

<b>Report To:</b>	<b>EXECUTIVE CABINET</b>
<b>Date:</b>	26 May 2020
<b>Executive Member / Reporting Officer:</b>	Councillor Eleanor Wills – Executive Member (Adult Social Care and Health) Stephanie Butterworth – Director of Adult Services
<b>Subject:</b>	<b>PROCESS FOR EXERCISING THE CARE ACT EASEMENTS GUIDANCE</b>
<b>Report Summary:</b>	This report sets out the circumstances and conditions under which the Council can exercise the easements to the Care Act 2014 as referenced in the Coronavirus Act 2020.  The report describes the decision making process the Director of Social Services and the Principal Social Worker must follow in the event they believe that the service must exercise its powers to protect the safety of the most vulnerable.
<b>Recommendations:</b>	<ul style="list-style-type: none"> <li>(i) The new time limited powers given in the Coronavirus Act 2020 and the Care Act easements: guidance for local authorities (1 April 2020) are acknowledged.</li> <li>(ii) The decision making process set out in the report and more particularly in <b>Appendix 2</b> is approved.</li> <li>(iii) Given the draconian nature of these easements that the Executive cabinet are notified if any easements are triggered and a review of the process and whether still required is considered in 12 weeks.</li> </ul>
<b>Policy Implications:</b>	As set out in the report.
<b>Financial Implications:</b> <b>(Authorised by the Section 151 Officer &amp; Chief Finance Officer)</b>	<p>The report sets out details of the easements that may be enacted during the coronavirus pandemic.</p> <p>At present the financial implications of the decision cannot be ascertained as the number of easements that will be enacted together with details of assessed care needs are not known. These details would support the related calculation of deferred charges towards the cost of a related care package once a financial assessment has been carried out.</p> <p>There will clearly be a cash flow implication for the Council where the cost of a related care package will be financed by the Council but any related contribution towards this package will not be received until a later date. There is an additional risk of the non collection of charges that have been deferred to a later date. It is essential that service users impacted are appropriately informed at the start of the assessment process that a financial assessment will be undertaken retrospectively and that this may result in an invoice for a financial contribution towards the cost of their care at some point in the future.</p> <p>The level of income deferred as a result of easements that are enacted will be monitored with the Director of Adult Services and reported within the existing revenue budget monitoring of the service budget that is reported to members on a monthly basis.</p>
<b>Legal Implications:</b> <b>(Authorised by the Borough</b>	The powers in the Coronavirus Act 2020 enable local authorities and care providers to prioritise more effectively where necessary than

## Solicitor)

would be possible under the Care Act 2014 prior to its amendment.

Before being amended, the Care Act 2014 imposed a duty on local authorities to meet eligible needs for care and support and eligible carers' needs (subject to various conditions).

The easements took legal effect on 31 March 2020, but should only be exercised by Local Authorities where this is essential in order to maintain the highest possible level of services. They should comply with the pre-amendment Care Act provisions and related Care and Support Statutory Guidance for as long and as far as possible.

Although the statutory rules have changed, the guidance from the Department of Health and Social Care (1 April 2020) says that pre-amendment requirements should be followed "for as long, and as far, as possible".

"Easements" should, it says, only be exercised if "this is essential in order to maintain the highest possible level of services". The workforce must be significantly depleted, or demand on social care increased, to an extent that it is no longer reasonably practicable to comply with pre-amendment duties.

The 'easements' are temporary. The Secretary of State will keep them under review and terminate them, on expert clinical and social care advice, as soon as possible.

Even when a decision to "operate under easements" has been properly made, local authorities must still consider conducting a fact-specific analysis, taking into account all relevant circumstances, will be required in each case. Local authorities will need to consider the person's individual circumstances and characteristics and whether these may change.

Therefore, even if a local authority is "operating under the easements", it will still need to assess care and support needs, albeit to a reduced extent. It will also need to conduct human rights assessments.

Local Authorities will remain under a duty to meet needs where failure to do so would breach an individual's human rights under the European Convention on Human Rights. These include, for example, the right to life under Article 2 of the ECHR, the right to freedom from inhuman and degrading treatment under Article 3 and the right to private and family life under Article 8.

When making assessments and decisions, local authorities should keep "proportionate" written records.

All assessments and reviews that are delayed or not completed will need to be followed up and completed in full once the easements are terminated.

Certain decision-making requirements, including sign-off by the Director of Adult Services, and requirements for consulting on, communicating, and recording such decisions, must also be met.

Any local authority that operates the "easement" relating to meeting needs for care and support without these requirements being met risks acting unlawfully.

Other important duties on Local Authorities remain in place:

Duties in the Care Act to promote wellbeing and duties relating to

safeguarding adults at risk remain in place. Further guidance on safeguarding during this period is at Annex D.

