



ADULTS AND COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE
4 SEPTEMBER 2023

ASSURANCE OF ADULT SOCIAL CARE

REPORT OF DIRECTOR OF ADULTS AND COMMUNITIES

Purpose of report

1. The purpose of the report is to provide the Committee with the feedback from the Annual Conversation visit 2023 which was undertaken to provide an impartial review of the Adults and Communities Department prior to a forthcoming Care Quality Commission (CQC) Assurance visit.
2. The report also provides the Committee with information on the Intervention Framework published by the Department of Health and Social Care.

Policy Framework and Previous Decisions

- 3 The Committee received regular updates on the CQC assurance process during 2022, as part of broader reports on the Social Care Reform Programme (on 7 November, 5 September, 6 June, and 24 January) and as a standalone report focusing on the assurance self-assessment and improvement plan in March 2023.
- 4 The Committee also reviewed and commented on the draft self-assessment produced to support the assessment process at a standalone workshop on 13 February 2023.

Background

5. The CQC is due to start its programme of assessing councils' adult social care functions later in 2023. The CQC will assess and rate councils' performance across four themes: working with people; providing support; ensuring safety; and leadership. It will rate each council against a series of quality statements and publish its findings, also providing a single word rating using its existing ratings of: Inadequate; Requires Improvement; Good; or Outstanding.
6. It is not yet known when Leicestershire will be assessed by the CQC, but as part of the Department's preparations for an assurance visit, an independent review of the Department's existing performance has been undertaken. The Council, along with all Local Authorities across the East Midlands, commissioned Dr Carol Tozer, a former Director of Adult Social Care, to visit the councils across the region during July and August 2023 to undertake an independent review of their services. The County Council's visit took place on 9 and 10 August. Dr Tozer reviewed Adult Social Care performance and focused on the four CQC Assurance Framework themes of working with people; providing support; ensuring safety; and leadership.

7. Dr Tozer reviewed the publicly available performance data, prior to the visit, read the self-assessment and other key documents provided. Dr Tozer also carried out 'mystery shopper' research on the County Council's website. Dr Tozer used this research and pre-reading activity to develop the lines of enquiry to pursue during discussions with departmental colleagues, partners, and people with lived experience.
8. As can be seen from the detailed programme for the Annual Conversation visit, attached as Appendix A to this report, on Day One of the process Dr Tozer met with colleagues, partners, and people with lived experience in a series of 45 minute meetings. These meetings each involved up to eight people and Dr Tozer had a specific set of questions and issues to direct the discussion with each group.
9. On Day Two Dr Tozer prepared her findings, attached as Appendix B to this report, and fed back to the participants of the first day her key findings regarding the Council's strengths and areas to develop, based on the information and feedback received from the different groups of people.
10. Overall Dr Tozer's feedback is positive, indicating Leicestershire is a well-run authority with dedicated and skilled staff, and examples of excellent practice were highlighted. In particular, Dr Tozer cited Leicestershire's reablement services, reductions in long term placements, support to care providers, and approaches to independent living as areas of good performance alongside a culture of innovation and forward thinking.
11. Dr Tozer also commented on areas where improvement is needed, many of which the Department were already aware of, and an Action Plan is being developed to address these areas prior to any CQC Assurance assessment. One area of improvement is demonstrating and evidencing the Department's good delivery outcomes for people, and linked to this showing that the Department audits, reflect on, and assures its own practice.
12. In addition, there are several areas of service delivery that it is recognised must be improved upon in order to deliver the best services, specifically in areas of customer care, information and advice, financial pathways, direct payments, waiting times and safeguarding processes.

Recommendations arising from the review

13. Dr Tozer's overall comments about adult social care services in Leicestershire were positive including that, "*Leicestershire's adult social care services (ASC) can point towards several areas of impressive performance and good outcomes for the people it serves:*
 - a) *Led by the two Principal Workers, that ASC identify a number of colleagues from across different teams to undertake a case file audit. This could become an annual event – but it would enable colleagues to come together to review the quality of strength based practice as revealed by their peers – to celebrate their colleagues' work as well as then to co design any changes needed to care pathway systems and processes with managers;*
 - b) *Review the SA (self-assessment) so that it is clear that evidence from audits detailing the quality of strength based practice is fully reflected with resulting actions identified;*

- c) *Undertake workshops with ASC colleagues to review their experiences of the processes comprising the Improvement Cycle – highlighting best practice and agreeing any refinement of those processes. And language matters – so ASC might also wish to consider reframing these processes as part of its Quality Cycle;*
- d) *Secure feedback from people with lived experience at the conclusion of every assessment or review as to how well the process enabled them to express what matters to them and whether they are confident that the support they receive from ASC (will) supports them to live in a way that matters to them.*
- e) *In short, ASC appears to be managing its waiting lists assertively and assuredly – but I think that greater assurance would derive from the development of a “waiting well” action plan – which is shared with frontline colleagues and people with lived experience.*
- f) *Collectively, therefore, I think that ASC and its health partners could revisit how well they are working together to promote best outcomes for people with the most complex needs - perhaps considering whether the sort of risk sharing agreement currently in place to help deliver the Home First agenda is a model that might be replicated.*
- g) *In terms of CQC preparation, the SA needs to better reflect how ASC is working to identify and support people with care and support needs from BAME (Black Asian and Minority Ethnic) communities – and ensure that its performance management includes interrogation of impact.*
- h) *Accordingly, ASC could supplement its existing work to transform its Direct Payment offer by undertaking a survey/workshops with Direct Payment users – direct service users and carers alike – using the outputs to check that its action plan is the right one.*
- i) *ASC needs to understand what happens to safeguarding referrals that do not meet the safeguarding enquiry threshold – e.g. are people routed into VARM (Vulnerable Adult Risk Management) processes, are people referred for a Care Act assessment/review. In this way, it can have better assurance that people’s needs and circumstances are being responded to – as this is currently not in place.”*

