

PLEASE NOTE VENUE

**ADULT AND PUBLIC HEALTH
PORTFOLIO
DECISION SCHEDULE**



Monday 11th December 2006

at 9.00 am

**in Training Room 4, Municipal Building
Church Square, Hartlepool**

Councillor R Waller, Cabinet Member responsible for Adult and Public Health will consider the following items.

1. KEY DECISIONS

No items

2. OTHER ITEMS REQUIRING DECISION

2.1 Implementation of the Mental Health Capacity Act (MCA) 2005 across the Hartlepool Locality – *Director of Adult and Community Services*

2.2 Social Inclusion and Mental Health Action Plan – *Director of Adult and Community Services*

3. ITEMS FOR INFORMATION

No items

4. REPORTS FROM OVERVIEW OF SCRUTINY FORUMS

No items

ADULT AND PUBLIC HEALTH PORTFOLIO

Report To Portfolio Holder

11 December 2006



Report of: Director of Adult and Community Services

Subject: IMPLEMENTATION OF THE MENTAL HEALTH
CAPACITY ACT (MCA) 2005 ACROSS THE
HARTLEPOOL LOCALITY

SUMMARY

1.0 PURPOSE OF REPORT

This report will update the Portfolio Holder on the recommended way forward to implement the MCA 2005 across the Hartlepool locality by April 2007.

2.0 SUMMARY OF CONTENTS

This report contains an overview of the MCA 2005 legislation together with an action plan to both implement the Independent Mental Capacity Advocate Service and provide training to relevant staff across the Hartlepool locality in respect of health, social care, independent, private and voluntary providers.

3.0 RELEVANCE TO PORTFOLIO MEMBER

That the Portfolio Holder considers and approves the direction of travel laid out in this report as an acceptable way to implement the MCA 2005 across the Hartlepool locality.

4.0 TYPE OF DECISION

Non-key

5.0 DECISION MAKING ROUTE

This report has been approved by the Joint Directorate (LA and PCT) and is now referred to the Portfolio Holder for consideration.

6.0 DECISION REQUIRED

Approval to implement the action plan within this report attached as **APPENDIX 1**.

Report of: Director of Adult and Community Services

Subject: IMPLEMENTATION OF THE MENTAL HEALTH
CAPACITY ACT (MCA) 2005 ACROSS THE
HARTLEPOOL LOCALITY

I. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to present an implementation strategy for the Mental Capacity Act 2005 (MCA) across the Hartlepool locality.

2. BACKGROUND

- 2.1 The MCA provides a statutory framework to empower and protect adult vulnerable people who may not be able to make their own decisions. It makes it clear who can take decisions, in which situations and how they should go about this. It enables people to plan ahead for a time when they may lose capacity. Guidance on the MCA will be provided in a statutory Code of Practice.
- 2.2 Section 42 of the MCA sets out categories of people who are placed under a legal duty 'to have regard to the Code', including people working in a professional capacity (i.e. a social worker who is arranging for a person lacking capacity to move into a supported living arrangement) and people who are receiving payment for work in acting in relation to the person lacking capacity (i.e. a care assistant working in a residential care home for people with learning disabilities). Failure to comply with the Code can be used in evidence before a court or tribunal in any civil or criminal proceedings, if relevant.
- 2.3 The MCA has potentially far reaching implications for Health and Social Care providers and particularly affects staff working with people with learning disabilities, mental health (working age adults), older people (mental health), people with head injuries and young people moving from children to adult services who may not be able to make their own decisions.
- 2.4 The MCA will affect over 2 million people in England and Wales who lack capacity to make some decisions for themselves and up to 6 million family carers, carers, health and social care staff.

- 2.5 The MCA enshrines in statute current best practice and common law principles concerning people who lack capacity and those who take decisions on their behalf. It replaces current statutory schemes for enduring powers of attorney and Court of Protection Receivers with reformed and updated schemes.
- 2.6 The MCA is underpinned by a set of 5 key principles:
- A presumption of capacity
 - The right for individuals to be supported to make their own decisions
 - The right to make what might be seen as unwise decisions
 - Best interests
 - Least restrictive intervention
- 2.7 The MCA includes a number of provisions to protect vulnerable people. One of the most important of these is the provision of an England-wide Independent Mental Capacity Advocate (IMCA) service.
- The IMCA service will provide advocacy for people without capacity and who have no families' or friends to support them. Advocates will also be able to challenge the views of decision-makers. Local Authorities are required to commission independent advocacy from independent organisations.
- 2.8 The Department of Health (DH) has overall responsibility for the training strategy for the social care and health workforce in England with regard to implementation. The DH is proposing to provide centrally commissioned training materials for implementation across key sectors in health and social care services. Local Authorities will be allocated a training budget for the planned and agreed use by all health and social care staff in each Authority's geographical area.

3. **PROPOSALS**

- 3.1 A Local Implementation Network is created across the Hartlepool locality. As the MCA potentially affects all adults, this network will be representative of services for:
- adults with learning disabilities
 - adults with mental health problems
 - adults with physical disabilities
 - older people
 - adult protection services
 - carers
 - independent/voluntary sector
 - NHS
 - PCT

- police
- legal (HBC)
- children's services (transitions)

This local implementation network will be supported by the regional CSIP MCA Lead.

