

Continued ringfencing for Supporting People in England

Phil Woolas, Minister for Local Government and Community Cohesion, has announced that councils in England will continue to be required to spend SP grant on housing support rather than using it on other areas of expenditure. This is welcome news for providers who generally express concerns about the possibility of ringfencing of SP being lifted.

This announcement was made at the National Housing Federation conference in July as part of the launch of the Department for Communities and Local Government (formerly ODPM) 'next steps' response to the feedback received to its SP strategy consultation document. On page 4 of the 'next steps' document an undertaking is made to 'consider and evaluate the case for putting SP on a firmer statutory basis'. This opens the way for primary legislation to be introduced which would place a duty on councils in England to provide services for vulnerable groups.

Other significant elements of the DCLG's response are:

- an expectation that 'commissioners and local authorities' communicate with services users 'properly' about decisions
- an increasing focus on outcomes
- a requirement that local partnership bodies continue to oversee Supporting People
- a commitment to learn from the Value Improvement Projects and to develop a SP procurement pack to 'help authorities look at the scope for and benefits of service change programmes in their local areas'

- a call for minimising bureaucracy
- an expectation that local authorities will apply Compact and full cost recover principles in contracting with Voluntary and Community Sector providers
- a commitment that the DCLG will 'work with Voluntary and Community Sector providers to explore buddying and consortia approaches to supporting each other within the local contracting framework'

The document is called 'Next Steps in our Supporting People Strategy'.

Although none of this is binding on Scotland it is likely that Ministers in Scotland and the Scottish Executive will watch these developments in England with great interest.

Providers Benchmarking tool in England

The DCLG has announced continued funding for SITRA to help providers benchmark their costs this year. Providers in England have welcomed this news. Last year 10% of housing support providers went through the benchmarking exercise.

The tool will be free to providers in this year in England. SITRA is currently undertaking a survey of those providers who have used the tool in the past to discover the tangible benefits it's use can bring.

Further details about the tool can be found on the SITRA website at:

SITRA is holding training sessions in York and Manchester in October for anyone interested in seeing the tool in action. Details of these are on the SITRA website. www.sitra.org.uk

supportingpeople

enabling unit

Bulletin

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SCOTTISH EXECUTIVE

The Supporting People Enabling Unit is a partnership initiative between Community Care Providers Scotland (CCPS) and the Scottish Federation of Housing Associations (SFHA), funded by the Scottish Executive.

Waving goodbye to Council Tax in Shared Accommodation!

Ministers have now made an announcement on what steps they are taking to address the local tax liability of certain individuals who reside in shared dwellings and are in receipt of a housing support service.

The Minister has announced that all individuals who reside in accommodation meeting the criteria will have all council tax and water and sewerage charge arrears written off. For those who have already paid, a refund will be granted. This write-off will be backdated to 1 April 2001 at the latest (when the legislative change took effect). Legislation has also been laid in Parliament that will exempt homes that meet the criteria from both council tax and water and sewerage charges. This will mean any home meeting the criteria will no longer face any local tax charges.

Reminder of the criteria:

- a) The property contains 2 or more self-contained apartments
- b) The property is occupied by persons who do not constitute a single household and each has a tenancy agreement or license to occupy only part of the property, and is not liable to pay rent for the entire property
- c) A housing support services (as defined in Section 91(2) of the 2001 Housing (Scotland) Act) is provided which is registered with the Care Commission.
- d) Where either kitchen, toilet or bathroom is shared

For the write-off/refund to happen the individual residing in the accommodation should contact their local assessor to come and assess the dwelling. This is something that housing support workers may be able to help their service users with.

Local Assessors are responsible for checking all properties (domestic and non-domestic) and deciding which taxation system they should be placed in. It will be they who determine whether the property meets the criteria or not. If it does the Assessor will inform the local authority and the local authority can then progress the refund/write-off.