Duties in the Mental Capacity Act 2005 relating to Deprivation of Liberty Safeguards (DoLS) remain in place

Duties imposed under the Equality Act 2010 also remain, including duties to make reasonable adjustments, the Public Sector Equality Duty and duties towards people with protected characteristics. These should underpin any decisions made with regard to the care and support someone receives during this period.

There is a significant risk of challenge and therefore any relaxation of the rights and protections set out in the existing act and needs to be kept under review.

**Risk Management:**

See Section 4 of the report

**Background Papers:**

The background papers relating to this report can be inspected by contacting the Sandra Whitehead by:



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## 1. INTRODUCTION

- 1.1 The *Care Act easements: guidance for local authorities* (1 April 2020) sets out how local authorities can use the new Care Act easements, created under the Coronavirus Act 2020, to ensure the best possible care for people in local communities during this exceptional period.
- 1.2 The government recognises that local authorities and care providers are facing rapidly growing pressures as more people need support because unpaid carers are unwell or unable to reach them, and as care workers are having to self-isolate or unable to work for other reasons. The Government has put in place a range of measures to help the care system manage these pressures.
- 1.3 Easements must only be exercised if '*... this is essential in order to maintain the highest possible level of services*'. The workforce must be significantly depleted, or demand on social care increased, to an extent that it is no longer reasonably practicable to comply with pre-amendment duties.
- 1.4 The Council must continue to do everything it can to continue meeting its existing duties prior to the Coronavirus Act provisions coming into force. In the event that the Council is unable to do so, it is essential that we are able to streamline present assessment arrangements and prioritise care so that the most urgent and acute needs are met. The powers in the Act enable the Council to prioritise more effectively where necessary than would be possible under the Care Act 2014 prior to its amendment. The powers are time-limited and are there to be used as narrowly as possible.
- 1.5 The Council will remain under a duty to meet needs where failure to do so would breach an individual's human rights under the European Convention on Human Rights. These include, for example, the right to life under Article 2 of the ECHR, the right to freedom from inhuman and degrading treatment under Article 3 and the right to private and family life under Article 8.
- 1.6 When making assessments and decisions, the Council should keep "proportionate" written records. A decision making process and log of decisions is described within the report.

## 2. CHANGES TO POWERS

- a. The changes fall into four key categories, each applicable for the period the powers are in force:
  - I. The Council will not have to carry out detailed assessments of people's care and support needs in compliance with pre-amendment Care Act requirements. However, the Council will still be expected to respond as soon as possible (within a timeframe that would not jeopardise an individual's human rights) to requests for care and support, consider the needs and wishes of people needing care and their family and carers, and make an assessment of what care needs to be provided.
  - II. The Council will not have to carry out financial assessments in compliance with pre-amendment Care Act requirements. The Council will, however, have powers to charge people retrospectively for the care and support they receive during this period, subject to giving reasonable information in advance about this, and a later financial assessment. This will ensure fairness between people already receiving care and support before this period, and people entering the care and support system during this period.
  - III. The Council will not have to prepare or review care and support plans in line with the pre-amendment Care Act provisions. The Council will still be expected to carry out proportionate, person-centred care planning which provides sufficient information to all concerned, particularly those providing care and support, often at short notice. Where

plans are revised, the Council must also continue to involve users and carers in any such revision.

The duties on the Council to meet eligible care and support needs, or the support needs of a carer, are replaced with a power to meet needs. The Council will still be expected to take all reasonable steps to continue to meet needs as at present. In the event that the Council is unable to do this, the powers will enable the Council to prioritise the most pressing needs, for example enhanced support for people who are ill or self-isolating, and to temporarily delay or reduce other care provision.

- b. The decision-making process is required to follow a 4 stage plan (although it appears that it is possible for authorities to implement 2 or more stages at once). It is not necessary to implement all easements at the same time. For any decision to implement an easement, there should be a robust evidence base to justify how suspending the particular duty in question will mitigate the risk of urgent or acute needs not being met, putting life at risk.
- c. The guidance provides further details about how each of these powers shall be applied, should this be necessary are as follows.

- **Stage 1** – Continue operating under pre –amendment Care Act.
- **Stage 2** – A policy decision is made to change, delay or cancel “service types” by changing the way in which assessed needs can be met. For example, instead of carers assisting with toileting, the use of incontinence products could be considered to reduce the number of care visits. Meal provision or assistance with lunchtime calls could be replaced with sandwich/soup left in a flask (if a risk assessment allows). Furthermore, a sandwich or cold plate/salad made by carer/family in the morning and left for the person to access along with cold drink (hot drink via flask – again following a risk assessment).