3.2 The tasks of the Local Implementation Network will be:

- to ensure an IMCA Service is in place from April 2007
- to disseminate information about the MCA's implementation
- to assist in the awareness raising of health and social care staff of the implications of the MCA
- to support the education and training of health and social care staff
- to meet, with an agreed frequency, as a multi-agency local implementation network, with a chair that attends a regional network meeting on its behalf
- to sign off, along with the Director of Adult and Community Services, a local multi-agency agreed implementation plan that confirms how centrally provided training monies will be locally allocated.

3.3 IMCA services for very small populations such as Hartlepool are too small to commission from one local authority. A regional approach involving several local authorities is more cost effective and will provide a better service. Following discussions with commissioners and MCA leads, in neighbouring Local Authorities, it is proposed that the IMCA service is jointly commissioned across Teesside, pooling the allocations from each of 4 Local Authorities. Middlesbrough will procure and host any subsequent contract on behalf of 4 Local Authorities. The Local Authorities involved, and their respective allocations are:

- Middlesbrough - £21,325
- Redcar and Cleveland - £20,331
- Stockton-on-Tees - £23,670
- Hartlepool - £14,522

3.4 Training for staff on the MCA will be co-ordinated by Hartlepool Borough Council in negotiation with the other 3 Local Authorities to maximise the efficient use of resources.

3.5 An action plan is attached at **APPENDIX 1** of this report.

3.6 No options are being submitted for consideration other than the recommendations.

4. **RISK IMPLICATIONS**

- 4.1 The MCA provides a statutory framework to protect and empower vulnerable people who may be unable to make their own decisions. Guidance on the MCA will be provided in a statutory Code of Practice. Local Authority and NHS staff, who work with people who may lack capacity to make certain decisions have a legal duty to have regard to the MCA and the Code. Failure to comply with the Code can be used in evidence before a court or tribunal in any civil or criminal proceedings, if relevant.
- 4.2 Failure to implement the MCA across the Hartlepool locality in terms both of establishing the IMCA service and ensuring staff are appropriately trained and knowledgeable in the working of the MCA and Code of Practice, will place both staff and vulnerable people at risk.

5 **FINANCIAL CONSIDERATIONS**

- 5.1 The implementation of the MCA is being centrally funded. It is not anticipated that there will therefore be a cost to the Local Authority beyond releasing staff for training.

6. **EQUALITY AND DIVERSITY**

- 6.1 The MCA empowers and protects vulnerable people who may be unable to make their own decisions.....upholding their civil and human rights.

7. **S17 CRIME AND DISORDER ACT 1998 (CDA)**

- 7.1 S17 CDA places a duty on public sector organisations to consider the implications of crime and disorder when exercising their functions and to do all that they can do to prevent it in their communities.
- 7.2 Under the MCA it is an offence to ill-treat or neglect a person who lacks capacity and this offence is punishable by up to 5 years in prison.
- 7.3 Implementing the MCA will both protect vulnerable people who lack capacity and, through appropriate knowledge of the MCA, protect staff in their work with this vulnerable client group.

8. **RECOMMENDATIONS**

- 8.1 That the Portfolio Holder is asked to consider this strategy for the Hartlepool locality as the agreed direction for implementing both the MCA and the IMCA service on 01.04.07.

9. **REASON FOR RECOMMENDATIONS**

- 9.1 The MCA places a legal duty on health and social care providers to empower and protect vulnerable people who may lack the capacity to make their own decisions. Establishing the IMCA service and ensuring that all staff who work with this client group are knowledgeable as to the workings of the MCA is essential to empower and protect both staff and vulnerable people when working with issues of capacity.

10. **CONTACT OFFICER**

- 10.1 Geraldine Martin
Lead for Implementation of the MCA (Hartlepool Borough Council)
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ACTION PLAN: IMPLEMENTING THE MCA 2005 IN HARTLEPOOL

OBJECTIVE	ACTION	MEASURABLE OUTCOME	BY WHO	TIMESCALE
Benchmark existing policies	Research current policies on capacity issues	Traffic light findings	G. Martin	By 30.09.06
Disseminate awareness of MCA 2005	Circulate summary and websites to all teams HBC, Adult and Community Services and HIMHS	All teams aware of impending changes	G. Martin	By 30.09.06
Establish local implementation team	Set up regular meetings of multi-disciplinary/agency team to steer process	Multi-disciplinary/agency team in place and meeting regularly	G. Martin C. Bashford	By 31.10.06
Jointly commission the IMCA service across Teesside to enable economies of scale	Joint work across Teesside to establish IMCA: commissioning led by Middlesbrough with pooled funds	IMCA service in place by 01.04.07	Middlesbrough Stockton Redcar/Cleveland Hartlepool (C. Bashford local link)	First meeting 20.09.06
Ensure all relevant staff receive awareness or detailed training on MCA 2005	<ul style="list-style-type: none"> Complete training plan in consultation with Teesside partners Implement local training programme 	All staff working with people who may have capacity issues are trained in the MCA 2005 by 01.04.08	G. Pout Teesside Partners	Between October 2006 - July 2007
Develop policy and procedures to reflect the requirements of MCA 2005	MCA policy and related procedures to be put in place for organisational implementation	Policy and procedures in place to guide staff in working with capacity issues	D. Whitehead G. Martin CSIP	By 01.04.07

