

Update on Other Board Business

Purpose of report

For information and comment.

Summary

Members to note the following updates including the following:

- Sleep ins
- Independent review of the Mental Health Act 1983
- Adult social care green paper
- Autumn statement 2017
- Asylum, Migration and Refugee Task Group

Recommendation

Members of the Community Wellbeing Board are asked to:

1. **Note** the updates contained in the report.

Action

As directed by members.

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Update on Other Board Business

Sleep ins

1. The Department of Health, HM Revenue and Customs (HMRC) and the Department for Business, Energy & Industrial Strategy have published a new voluntary 'social care compliance scheme' (SCCS) covering historic sleep-in liability payments. The scheme gives employers up to a year to identify what they owe to workers, supported by advice from HMRC. Employers who identify arrears at the end of the self-review period will have up to three months to pay workers.
2. It is helpful that employers will not have to settle any back-payment for sleep-in costs until March 2019. This buys some much-needed time to further understand the size and potential impact of the historic liability. It is also encouraging that the Government has started discussions with the European Commission to determine whether any support would be subject to EU state aid rules.
3. However, a state aid exemption will not resolve the back-payments faced by self-funders or the many individuals who are in receipt of a direct payment from the council that is used to employ personal assistants. These people will need an equivalent solution so they are not placed in personal financial difficulty and unable to pay for their care. In addition, employers, individuals and self-funders face current and future funding pressures from the ongoing need to pay the National Minimum/Living Wage for sleep-in shifts, against a background of increasing demand and reduced funding.
4. The Chair of the Community Wellbeing Board, Chair of the Resources Board and the President of ADASS have written to Jackie Doyle-Price MP (Care and Mental Health Minister) and Margot Jones MP (Small Business and Consumers Minister) to request an urgent meeting. They expressed our continued concern about how employers, self-funders and individuals will fund the back-payments and said there must be new money in the forthcoming Budget to meet current and future funding pressures from sleep-ins. Officers will seek a further steer from Lead Members in the light of the Ministers' response.

Independent review of the Mental Health Act 1983

5. In October 2017 the Prime Minister announced an independent review of the Mental Health Act 1983. The independent review will look at how the legislation is used and how practice can improve. The review will be chaired by Professor Sir Simon Wessely, a former President of the Royal College of Psychiatrists.
6. The review will consider the needs of service users and their families, its aim is to tackle injustices and improve how the system supports people during a mental health crisis. In particular, the review will consider:
 - 6.1. Why rates of detention are increasing – what can be done to reduce inappropriate detention and improve how different agencies respond to people in crisis;

- 6.2. Reasons for the disproportionate number of people from certain ethnic backgrounds, in particular black people, being detained under the act, and what should be done about it.
7. Following consultation with stakeholders, Sir Simon will produce an interim report identifying priorities for the review's work in early 2018, and develop a final report containing detailed recommendations on its priorities, by autumn 2018.
8. After a period of setting up the Review Team, it is now ready to engage with relevant organisations. Members have already agreed headline positions in Being Mindful of Mental Health published in June 2017 on the opportunities from the Review for local government. These include:
 - 8.1. Use the reform of mental health legislation and the new Mental Health Act to prioritise mental wellbeing, the prevention of mental ill health and the delivery of ongoing support. New initiatives or legislation should facilitate a move away from a focus on risk, detention and medication, to build on a person's strengths, the provision of personalised support and the services that enable a person experiencing mental health issues to live a healthy and fulfilling life.
 - 8.2. Ensure the Mental Health Act review includes the work of the Law Commission on legislative reform of Deprivation of Liberty Safeguards to simplify the current complex legislation. This should better protect the rights of the very vulnerable and address the current financial burden on councils associated with this reform.
 - 8.3. Use the new Mental Health Act, or any reform of mental health legislation, to establish a coordinating role for councils on mental wellness and health, with the devolution of associated services and funding.
 - 8.4. Explicitly include investment directed at councils in future funding for mental health. Mental health should not exclusively be about treatment within an NHS setting, but should include the mental health, wellness and prevention services provided by councils.
9. Although the review's TOR are quite specific, Sir Simon is keen to hear wider perspectives such as ours.
10. A letter will be sent to Sir Simon to set out what we would like the review to cover, offer our help with securing appropriate local government engagement in the review and invite Sir Simon a future Meeting to allow an opportunity for the board to feed into the review.
11. As appropriate the LGA will make a formal submission to the review which will be signed off by Board members.