Modifications which do not involve the Council departing from its Care Act duties (e.g. changes to policies regarding paying same household family members through Direct Payments, or reducing choice of commissioned providers) could also be used here.

- **Stage 3** – This would be a policy decision to decide that the Council will not be subject to a duty to assess, consider eligibility and review in accordance with Care Act duties. This also covers the requirement to carry out financial assessments, providing care and support plans and meeting eligible needs. Any decisions about these areas should be separated, and record the rationale and evidence base, e.g. that removing the financial assessment duty might free up resources to do Care Act assessments.

Another example given in the guidance is using the assessments and preparation and review of care plans easement. This could be used in a situation where social work staff dealing with a surge in hospital discharges, could no longer carry out Care Act assessments and support planning. The guidance gives examples of how streamlined assessments could be done using remote means or by means of a supported self-assessment. It also suggests streamlined support planning could be done in conjunction with the provider e.g. care home or care agency. The Council would advise people that full Care Act assessments and support plans would be done as soon as the situation allows and the easement is removed.

Where a financial assessment has not been undertaken in relation to care provided during the crisis; it is essential that the service user and interested parties is told that a charge may be made retrospectively for care provided. They should also be told that a financial assessment will be carried out as soon as it is possible to do so.

If the Council makes any changes to its charging policies arising from the crisis e.g deferring social care charges or increasing the Minimum Income Guarantee for the duration

of the crisis, the service users and interested parties should be clearly told about these changes and their temporary nature.

- **Stage 4** - This would entail a policy decision to make a whole system of prioritisation of care and support across adult social care. This is where it becomes clear that whole system prioritisation is needed to ensure that at the least the Convention Rights of those in need of care and support and their carers are respected.

The example given in the guidance is where a Council may have to consider reducing personal care e.g. washing and dressing for one person to ensure that another person is able to eat. Please note that before doing this the Council has to make the easement decision first. The guidance suggests preparing for this stage by Rag Rating individual care packages by reference to complexity and risk.

## **2. PROTECTIONS AND SAFEGUARDS**

- 3.1 Should it be necessary for the Council to exercise these easements it is essential that the principles of the Care Act are maintained.
- 3.2 The Council will be expected to observe the Ethical Framework for Adult Social Care, published by the Department of Health and Social Care, published on 19 March 2020. This Framework provides a structure for the Council to measure its decisions against and reinforces that the needs and wellbeing of individuals should be central to decision-making. In particular it should underpin challenging decisions about the prioritisation of resources where they are most needed. A copy of the Council's response to the Ethical Framework for Adults Social Care can be found at **Appendix 1**.
- 3.3 The easements took legal effect on 31 March 2020, but should only be exercised by Local Authorities where this is essential in order to maintain the highest possible level of services. They should comply with the pre-amendment Care Act provisions and related Care and Support Statutory Guidance for as long and as far as possible.
- 3.4 The easements are temporary. They will be kept them under review and will be terminated as soon as possible.
- 3.5 All assessments and reviews that are delayed or not completed will be followed up and completed in full once the easements are terminated.
- 3.6 The Council will remain under a duty to meet needs where failure to do so would breach an individual's human rights under the European Convention on Human Rights. These include, for example, the right to life under Article 2 of the ECHR, the right to freedom from inhuman and degrading treatment under Article 3 and the right to private and family life under Article 8.
- 3.7 The Care Quality Commission (CQC) will continue to provide oversight of providers under existing legislation, however, CQC has indicated an intention to adopt a pragmatic approach to inspection and proportionate action as necessary while maintaining its overriding purpose of keeping people safe.
- 3.8 Other important duties on the Council remain in place:
  - Duties in the Care Act to promote wellbeing and duties relating to safeguarding adults at risk remain in place.
  - Duties in the Mental Capacity Act 2005 relating to Deprivation of Liberty Safeguards (DoLS) remain in place. Guidance on the operation of DoLS during this period will be published separately

- The Council's duties relating to prevention and providing information and advice also remain in place. The provision of information and advice for public reassurance will be particularly important during this period.
- Duties imposed under the Equality Act 2010 also remain, including duties to make reasonable adjustments, the Public Sector Equality Duty and duties towards people with protected characteristics. These should underpin any decisions made with regard to the care and support someone receives during this period