A news release announcing the action can be viewed here:

www.scotland.gov.uk/News/Releases/2006/07/17123915

For further information or clarification please contact:

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Unit Cost Research

The Scottish Executive has commissioned research to investigate and analyse the unit costs of services funded through the Supporting People grant. The objectives related to this overarching aim are as follows:

- Identify whether meaningful variations exist between SP Programme unit costs for comparable services in England and Scotland, testing out the possible explanations for the variance in unit costs.
- Identify the costs of key services across Scotland and reasons for apparent differences in unit costs between local authority areas and different providers including the possible explanations.
- Explore the extent to which variations reflect real differences in:
 - the costs of providing services
 - what is considered eligible for SP funding across authorities
 - commissioning strategies
- Identify and where possible quantify factors or drivers which may account for any differences in unit costs across Scottish local authorities, including input costs and commissioning or accounting differences, and across client groups.
- Consider whether there are opportunities for further improvements in value for money and make recommendations on this where appropriate.
- Consider the extent to which it is practical to promote convergence of costs for comparable services across Scotland, recognising that differences may arise from, for example, providing services in rural and urban areas, and identifying any types of service where it might be appropriate in terms of securing better value for money.
- Provide advice to the SP Local Authority Lead Officers network for further action their group could take to effectively benchmark costs across Scotland and promote Best Value in the delivery of services.

The Scottish Executive said 'This exercise is intended to examine the variations in costs in order that these can be understood and explained. It is hoped that the research findings will provide valuable information for

Care Commission Update

The Care Commission and access to sensitive information: Update

The Care Commission has safer recruitment as one of its themes for inspection in 2006/07. Throughout the year the Care Commission inspection team will review how services retain recruitment information to demonstrate that all fit person checks have been properly made.

Some providers expressed interest in how the Care Commission plans to inspect for evidence of safer recruitment and if the Care Commission expected this to include random access to personal files.

Kirsten Gooday of CCPS organised a meeting between providers, the Assistant UK Information Commissioner for Scotland, the Scottish Executive and the Care Commission on 29 June 2006 to discuss what information from personnel files should be made available to the Care Commission.

The meeting was positive and helped all parties

come to an agreement about what should be available. The Care Commission explained that when inspecting personnel files, it only wants to see the things which are listed in the Regulations (SSI114). They are quite happy for providers to remove other information before passing files to inspectors. In addition the Care Commission confirmed that random access to personnel files does not mean that Care Commission Officers can look through a provider's personnel department at will. Providers will be asked to, for example, number personnel files, then in advance of any inspection the Care Commission will choose some file numbers at random (such as File 23 or File 47) and these will be the ones used for inspection purposes.

The Care Commission has agreed to draft a policy circular to help clarify these issues.

Training on Care Commission Regulation and Inspection

The Supporting People Enabling Unit is organising a series of events this year which will bring providers together to share their experiences of regulation of housing support so far.

These events will provide an opportunity to reflect on the steps providers need to take to prepare for inspection this year. The day will include a 'behind the scenes' look at the Care Commission's activities and a discussion with a member of staff from one of the Care Commission's regional offices.

The dates are as follows:

- 8 September 2006 - Glasgow
- 13 September 2006 - Dumfries
- 15 September 2006 - Glasgow
- 21 September 2006 - Glasgow
- 27 October 2006 - Inverness
- 3 November 2006 - Edinburgh

The cost of the course is £30.00 and more information is available on the website at www.ccpsscotland.org/spunit/events/coming_events.php or by contacting mark.odonnell@ccpscotland.org

Question Time: SP Contract Issues

Focusing on the Supporting People Model Contract

Throughout May, June and July the Unit delivered training days on the SP Model Contract. Over 160 people signed up for these days which took place in Glasgow, Edinburgh, Dumfries and Perth. The trainer on these courses was Alison Thompson (a solicitor with T.C.Youngs Solicitors). In addition to this 3 local authority commissioners worked together to agree a presentation which they then delivered separately. They were Des McCart from West Lothian Council, Colette Weir, from Renfrewshire Council and Andrea MacDonald from Dumfries & Galloway Council.

The purpose of the days was to examine the model SP contract in some detail and help providers to become more familiar with it. There were some common themes to the questions that participants raised. Here are some of the questions and answers provided on the day. Please note that the following does not constitute legal advice.