Adult social care green paper

12. On Thursday 16 November the Government announced its plans to publish a green paper "by summer recess 2018" to set out its proposals for reforming care and support for older people. The announcement made clear the Government's intention to take a

broad approach, considering the role of housing and social care's interaction with other public services. In preparing for the green paper, the Government also announced a period of pre-publication engagement and consultation. As part of this, the Government is inviting a number of independent experts to share their views with the Inter-Ministerial Group overseeing development of the green paper (list provided below). Also within the Government's engagement plans, the LGA has been invited to a Government roundtable to gather the views of local government.

13. The announcement also recognised the challenges facing care and support for working age adults. The Government has therefore committed to a parallel programme of work for this group of people, which will align with the Inter-Ministerial Group to ensure appropriate links with the green paper.
14. LGA officers are in the process of organising a one-day conference on the future of adult social care and support on 16 January. This event will now be extremely timely and an excellent opportunity to hear the sector's views. Subject to Board agreement, officers also propose a more substantive item on the green paper for the February Board meeting. Speaker invitations for the item could be sent to Jackie Doyle-Price MP and/or one or two of the 'sector experts'.
15. List of independent experts giving evidence to the Inter-Ministerial Group:
 - 15.1. Caroline Abrahams – Charity Director of Age UK
 - 15.2. Dame Kate Barker – former Chair of the King's Fund Commission on the Future of Health and Social Care in England
 - 15.3. Sir David Behan – Chief Executive of Care Quality Commission
 - 15.4. Dr Eileen Burns – President of the British Geriatrics Society
 - 15.5. Professor Paul Burstow – Chair of the Social Care Institute for Excellence
 - 15.6. Jules Constantinou – President-elect of the Institute and Faculty of Actuaries
 - 15.7. Sir Andrew Dilnot – former Chair of the Commission on the Funding of Care and Support
 - 15.8. Baroness Martha Lane Fox – Founder and Executive Chair of Doteveryone
 - 15.9. Mike Parish – Chief Executive of Care UK
 - 15.10. David Pearson – former President of the Association of Directors of Adult Social Services and Corporate Director for Social Care, Health and Public Protection at Nottinghamshire County Council
 - 15.11. Imelda Redmond – National Director of Healthwatch England
 - 15.12. Nigel Wilson – Chief Executive of Legal and General

2017 Autumn Budget

16. The Budget made no reference to adult social care but did provide an additional £6.3 billion for the NHS; £3.5 billion of capital investment and £2.8 billion of resource funding.
17. In its media and policy response on the day of the Budget, the LGA expressed its extreme disappointment that the adult social care funding gap was not addressed. The LGA argued that continuing to treat the symptoms of system pressures, rather than their causes, is the wrong approach. Further, the LGA was clear that unaddressed pressures will continue to have significant consequences for people who use services and their

carers, the provider market and the sustainability of the NHS. The LGA reiterated its acknowledgement of the Spring Budget £2 billion for adult social care but noted this is one-off funding that does not deal with all pressures, leaving a funding gap of £2.3 billion by 2019/20, including £1.3 billion right now that is needed to stabilise the provider market.

18. The Budget also announced the Government's commitment to funding pay awards as part of a pay deal for NHS staff on the Agenda for Change contract, including nurses, midwives and paramedics. In response, the LGA highlighted the serious impact this may have on the recruitment and retention of adult social care staff in residential and nursing homes by further increasing the pay differences between staff employed in adult social care and the NHS.
19. Finally, the Budget announced that £2.6 billion of the new capital funding for the NHS will be for local groups of NHS organisations (Sustainability and Transformation Partnerships) to deliver transformation schemes that improve their ability to meet demand for local services, including more integrated care and more care out of hospital. In response, the LGA stressed the importance of councils being fully involved in STP plans to develop out of hospital services and concerns about STPs continuing to be NHS dominated with a focus on acute care.

Asylum, Migration and Refugee Task Group

20. The LGA Asylum, Migration and Refugee Task Group reports to the Community Wellbeing and Children and Young People's Board. The Task Group is chaired by Cllr David Simmonds and is attended by representatives from the LGA political groups and from by members representing each UK region. The Minister for Immigration Brandon Lewis MP attending the Task Group on 26 October, following his attendance at Councillor's Forum on 19 October. He welcomed joint work between councils and Immigration Enforcement teams and councils' participation in a range of programmes. The discussion at the Task Group focused on the need for better alignment across programmes and engagement with local government, particularly in relation to the future of accommodation for asylum seekers and in the care of unaccompanied children. The Minister made a commitment to ongoing engagement and greater links being made across government to tackle key issues for councils and local communities.