#### 4 STEPS TO SAFELY EXERCISE THE CARE ACT EASEMENTS

- 4.1 The Council should only take a decision to begin exercising the Care Act easements when the workforce is significantly depleted, or demand on social care increased, to an extent that it is no longer reasonably practicable for it to comply with its Care Act duties (as they stand prior to amendment by the Coronavirus Act) and where to continue to try to do so is likely to result in urgent or acute needs not being met, potentially risking life. Any change resulting from such a decision should be proportionate to the circumstances faced by the Council.
- 4.2 The decision to operate the easements should be taken locally. It should be agreed by the Director of Adult Social Services (DASS) in conjunction with or on the recommendation of the Principal Social Worker (PSW). The DASS and the PSW must ensure that their Lead Member has been involved and briefed as part of this decision-making process.
- 4.3 Decisions will be taken at the Covid Board. The decision making-process is described in **Appendix 2**. The Health and Wellbeing Board should be kept informed. The decision should also be discussed with the CCG.
- 4.4 **Appendix 3** sets out the considerations that should be made when considering if and how the Council exercises the various stages of the easements and the decision-making log that must be completed to describe the decision making process followed.
- 4.5 The Council should have a record of the decision with evidence that was taken into account. Where possible the record should include the following:
- The nature of the changes to demand or the workforce
  - The steps that have been taken to mitigate against the need for this to happen
  - The expected impact of the measures taken
  - How the changes will help to avoid breaches of people's human rights at a population level
  - The individuals involved in the decision-making process
  - The points at which this decision will be reviewed again.
- 4.6 This decision should be communicated to all providers, service users and carers. The accessibility of communication to service users and carers should be considered.
- 4.7 The decision should also be reported to the Department of Health and Social Care (DHSC) when the Council decides to start prioritising services under these easements, explaining why the decision has been taken and briefly providing any relevant detail. This should be communicated to [CareActEasements@dhsc.gov.uk](mailto:CareActEasements@dhsc.gov.uk).
- 4.8 There are many variables that need to be taken into consideration before a decision to exercise easements is taken. It is not sufficient to look at issues such as staffing levels and service demand within individual service areas. For example, high levels of staff absence in one service such as day services would be supplemented by staff from another service area or by temporary staff rather than a decision to close the service. Similarly, pressures on the team that supports hospital discharges would be supported by Social Workers from other part of the system to maintain the service.

- 4.9 There are currently 616 staff employed across Adult Services. Less than 8% of staff across the whole service are currently either sick, isolating or shielding so unable to provide operational support. In many instances these staff are still working while based at home. For some services this has limited impact as work can be undertaken from home. There is an impact for services that provide direct care provision. At present the levels of absence are being managed and there is no impact on service delivery. It is anticipated that the expansion of testing will increase the number speed that staff are able to return to work.
- 4.10 There are a number of demands on services that may result in consideration being given to exercising easements set out below. This list is not exhaustive, and any single pressure would not necessarily result in easements. Rather it is likely that any consideration of easements is likely to be triggered by a combination of pressures especially in relation to future increasing demand and reduction of work force it is not possible to identify precise tipping points. This is particularly so as every effort will be made to mitigate the risks to the services as set out in 4.11. In any event exercising easements will only be considered as a last resort and be operational for the very minimum of time required
- Hospital admissions rise as a result of COVID-19 – this will increase the number of discharges and the demands from hospital discharge pathway;
  - Carers become unwell or have to self-isolate and are unable to provide care – resulting in more high priority referrals; and
  - Self-isolation results in safeguarding concerns - e.g. domestic abuse.
  - Failure of home care providers to accept and provide commissioned care packages due to staff shortages from sickness, isolating, shielding.
  - Care homes refusing to accept new admissions due to COVID-19 outbreaks.
  - High levels of staff absence resulting in backlogs of assessments, reassessments, financial assessments and service provision e.g. day care.
- 4.11 A number of activities are in place to mitigate against these risks and to monitor when easements may need to be considered:
- Twice daily Silver Command calls in Adult Services review the staffing levels to deploy staff appropriately to meet need. Key areas of focus at present to ensure security of service are hospital discharge and home care provision. Capacity across assessment and care management teams is reviewed daily to ensure sufficient resource to carry out timely assessments, reassessments and reviews.
  - Daily contact is maintained with all care service providers to ensure early warning of any issues in services that may result in pressures across the system that might require easements to be considered. At this present time there are no reports that would cause concerns regarding the ability to continue to meet eligible identified needs or to commence new care packages where eligible needs are identified.
  - Service Managers have daily oversight of levels of activity across their service areas – this includes capacity and attendance at services, levels of demand for assessments, reassessments, safeguarding investigations – this enables appropriate allocation of work and understanding of capacity to meet duties.
  - Social care staff have been redeployed to support from Neighbourhoods have been deployed into the Integrated Urgent Care Team (IUCT) to support decision making to determine the most appropriate route for patient discharge and to ensure timely discharges.
  - Work has been undertaken by the PSW with all operational teams, the Commissioning Team and care service providers to RAG rate services and individuals using services in preparation for any possibility that services need to be prioritised for the most vulnerable.
  - Project management and non-essential staffing resource has been reassigned to cover essential activity e.g. safeguarding, reassessments and welfare calls to support service users and carers who may be self-isolating.
  - Seven day working has been expanded to ensure there is sufficient system capacity to support timely hospital discharges and respond to emergencies.