ADULT AND PUBLIC HEALTH PORTFOLIO

Report To Portfolio Holder

11 December 2006



Report of: DIRECTOR OF ADULT AND COMMUNITY SERVICES

Subject: SOCIAL INCLUSION AND MENTAL HEALTH ACTION PLAN

SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 To inform the Portfolio Holder of the contents of the Hartlepool Mental Health Social Inclusion Strategy and Plan

2.0 SUMMARY OF CONTENTS

- 2.1 The key to reducing the social exclusion that people with mental health problems face is something that all agencies and communities must work collectively to address.
- 2.2 This should be by tackling five key areas outlined in the strategy as below;
- All the partner agencies will be to work collaboratively to reduce stigma and discrimination associated with mental health
 - Partner agencies will work collaboratively to ensure that people with mental health needs have access to support to enable them to stay in work, or achieve a level of employment or vocation that is appropriate to individual's needs and aspirations

- Employment, in all its forms, will be seen as a one of the core outcomes of interventions for people with mental health needs, and partner agencies will work to support this approach. Partners will work together to ensure that individuals are supported into and during employment.
- The barriers people face in engaging as part of the community can only be addressed holistically and from a collaborative perspective
- The statutory and voluntary agencies providing support to the people of Hartlepool in relation to Housing, Financial advice including Benefits, and Transport will take into account the disadvantages that people with mental health problems face and work collaboratively with partner agencies to ensure these disadvantages are overcome

2.3 Specific outcomes to be achieved are:

- Increase the autonomy and control people have over the services they experience through the increase use of direct payments
- Day Services will be reviewed and changes implemented to ensure services meet modern day standards and the increasing aspirations and needs of service users and carers
- Implement Tees Valley Conditions Management Programme (CMP) (ref: Pathways to Work) to help patients claiming incapacity benefit to manage their symptoms, improve confidence and allow them to return to work
- Ensure all new contracts and agreements with mental health services monitor continual improvement in supporting people back to education, voluntary work or employment.
- Ensure that people with severe and enduring mental health problems have access to services that support their physical health needs
- Establish an outcome for volunteers to grow produce that is owned by them by 1 July 2007
- Addressing organisational arrangements, by improving links between health and education providers, to promote sustainable learning opportunities
- Ensure that people with severe and enduring mental health problems are supported back to education.

- Providing support for people with mental health problems to access vocational activities
- Increase the scope of the library service to promote mental wellbeing
- To increase the number of positive messages in the media regarding mental health and wellbeing
- To ensure people with mental health problems have access to sport and physical activity opportunities

3.0 RELEVANCE TO PORTFOLIO MEMBER

- 3.1 The Chief Executive of the PCT and the Director of Adult and Community Services are responsible for the development of a Social Inclusion Strategy and Social Inclusion Plan to reduce the well documented Social Exclusion the people with mental health needs face.

4.0 TYPE OF DECISION

- 4.1 Non-key decision - the Portfolio Holder is required to endorse the decision

5.0 DECISION MAKING ROUTE

- 5.1 Adult and Public Health Portfolio

6.0 DECISION(S) REQUIRED

- 6.1 To note and agree the Social Inclusion Plan as part of an effective strategy to reduce the Social Exclusion people with mental health problems in Hartlepool face

Report of: Director of Adult and Community Services

Subject: SOCIAL INCLUSION AND MENTAL HEALTH
ACTION PLAN

1. PURPOSE OF REPORT

- 1.1 To inform the Portfolio Holder of the contents of the Hartlepool Mental Health Social Inclusion Strategy and Plan

2. BACKGROUND

- 2.1 The Social Exclusion Unit of the Office of the Deputy Prime Minister reinforced the Social Inclusion Agenda from the perspective of Mental Health and published a report on Mental Health and Social Exclusion. This report highlighted the need for a specific focus on issues that relate to Mental Health and recommended a Strategy and Plan are put in place to ensure that this agenda is addressed.
- 2.2 In Hartlepool the Local Strategic Partnership signed up to a Strategy in November of 2006 and subsequently an Action Plan has been developed with key outcomes identified to reduce the social exclusion people with mental health problems can experience.

3. FINANCIAL IMPLICATIONS

- 3.1 Detailed financial implications are yet to be developed on all the areas however in the first instance the majority of actions are within current resources or have already had funding sources identified for example the allotment project and the conditions management programmes. An area to note is that existing issues relating to the area of Direct Payments will impact on this Plan although these are well documented issues relating to this potential area of difficulty.

4. RECOMMENDATIONS

- 4.1 To note and endorse the Social Inclusion Plan as part of an effective strategy to reduce the Social Exclusion people with mental health problems in Hartlepool face