PROCUREMENT

Q. Does the Letter of Agreement count as a contract when it comes to an end? The reason for this question related to procurement and whether councils will have to tender existing services as if they are new services.

A. Yes, a Letter of Agreement is a form of contract but the extent to which LAs may consider tendering SP services is not yet clear. This uncertainty may account for the fact that in some areas few service providers have been offered a contract yet even though they have gone through a service review.

Q. Will a council have to put a service out to tender at the end of the contract period?

A. Yes, unless there is an 'option to extend' the contract is included in its terms. There is no such 'option to extend' in the SP Model Contract. A request could be made for the development of such a clause for the model or an 'option to extend' clause could be negotiated with LAs and inserted into individual contracts.

Questions and answers recorded and collated by Yvette Burgess, Director, SP Enabling Unit at the recent training events on contracting.

The Supporting People Enabling Unit is happy to respond to any questions you may have about the Supporting People programme.

If you would like to discuss any issue please contact us on 0131 346 3145 or send an email to moira.weir@ccpscotland.org

Question Time: SP Contract Issues

USE OF THE MODEL CONTRACT

Q. Will LAs negotiate over the terms of the contract or will they expect all providers to sign up to the national model?

A. It is down to each provider to ensure they are happy with the terms of the contract and its clauses. Also, from what the Unit has been finding out, most LAs are amending some of the core clauses even though they are basing it on the model. There is no way of avoiding the need for negotiation at a local and individual level. The fact that everyone can refer to the national model, however, should help these negotiations significantly.

EMPLOYMENT ISSUES

Q. If a provider uses agency staff as per their contract with a LA and there is a problem with the agency staff which affects quality of service delivery who is responsible?

A. The provider is responsible because it is the provider who has entered into an agreement with the agency, it is not the local authority who has entered into any agreement with the agency. The provider should be able to take action against the agency because the provider should have obtained written confirmation from the agency before using them that staff are competent and have been fully checked / vetted for the sort of work you would need them to do.

Q. Is it likely that a LA would want a provider to remove a member of staff where the provider, as employer, would not want to?

A. The clause that allows for this is 10.12 and states that if '...in the reasonable opinion of the Authority a person is unsuitable to deliver the service, the Authority reserves the right without prejudice to its other legal remedies to require such a person to be withdrawn immediately from providing the Service'. Providers on the course expressed some concerns that they could face difficulties if they were not able to find another

role in their organization for the person. Ending a person's employment contract could result in allegations of unfair dismissal unless there were grounds for disciplinary action.

One of the LA commissioners delivering the session noted that it is providers in her experience who alert the council to problems with individuals rather than the other way round. However, another commissioner was able to share an example where her authority had asked a provider to remove a new service manager to another post when it was discovered s/he had only recently finished a long prison sentence.

Q. Could a local authority indemnify its providers against the risk that the LA will ask the provider to remove an individual from a post where to end someone's employment would amount to unfair dismissal?

A. It could be done but LAs are extremely unlikely to agree to this.

USE OF VOLUNTEERS

Q. Is the use of volunteers covered by the model contract?

A. Yes - clause 10.2 clarifies whether or not the use of volunteers is allowed under the contract. Then at Clause 10.10 it states that "any person" used "(whether paid or unpaid) in the provision of the Services" must give a statement covering previous convictions. It also states that Volunteers should go through Disclosure by 31 March 2006 and be rechecked every 3 years. Clause 10.11 also applies, whereby the provider must obtain consent to exhibit a volunteer's statement of convictions to the council. Clause 10.13 therefore applies allowing the Council the ultimate decision on whether such a person should be withdrawn if these requirements are not complied with. Clause 10.17 also requires Volunteers to attain any qualifications/skills required by the Scottish Social Services Council and the Provider must keep training records for Volunteers.