- Implementation of technology to support staff working remotely and working from home to minimise the impact of social isolating and distancing.
- Daily AMHP Tracker to monitor available cover across Greater Manchester to ensure sufficient AMHP capacity and arrangements in place for mutual aid should a locality have insufficient AMHP cover.
- Fast track recruitment and induction programme to support both internal and commissioned services' capacity.
- Financial payments have been approved to support commissioned providers to ensure market sustainability should there be a reduction in capacity as a result of excessive deaths, refusal of services and increased costs as a result of additional PPE costs and staff sickness.
- Logistics and a supply chain have been put in place to support a reliable supply of PPE to the care sector.

## **5 FINANCIAL IMPLICATIONS**

- 5.1 There may be a temporary loss in income should the Council be in a position where it determines that it has insufficient capacity to carry out financial assessments. Clear information will be provided to an individual at the start of the assessment process that will explain that a financial assessment will be undertaken retrospectively and that this may result in an invoice for a financial contribution towards the cost of their care at some point in the future.

## **6 RECOMMENDATIONS**

- 6.1 As set out on the front of the report.

# APPENDIX 1

## RESPONDING TO COVID 19 THE ETHICAL FRAMEWORK FOR ADULT SOCIAL CARE

### INTRODUCTION

The Ethical Framework was published by the Department of Health and Social Care on 19 March 2020. It has been developed to support strategic and professional decision making throughout the crisis, recognising that organisations and individual professionals are going to be tasked with making decisions in very difficult circumstances. The following briefing outlines the key Values and Principles that underpin the framework and some guidance and tools to support practice.

The Framework applies in conjunction with other Guidance that is being issued on a regular basis and may also influence decision making.

For instance, the Care Act Easements: guidance for local authorities document expressly refers to the Ethical Framework in a number of places and makes it clear that those easements are to be implemented in accordance with the framework.

### SCOPE

This guidance is aimed at all social care professionals working in the adult social care system, including Social Workers, Occupational Therapists, Managers, the local authority and providers.

### Values and Principles

#### 1. Respect

*This principle is defined as recognising that every person and their human rights, personal choices, safety and dignity matters.*

#### 2. Reasonableness

*This principle is defined as ensuring that decisions are rational, fair, practical, and grounded in appropriate processes, available evidence and a clear justification.*

#### 3. Minimising Harm

*This principle is defined as striving to reduce the amount of physical, psychological, social and economic harm that the outbreak might cause to individuals and communities. In turn, this involves ensuring that individual organisations and society as a whole cope with and recover from it to their best ability.*

#### 4. Inclusiveness

*This principle is defined as ensuring that people are given a fair opportunity to understand situations, be included in decisions that affect them, and offer their views and challenge. In turn, decisions and actions should aim to minimise inequalities as much as possible.*

#### 5. Accountability

*This principle is defined as holding people, and ourselves, to account for how and which decisions are made. In turn, this requires being transparent about why decisions are made and who is responsible for making and communicating them.*

#### 6. Flexibility

*This principle is defined as being responsive, able, and willing to adapt when faced with changed or new circumstances. It is vital that this principle is applied to the health and care workforce and wider sector, to facilitate agile and collaborative working.*

#### 7. Proportionality

*This principle is defined as providing support that is proportional to needs and abilities of people, communities and staff, and the benefits and risks that are identified through decision-making processes.*

#### 8. Community

*This principle is defined as a commitment to get through the outbreak together by supporting one another and strengthening our communities to the best of our ability.*

*Where resources are constrained and there are surges in demand, it may not be feasible to consider all the principles. Each principle must be considered to the extent possible in the context of each circumstance with appropriate risk management and considerations of individual wellbeing, overall public good and available information and resources.*

**Based on the values and principles of the Framework the follow questions may act as prompts to support implementation and practice in individual cases – Note this list is not exhaustive.**

- Has the person or family's voice been included - this may involve remote ways of doing this where it is not possible to meet face to face?
- Have I/we respected the person's choices as much as we possibly can?
- Have I/we respected people's personal choices as much as possible, while considering and communicating implications for the present and future?
- Have I/we done everything feasibly possible at that time to support the person and or their family
- Have local policies and procedures been followed? If not have we explained why?
- Have I/we fulfilled our statutory duties such as those within the Mental Capacity Act which remains fully in force and those parts of the Care Act not subject to the easements e.g. safeguarding?
- Could I/we do anything differently?
- Have I/we recorded my decision making?
- How will my/our decision affect others?
- Is there any learning to share with others?

