.
- 3.11 Operationally there is a review of the reablement services to support winter pressures planning that is seeking to improve the effectiveness of the service and how it integrates with other discharge and admission avoidance pathways.
- 3.12 Metric 4 – Delayed Transfers of Care
- **Metric:** Delayed Transfers of Care from hospital per 100,000 population
 - **Outcome sought:** Effective joint working of hospital services (acute, mental health and non-acute) and community-based care in facilitating timely and appropriate transfers from all hospitals for all adults.
 - **Target:** the target for DTOC is 43.1 per 100,00 population for the Dorset system, the first time a system target has been used and set nationally.



- 3.13 The system target of 43.1 has been met in one month in the first six months of the year, which whilst an improvement on the previous year remains a significant challenge for the system to achieve this metric.



- 3.14 Within adults' social care, Q2 ended with a total of 104 delays in the month, which is the lowest ever recorded. This equates to 3.35 delays per day, against the internal Better Care Fund target of 7.5 delays per day.

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Health and Wellbeing Report

LGSCO Actions following report 18-016-599

Date of Meeting: 27 November 2019

Portfolio Holder: Cllr A Parry, Children, Education and Early Help

Director: Sarah Parker, Executive Director of People - Children

Executive Summary:

The Local Government and Social Care Ombudsman found that the former Dorset County Council left a boy with Autism without proper education for 2 years after it failed to provide him with appropriate alternatives when it became clear that a mainstream school was not suitable for him.

They found a further 8 cases where we had failed in the education provision and support of an Educational Health and Care Plan.

This report follows the report by the Monitoring Officer to Cabinet where the decision was taken to refer the monitoring of actions taken to the Health and Wellbeing board. Progress against the actions recommended from the LGSCO report dated 15th August 2019 are considered.

As part of the reporting requirements the Council was required by the Ombudsman to place two public notice announcements in local newspapers to publicise the Ombudsman's report and to make copies of the report available free of charge at our offices. The Council has gone beyond this and has also:

- put a copy of the report on its website
- included an article about it in its SEND e-newsletter and
- issued a press release as soon as the report was published.
- Shared on its social media platforms

The Council's own press release included a statement from the Cabinet member for Children, Education and Early Help accepting the Ombudsman's findings, giving a full public apology and re-stating the Council's commitment to improving SEND services. This report highlights actions taken in the first month since publication and discusses future actions.

This report is written in the light of the legislative requirement for there to be joint working of services for young people overseen by the Health and Wellbeing Board. In the SEND code of Practice, it states:

Local authorities, NHS England and their partner CCGs must make arrangements for agreeing the education, health and social care provision reasonably required by local children and young people with SEN or disabilities.

Equalities Impact Assessment:

This is a report in response to the findings of the Local Government and Social care Ombudsman. No equality impact assessment has been prepared.

Budget:

There are immediate budget implications arising from the requirement to make payments totalling £5,600 to the child and his parents. The more significant implications relate to the need to address the wider actions identified by the Ombudsman and to the cost of the ongoing statutory duties upon the council to assess and make provision to meet the needs of children with special educational needs. Those statutory duties are unchanged but the Ombudsman's specific recommendation that the Council:

"Revises its Local Offer to include details of the alternative provision it will arrange for those children that are not in full-time education."

This means that there will be a need for a further report to the Cabinet setting out that proposed offer and the cost implications. The proposed offer will need to be considered in the context of the current challenging financial position of the Council and its partners, and the impact that it will have on the medium-term financial strategy

Risk Assessment:

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: HIGH

Residual Risk MEDIUM

The Ombudsman has referred not only to maladministration and injustice in this case but also to eight other instances since March 2018 where the former Dorset County Council was found to be at fault over its provision for children with special educational needs. This is why he has referred to systemic issues that need to be addressed and why his recommendations extend beyond addressing the circumstances of this individual child.