Question Time: SP Contract Issues

SHARING SENSITIVE INFORMATION WITH LAs

Q. Do LAs really need service users NI numbers?

A. Some LAs say they do and that it is the Scottish Executive which requires it. The Scottish Executive says they do not need them but it may be a requirement of Audit Scotland. In the meantime some providers feel uncomfortable complying with this request from LAs and in practice are not being penalized for refusing to pass this information on. It was noted that NI numbers are routinely recorded when a person approaches their health / social care statutory services eg. it is a question on the Single Shared Assessment CareNap form. In this case the NI is a unique identifier and helps care managers track a person's use of services throughout the area. In the case of housing support, however, some groups of service users eg women fleeing domestic violence may object to being asked for their NI number.

Q. What would happen if a LA asks for copies of the Housing Support Plans of individuals but the service user refuses to give consent for information about themselves to be shared in this way?

A. In practice it is unlikely that a LA would refuse to fund a service for an individual on this basis alone. It is important, however, that providers know how information is managed by a LA should it be passed on. Providers will find it harder to gain service user consent if they are not clear themselves how the information will be used. Some providers attending the sessions mentioned that they agree a 'shadow' housing support plan with services users which they gain consent to share with others which does not go into such personal detail as the full housing support plan.

Q. Are there any data protection issues that need to be considered before signing the contract?

A. Yes, providers should be absolutely clear what information LAs will require of them and ensure they are happy with this before they sign the contract. An example of this is the monthly return that is often required by LAs for contract monitoring or payment arrangements. At clause 25 Contract Monitoring it is stated that '...the Provider

shall provide the Authority with such information relating to the provision of Services as the Authority may reasonably request from time to time.' The contract negotiation process is an opportunity to agree what constitutes 'reasonable'. Under Data Protection service user consent must be obtained in order for sensitive information to be passed on and this consent must be 'freely given'.

FREEDOM OF INFORMATION REQUESTS PUT TO LAs

Q. Can providers do anything to limit what information LAs may pass onto others about their services?

A. Providers can ask the Council to agree to insert a clause in the contract identifying those parts of the contract which both parties agree should not be disclosed to third parties under the Freedom of Information legislation. This may be agreed on grounds of commercially sensitive information, confidential information, or trade secrets. For example, it could be agreed that the Service Specification and pricing Schedules should remain confidential. It is ultimately the Information Commissioner, however, who decides what information should be shared on cases taken to appeal. Providers can also ask LAs to agree to alert them if they receive a request for information about their service under Freedom of Information.

TERMINATING A CONTRACT

Q. Is there any way under the Model Contract for a provider to end the contract because they no longer wish to continue?

A. There is no 'no fault' or 'opt out' termination clause in the Model Contract although there was such a clause in the Model Interim Contract. Where a 'no fault' clause exists then either party can give notice to end the contract for no particular reason. The lack of such a clause is a 2 way issue- just as providers cannot simply give notice to end the contract, neither can LAs end the contract for no reason. Providers may wish to take their own legal advice on this issue.

Q. Would it be possible to enter into one contract where there are elements of housing support and care services provided?

A. Yes, some LAs are exploring the possibility of using Integrated Contracts.

Update on disclosure procedures

Supporting People Contract

Local authority solicitors have been working on the Supporting People contract and have made amendments to the clauses which deal with Disclosure checks. The revised clauses require providers to:

- gain appropriate Disclosure checks on staff and volunteers once every three years
- keep an audit trail of Disclosure checks in line with Disclosure Scotland guidelines
- carry out a risk assessment on staff

The revised clause can be viewed at www.ccpscotland.org/spunit/info/files/revised_clause.doc

Obtaining Disclosure

The Supporting People contract means that all staff will be required to undergo appropriate Disclosure checks once every three years (even if they did not have to in the past). Information on how this is done is available from Disclosure Scotland's website on www.disclosurescotland.co.uk

Duplication

Many providers currently do Disclosure checks on their staff on a three yearly basis. When the housing support workforce register opens, workers will also have to undergo Disclosure to comply with SSSC requirements. Some providers have been asking if it would be possible to share information so repeated Disclosure checks on the same people could be avoided.

The SSSC is clear that it needs to complete Disclosure checks for the purposes of registration and it cannot share information on a Disclosure certificate with a third party. However, if information on a Disclosure certificate raised concern about an individual's suitability for registration the individual's employer may well be informed.