### **RECORDING DECISION MAKING**

The way in which we record our involvement and decision making is always important. However during a crisis it is essential that we keep records up to date and clearly record what information has informed our decision at that time. This applies to both professionals involved in decisions which affect individuals as well as the strategic decisions taken by organisations. For individual decision making a clear rationale for decisions should be recorded in your normal system such as IAS or care records. For organisation decisions these should be recorded and kept in a log book. You need to ensure transparency about how and which decisions need to be made and on what basis.

This information can include but is not limited to:

- The context of the current health crisis and the particular level of the crisis at this time
- What the person/family/carers has told you
- Other conversation with health and social care colleagues and managers
- Previous assessments and medical history
- Risk assessments
- What alternative options have been considered

Case note examples:

*"This assessment/other action is being taken at a time when public health measures have been put in place by HM Government to contain the spread of the COVID-19 virus. Professionals are being advised only to carry out essential visits to care homes and social distancing measures are in place. In carrying out this assessment/action I have balanced X's rights against the need to protect him/her from transmission of the virus. COVID-19 infection would pose a grave risk to X in view of his/her underlying health conditions. I have also taken into account the Government guidance aimed at preventing the community transmission of the Covid 19 infection.*

*In view of these concerns, I therefore decided to base my assessment/action on existing documents and on the views of X's carers and family/friends rather than visiting him/her in person."*

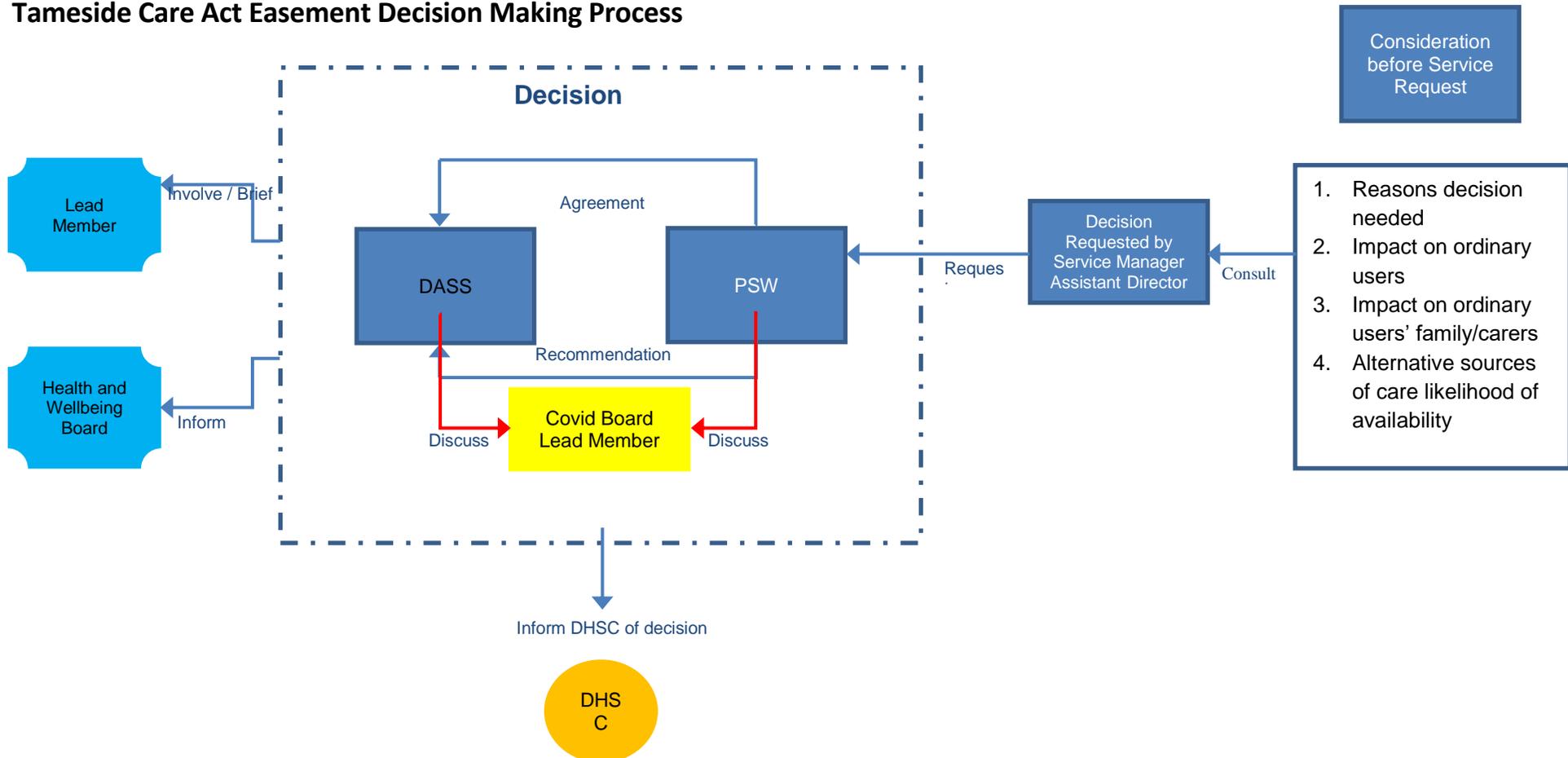
**Please note that due to the fluid nature of the time, government guidance and legislation in relation to Covid 19 is changing frequently please ensure you remain up to date on the most current government guidance.**