Until the Ombudsman's recommendations have been acted upon in full the risk level should continue to be treated as high. The residual risk will only be achieved when the recommendations have been acted upon in full and there is confidence that the Council is meeting its legal obligations to children with special educational needs on an ongoing basis.

Climate implications:

The circumstances of this case illustrate why there are climate change implications to be considered in everything Dorset Council does. It is not possible to meet the complex needs of some children at schools close to home. Appropriate provision can involve specialist placements necessitating a significant need to travel and therefore, have an impact.

Other Implications:

The failings identified by the Ombudsman in this and the previous eight instances all took place under the former County Council. There will though be ongoing risk of service failings and damage to the reputation of Dorset Council until the systemic issues identified by the Ombudsman have been addressed.

Recommendation:

That the health and Wellbeing Board

1. Note the action taken since receipt of the Local Government and Social Care Ombudsman's report (18 016 599) and monitor the response to the Ombudsman's ten recommendations.
2. Monitor the actions identified by the Director of People - Children in response to the Ombudsman's recommendations.
3. Receive a review of the agreed actions arising from the eight previous investigations of Dorset County Council undertaken by the Ombudsman.

Reason for Recommendation:

In order to ensure that there is a robust plan in place to put right the issues identified by the Ombudsman, including wider systemic failings.

Appendices: None

Background Papers:

1. Local Government and Social Care Ombudsman decision summary
<https://www.lgo.org.uk/decisions/education/special-educational-needs/18-016-599>
2. Dorset Council news release:
<https://news.dorsetforyou.gov.uk/2019/09/04/ombudsman-publishes-report-afterlooking-at-send->

Reason for Recommendation:

In order to ensure that there is a robust plan in place to put right the issues identified by the Ombudsman, including wider systemic failings.

Appendices:

none

Background Papers:

LGSCO report
<https://www.lgo.org.uk/decisions/education/special-educational-needs/18-016-599>

Officer Contact:

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1. Basis of Report

1.1. A summary of the Ombudsman's decision is set out in the first background paper

1.2. In brief the Ombudsman describes how the former Dorset County Council left a boy with autism without proper education for two years after it failed to provide him with appropriate alternatives when it became clear that a mainstream school was not suitable for him.

1.3 The Ombudsman describes a series of failings by the former County Council including:

- **Failing at several key points to initiate an Education Health and Care needs assessment** with the result that a March 2015 plan from a different local authority remains in place and has not been updated in over four years (despite evidence of significant changes in need and requests from the child's school).
- **Effectively endorsing the child's unofficial exclusions from the School and not informing the parents whether it would amend his plan**, thus depriving them of an opportunity to appeal any decision to the SEND Tribunal.
- **Focusing on the wrong thing** i.e. focusing on securing a placement and alternative provision for the child without carrying out an assessment of what his needs actually were. In response to consultations placement providers stated that they were unable to offer the child a place as they could not meet his needs. However, these consultations had been carried out without the Council really knowing what the child's needs were.
- **Failing to comply with statutory guidance** - by checking that alternative provision made for the child was safe and had clear objectives focusing on "personal and academic attainment".
- **Failing to check that the full-time alternative provision it arranged was registered.** In this instance the alternative provision arranged by the Council was not OFSTED registered and it lacked several policies, procedures and risk assessments which a school or educational establishment should have in place.
- **Not proactively monitoring the child's progress** - no one from the Council's SEN Team attended the annual review meeting held at the school in January 2018. The school oversaw the meeting as the child was still on

roll there, but at this point his education was being directed by the Council and someone from the SEN Team should have attended and taken the lead given the Team's key role in planning and coordinating the child's education.

- **Failing to comply with its statutory duty to arrange suitable alternative educational provision** – in this respect the Ombudsman recognised that a lack of suitable alternative provision in the area had impacted on the Council's ability to secure this provision but the Council had sufficient time to resolve these issues but failed to do so.