If information on a Disclosure certificate caused concern to the SSSC it would initially go to the SSSC's Registrar for a decision about whether or not further investigation is needed. If an investigation is deemed necessary it may involve asking the employer for further information. If the information was causing serious concern then the SSSC has a procedure it follows which would include informing the individual applicant's employers.

1. If the individual was granted registration

with conditions the employer would be informed to ensure that the conditions were met.

2. If the individual's case was to reach the stage of a "Second Preliminary Proceedings Subcommittee" then the employer would be informed.
3. If the SSSC was to use its power to enforce temporary suspension of an individual the employer would be informed.

More information about the SSSC's procedures is available on its website at

www.sssc.uk.com/NR/rdonlyres/B889D026-9EC7-4C54-8C12-613BA011A006/0/ConductRules2006AFINAL.pdf

Future Developments

The Bichard Investigation has looked into vetting practice following the conviction of Ian Huntley for the murder of Jessica Chapman and Holly Wells. The Bichard Investigation produced a number of recommendations to ensure safer recruitment of staff and these are being adopted in England and Wales. The Safeguarding Vulnerable Groups Bill was introduced to the House of Lords on 28 February 2006, and is now going through the House of Commons. More information can be gained from the Home Office website at www.police.homeoffice.gov.uk/operational-policing/bichard/response.html

The Scottish Executive has also responded to the Bichard Investigation and plans to introduce a new Vetting and Barring Scheme for people seeking work, whether paid or unpaid, with children or vulnerable adults. The SSSC has asked for duplication of Disclosure checks to be addressed as part of this scheme. An initial consultation was concluded in May 2006 and the consultation paper proposed that any body registered with Disclosure Scotland with a legitimate interest should be allowed access to updated disclosure information about an individual within a ten year disclosure period.

However, this is a major piece of work which will require changes in primary and secondary law and the Scottish Executive expects there to be further consultation before final plans are made.

The consultation period ended on 2 May 2006 but the consultation paper can still be viewed on the Scottish Executive's website at www.scotland.gov.uk/Resource/Doc/92657/0022209.doc

Responses to the consultation paper can also be viewed on the Scottish Executive website.

For Your Noticeboard

Community Care Providers Scotland Annual Conference

23 & 24 November 2006

Dunblane Hydro

Community Care Providers Scotland is holding its fifth annual conference in November 2006. The event will feature a range of expert speakers and will give delegates an opportunity to share and debate with public sector

colleagues some ideas about the role of the voluntary sector in social care. The discussion will be set against the backdrop of public sector reform as set out in Changing Lives, Deliver for health, the National Workforce Strategy.

For more information see the website at www.ccpscotland.org/news/index.php#1

Or contact dorothy.robertson@ccpscotland.org

Quick Links to the Care Commission Website

The Unit has updated its website to include a section that links directly to Care Commission documents such as the Schedule of Inspections for 2006/07. To view the links go to www.ccpscotland.org/spunit/info/care_commission.php#4

Events

The Scottish Federation of Housing Associations' Supporting People Conference Stirling

26 September 2006

This conference is being run in conjunction with Community Care Providers Scotland and will address all aspects of Supporting People. It is aimed primarily at providers from the voluntary, housing association and private sectors and at Supporting People staff from local authorities, as well as at other key partners such as the Care Commission.

The delegate fee for the event is £125 and the contact person for bookings is Kathleen McNeely on 0141 567 6229 or

kmcneely@sfha.co.uk

Scottish Housing and Support Conference Dunblane

5&6 October 2006

This conference will give delegates the chance to discuss the latest issues to do with housing support including service user involvement, Community Health Partnerships and Supporting People.

The delegate fees range from £160 for one day to £340 for the full conference.

Bookings and enquiries should go to:
Edna Milne, Conference Administrator

Cluny Cottage
32 Seaside Place
Aberdour, KY3 0TX
01383 861 521

mailshasc-conf@yahoo.co.uk
www.joa.co.uk/shasc.html

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