<https://www.gov.uk/government/publications/covid-19-ethical-framework-for-adult-social-care>  
<https://www.gov.uk/health-and-social-care/social-care>

**April 2020**

# APPENDIX 2

## Tameside Care Act Easement Decision Making Process



**STAGES OF CARE ACT EASEMENT**

	EVIDENCE	ACTIONS	REVIEW
<p><b>STAGE 1</b></p> <p><b>Decision:</b> Operating under pre-amendment Care Act i.e. Business as usual</p> <p><b>Process:</b> To continue at this stage for as long as is feasible.</p> <p>IUCT are managing critical need/care in the community, has capacity to facilitate discharges.</p> <p>Neighbourhoods are completing all statutory duties.</p> <p>Homecare has capacity and meeting need.</p> <p>Residential/Nursing care has capacity and is meeting need.</p> <p>Long term support provision has capacity and is meeting need.</p>	<p>Feedback captured via Care Act Easement form.</p> <p>Data used by each service area may include:</p> <p>IUCT weekly data/ DTOC/ Sitrep</p> <p>Staffing data</p> <p>Homecare capacity data</p> <p>Day care capacity data</p> <p>DP data</p> <p>Residential care staffing capacity</p> <p>Neighbourhood weekly monitoring data/ Assessment/ reassessment / Carers Assessment</p>	<p><b>Planning for later stages:</b></p> <p>Develop</p> <ul style="list-style-type: none"> <li>• Easement Decision Log</li> <li>• Letters re: Charging and Care Act Assessment in future</li> <li>• Hospital Discharge Guidance</li> <li>• RAG Rating Support to enable prioritisation later</li> <li>• Support plan letter to be sent out confirming changes that may take place in Stage 2</li> <li>• Streamline assessment and support planning process</li> <li>• Prioritisation Policy</li> <li>• Briefings to be shared with all involved at each stage including staff, lead members, service users, partners</li> <li>• Safeguarding briefing</li> </ul>	<p>2/4/2020 discussion with Steph and Sandra re: current position – agreed Stage 1</p>
<p><b>STAGE 2: Applying flexibilities of pre-amendment Care Act 2014</b></p> <p>Decision for individual service type to prioritise short term allocation of care and support using current flexibilities within the Care Act. Continuing to fulfil pre-amendment Care Act duties but may be obliged</p>	<p>Feedback captured at AMT/Adult Silver Command.</p> <p>Staffing data</p> <p>Data captured by each service of provision or changes to this</p> <p>Evidence of all alternate options</p>	<p>Record rationale for decision making, including:</p> <ul style="list-style-type: none"> <li>• where gaps/changes have taken place</li> <li>• how people have been informed</li> <li>• alternatives offered</li> <li>• Ethical Framework considered and Human Rights implications at population level.</li> </ul>	

<p>to meet assessed need in a different way due to change, delay or cancellation of a service type</p> <p><b>Process:</b></p> <p>Where COVID-19 related absence means service types need to be changed, delayed or cancelled short term within that service type, for example home care or supported living, the relevant Senior Manager / Assistant Director (AD) should consult the Principal Social Worker (PSW) and should detail the: reason the decision needs to be taken; impact of the decision on the people who ordinarily use the service; impact of the decision on families and carers of people who ordinarily use the service; and possible alternative sources of care and support and the likelihood of this being available.</p> <p>Where the PSW is satisfied, this position can then be presented to the Director of Adult Social Services (DASS) (or alternate locally agreed senior) for a final decision about moving into Stage 2</p> <p>It is important to note that all other services may well continue to deliver their services as business as usual</p>	<p>explored</p> <p>Evidence of discussion between PSW and Service manager</p>	<p>Decision made by the PSW, DASS and AD</p> <p>Decision shared with:</p> <p>Lead Members</p> <p>Strategic Commissioning Board (SCB)</p> <p>Staff</p> <p>Partner agencies if affected</p> <p>New support plan letter informing of current situation and that support may be subject to change but at this stage Council is fulfilling its pre-amendment Care Act duties</p>	
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**STAGE 3: Streamlining Service provision**

Decision to operate under Care Act Easements as laid out by the Coronavirus Act

**Process:**

The Care Act Easements allow local authorities to cease formal Care Act assessments, applications of eligibility and reviews. However, there is an expectation in the Act that local authorities will do everything they can to continue to meet need as was originally set out in the Care Act.