2. Recommendations made by the Ombudsman

2.1 The failings identified by the Ombudsman make for uncomfortable reading.

2.2 His description of the life changing injustice suffered by the child is:

"The Council's faults have had a significant impact on C's education and wellbeing. Its failure to assess his needs at an early stage or follow the annual review process means his EHC plan has not been updated since he was at primary school. After this plan was issued in March 2015 he was diagnosed with ASD and ADHD, made a lifechanging move across the country, and faced an unsettled home life. If the Council, took these factors into account and followed the correct processes it may have prevented the subsequent deterioration in his behaviour. However, it did not do this and C was eventually "unofficially excluded" from school prior to the start of Year 9. Clearly, this has impacted on his ability to undertake his GCSE exams and affected his future prospects."

2.3 In order to remedy the injustice to the child and his parents the Ombudsman has made the following five recommendations, below and actions taken to date or proposed are noted below each recommendation):

2.3.1 Allocates £4,000 of funding to be used to benefit C's education. It should consult him and his parents before deciding how this money should be spent. If an agreement cannot be reached, the money should be put in a trust fund which C can access when he is 18 years old. Importantly, this funding must be over and above that used to provide any ongoing, day-to-day support that C is currently receiving.

Status of action: ongoing:

Action 1 and Action 4 cover the same theme and the Service Manager for SEND is leading on these actions. £4,000 of funding to be used to benefit C's education and a meeting has taken place to discuss C's education with everyone involved in his case and plan what should be

done next. The recommendation that this be done within one month of the start of the new school term has been met. The SEND (Special Educational Needs and Disabilities) Service Manager chaired the meeting and one of the Education Psychologists attended. The agenda covered the following topics recommended by the Ombudsman.

The meeting discussed whether C requires an EHC (Education and Health Care) needs assessment. It was decided he does and this has been initiated to be carried out in accordance with the SEN Code of Practice. The EHC plan will be updated

without delay and this is ongoing. As part of the process C's short and long-term academic objectives are under consideration and whether his current provision will enable him to meet those objectives. This is part of the EHC process.

As part of the review of the EHC plan consideration is being given to whether any specialist school or college could offer a more suitable placement and if so whether the Council should use its powers under Sections 96 and 97 of the School Standards and Framework Act 1998 to direct a school or college to admit C.

If an agreement cannot be reached on how best to use the £4,000 the money will be put in a trust fund which C can access when he is 18 years old. This discussion is ongoing in the light of the EHC assessment.

2.3.2 Pays C £1,000 for the distress its actions caused. There should be no restrictions on how C should spend this money.

Status of actions: complete.

2.3.3 Pays C's parents £300 each to remedy the injustice they were caused.

Status of action: complete.

2.3.4 Holds a meeting to discuss C's education with everyone involved in his case and plan what it should do next, within one month of the start of the new school term. It should invite C, his parents, his school, a representative from the farm, and any other relevant party who can give an insight into his needs. It should also ensure the SEN Team chairs this meeting and that one of its EPs attends. Its agenda should encompass the following topics: i. Whether C requires an EHC needs assessment. If it is decided he does, this should be initiated without delay and carried out in accordance with the SEN Code of Practice. Likewise, if the Council decides an assessment is not required but C's parents disagree, it should inform them of their right to appeal its decision to the SEND Tribunal. ii. When it will amend and update C's EHC plan, be it after an EHC needs assessment or without one. In either case, it should ensure it does this without delay. iii. Identify what C's short and long-term academic objectives are and discuss whether his current provision will enable him to meet those objectives. iv. Consider whether any specialist school or college could offer a more suitable placement. If so but is felt a place would not be offered, the Council should consider whether to use its powers under Sections 96 and 97 of the School Standards and Framework Act 1998 to direct a school or college to admit C. v. Discuss how the £4,000 payment should be used and whether additional provision could be obtained in the short-term to help C achieve his academic objectives.

Status of action: ongoing

2.3.5 Writes to C and his parents to apologise for the stress and inconvenience it caused, acknowledging the impact of its faults.

Status of action: complete.

In addition to providing a written apology there is

ongoing contact with the parents regards the child's education and the necessity to update the EHC needs assessment (see response under action 1, above).

2.4 In order to address the wider systemic failings the Ombudsman has made a further five recommendations. The Executive Director for People – Children intends that the Corporate Director for Education and Learning should lead on these actions which direct the future work of the council in improving the work done with children and the outcomes for children with SEND.

2.5 There is a significant change programme running in Children's Services to address both the structure of the area and to review and develop better working practise so that these situations do not arise in future work. The leadership team in Children's Services, being led by the Executive Director for People – Children, are consulting with staff on these developments.

2.6 As part of this change programme the Corporate Director for Education and Learning will ensure that the following five recommendations are completed:

2.6.1 Creates and issues staff guidance about EHC needs assessments. This guidance should refer to the SEN Code of Practice and state the threshold at which the SEN Team should seek to initiate an assessment.

Status of action: ongoing

2.6.2 Develops procedures to help staff when they need to identify and secure alternative provision. These procedures should refer to the relevant statutory guidance about this matter and the Council's Approved Provider Checklist. They should stress the importance of using this Checklist and considering how any provision identified will help the child achieve their academic objectives or outcomes in their EHC plan. Similarly, the procedures should highlight the importance of monitoring the child's progress and give direction about what staff should do when they are struggling to place a child or find them suitable provision.

Status of action: ongoing

2.6.3 Revises its Local Offer to include details of the alternative provision it will arrange for those children that are not in full-time education. It should ensure it provides a range of options so it can meet the various needs and circumstances of those children in its area.

Status of action: ongoing

2.6.4 Delivers a briefing to all staff in the SEN Team once the guidance and procedures mentioned above are complete. This briefing should familiarise staff with the new guidance and procedures, as well as discuss the learning points from this report.

Status of action: ongoing.

2.6.5 Provides complaint handling training to those in the SEN Team that deal with complaints. This training should focus on the need to address the key points

raised by a complainant and investigate anything that might have gone wrong. Likewise, it should emphasise the importance of assessing any injustice the complainant was caused and how this might be remedied.

Status of action: ongoing.

3. Further actions delegated to Health and Wellbeing board

3.1 The Cabinet have delegated the monitoring of the actions from this and the actions from the previous eight LGSCO judgements to the board.

3.2 The previous eight reports highlighted the following themes and the subsequent actions are highlighted.

- Delay in issuing Education Health and Care Plans (EHCP) within the 20-week statutory time frame.

Action: Following the Ofsted inspection in January 2017 and the Written Statement of Action targets have been put in place with the area teams being acknowledged when achieving statutory timeliness. These performance targets sit within the SEND Performance Framework and are reviewed monthly at the SEND Performance Board. This Board is chaired by the Member who has the portfolio for Children, Education and Early Help

- The quality of education of children and young people when not able to attend school.

Action: The Alternative Provision Framework has facilitated the identification of suitable provision for children and young people locally and staff are aware of what educational experiences are available locally.

- The attendance of the SEN team at Annual Reviews of EHCPs

Action: The SEN team have prioritised the attendance at the Annual Reviews of transition years (phase transfers) and those in year 9, 11, 13 and beyond. This is where significant revision to plans is required.

- Communication with families

Action: Revised procedures are in place for the SEN team in relation to their communication with families.

- Panel procedures for Special Educational Needs and Disability and In Year Fair Access procedures for school admissions (IYFA)

Actions: Panel procedures were reviewed and a clear record of context and decisions made is recorded and acted upon.

4. Further recommendations

The review of the agreed actions arising from the investigations undertaken by the Ombudsman should be reported to the Health and Wellbeing Board. The reporting of other ongoing work to address the recommendations of the Ombudsman in report 18 016 599 should be built into the work programme of the Board and monitored until signed off as completed.

Mark Blackman
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