Where the impact of the pandemic is making this unachievable or untenable, local authorities will need to consider making the decision to cease carrying out those eased Care Act functions and move to a position of proportionate assessment and planning.

The relevant AD / Senior Manager will need to consult the PSW and be clear about the: reason the decision needs to be taken; impact of the decision on the people who ordinarily use the service; and impact of the decision on families and carers of people who ordinarily use the service.

Feedback captured at AMT/Adults Silver Command

Staffing data

Data captured by each service of provision or changes to this

Evidence of all alternate options explored

Evidence of discussion between PSW and Service manager

Evidence that staffing are being redeployed to support critical care and so some statutory duties are no longer being met – e.g. non-urgent Care Act Assessments are not taking place, Annual Reviews or Carers Reassessments are not being completed.

Rationale for decision recorded, discussed with Senior leadership, shared with Lead Members

DHSC informed.

Ethical Framework considered and Human Rights implications at population level

Briefing to staff, those in receipt of support and partner agencies to inform off the decision and how this will change provision/practice.

Possible steps at this stage:

- Streamline assessment process implemented
- Charging suspended
- Certain duties suspended such as annual reassessments
- Focus on urgent assessments

<p>If the PSW is satisfied that the Care Act Easements or an easement in any particular area need to be enacted, a meeting of the Senior Management Board should be called for a final decision. The decision should also consider and be informed by a conversation with the local NHS Leadership.</p> <p>The DASS and the PSW should ensure that their lead member has been involved and briefed as part of this decision-making process.</p>			
<p><b>STAGE 4: Prioritisation</b></p> <p><b>Decision:</b> Whole system prioritising care and support</p> <p><b>Process:</b></p> <p>Where local authorities need to make decisions about changing support for people, they should consider and allocate capacity across the whole of adult social care. This may mean allocating resource from some service types that may not be under pressure to support those that are.</p> <p>An example might be where a local authority is faced with a decision about reducing personal care for one person so that another gets the help they need to eat.</p> <p>In this situation, the relevant AD / Senior Manager should consult the</p>	<p>Feedback captured at AMT/Adult Silver Command</p> <p>Staffing data</p> <p>Data captured by each service of provision or changes to this</p> <p>Evidence of all alternate options explored</p> <p>Evidence of discussion between PSW and Service Manager</p> <p>Evidence that staffing are being redeployed to support critical care and so some statutory duties are no longer being met – for example non urgent Care Act Assessments are not taking place, Annual Reviews or Carers Reassessments are not being completed.</p>	<p>Rationale for decision recorded, discussed with Senior leadership, shared with Lead Members</p> <p>DHSC informed.</p> <p>Ethical Framework Considered and Human Rights implications at population level</p> <p>Briefing to staff, those in receipt of support and partner agencies to inform off the decision and how this will change provision/practice.</p> <p>Prioritisation tool implemented, critical care, Human Rights Act</p> <p>Streamline assessment</p> <p>No Charging</p> <p>Review of RAG rated cases to reduce and prioritise care in partnership with providers</p> <p>Work on transitions could be delayed – this would need to be shared with Children’s Services</p>	

<p>PSW. They should detail the: reason the decision needs to be taken; impact of the decision on the people who ordinarily use the service; impact of the decision on families and carers of people who ordinarily use the service; possible alternative sources of care and support and the likelihood of this being available.</p> <p>If a local authority decides it may need to move into stage 4, the PSW should call an Emergency Decision Meeting of the DASS where a decision about whether and how to prioritise care across ASC will need to be made.</p> <p>Sufficient care and support will have to remain in place at all times in order to ensure that the European Convention Human Rights of all those in need of care and support, and of carers, are respected.</p> <p>The DASS and the PSW must ensure that their Lead Member has been involved and briefed as part of this decision-making process.</p>	<p>Care is being prioritised based on RAG ratings</p> <p>Only capacity to meet critical care needs across entire system</p>	<p>Review of changes takes place 2 weekly</p> <p>Letters to individuals re: Charging and rights to Care Act Assessment in the future.</p>	
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# DECISION LOG RECORD

Date	Proposed Decision	Decision	Rationale Is this staffing levels? Is this demand on service?	Legal Framework	Impact on SUs/Carers Identified risk	Mitigation of Risk Possible alternative sources of support/care considered	Consideration of Ethical Framework and Human Rights where applicable (reference legal advice sought)	Those involved in making the decision	Review Date	How was the decision communicated and who to?