Intervention Framework

14. On 8 August 2023, the Department for Health and Social Care published the Operational Framework for adult social care intervention in local authorities. A summary of the framework is provided below for information. The Secretary of State may use a variety of information and evidence to assess failure, although, in practice, it is expected that CQC local authority assessment reports will be the main source of independent evidence. Intervention is not currently planned in Leicestershire.
15. The powers in the Care Act enable the Secretary of State for Health and Social Care to intervene when the Secretary of State is satisfied that an authority is failing or has failed to discharge any of its functions under Part 1 of the 2014 Care Act to an acceptable standard. The nature of the failure, impact, and likelihood of it happening

again are all key areas that will be considered by the Secretary of State. Decisions to intervene will be based on:

“a judgement by the Secretary of State of all available information considered engagement with authorities to understand their capacity, capability and commitment to lead their own improvement.”

16. Where the Secretary of State for Health and Social Care considers that neither enhanced support nor statutory intervention is appropriate, it is expected that the Department of Health and Social Care will work with improvement delivery partners to signpost authorities to resources and training and/or tailored support available through the national improvement programme.
17. Where the Secretary of State for Health and Social Care considers the failure is more serious but does not warrant statutory intervention, it is envisaged asking the authority to work with a non-statutory improvement adviser that the Council would be expected to fund and appoint to provide guidance, support, and constructive challenge.
18. Where an authority has failed to produce a realistic improvement plan or engage with support, the Secretary of State may consider escalating to statutory intervention. During the intervention, regular reports on progress to the Secretary of State for Health and Social Care will be expected.
19. Putting in place a statutory intervention in an authority is a very significant step for the Secretary of State. Intervention may involve a range of responses from the Secretary of State for Health and Social Care. For example, from requiring the authority to take further action to ensure improvements are made to address significant failings through to specified functions of the authority to be exercised by the Secretary of State or a nominee.
20. If the Secretary of State is considering statutory intervention, a ‘minded to’ letter will be sent to the Chief Executive and the Director of Adult Social Care Services of the relevant authority from a senior civil servant. Any representations received will be carefully considered by the Secretary of State and may receive substantive responses where appropriate.
21. Once the Secretary of State has considered the representations received in response to the ‘minded to’ letter, they may decide either not to go ahead with the intervention, or to put in place the directions.
22. Directions may vary significantly depending on the extent and type of the intervention involved but may include:
 - explicit references to the evidence for this decision, including representations received as well as references to the legislation;
 - actions that the authority is required to take – this generally includes definitions and all the measures around access to documents and the payment of fees and expenses with which the authority must comply;
 - description of any specified functions to be exercised by the Secretary of State or nominee.

23. Non-executive commissioners may work on a full-time basis within existing authority accountability structures. However, should the Secretary of State think it is necessary, an executive commissioner may be appointed who would exercise all adult social care functions.

Consultation

24. In developing the self-assessment there has been considerable engagement of internal staff across the Department, including a staff survey and workshops. These explored staff perceptions of the Council's strengths and areas for improvement in relation to the CQC themes and gathered staff views on how the Department could improve in its delivery of Care Act duties. The Department also undertook significant external engagement to obtain the views of service users and carers, partner agencies, and care providers. Findings from this engagement helped to shape the latest version of the self-assessment.
25. Representatives from the Engagement Panel and the Learning Disabilities Partnership Board met with Carol Tozer during her visit (see Appendix A) to help inform the conclusions of her visit.

Resource Implications

26. Officer resources have been assigned to finalise the self-assessment and improvement plan. Delivery of the improvement plan will, however, require support from officers throughout the Department and potentially from corporate colleagues.
27. As set out in the Corporate Risk Register (corporate risk 7.6), failure to achieve a rating of 'good' or 'outstanding' in the CQC inspection would be likely to result in considerable resource and financial investment requirements to address any areas requiring improvement.

Timetable for Decisions

28. The self-assessment will be updated to reflect comments from Dr Tozer and the improvement plan will be reviewed to ensure it fully reflects the areas of improvement which have been identified. A further report on this work will be presented to the Committee later in the year.

Conclusions

29. Dr Tozer's independent review of Leicestershire concluded, "*ASC has many impressive initiatives and improved outcomes it can evidence. The firm and sure leadership of ASC is fully aware of the areas to improve and can demonstrate a track record of improvement. There are, therefore, very strong foundations already in place as ASC continues its preparations for CQC inspection. But there are some issues which, if not tackled with its characteristic purpose and pace, might compromise how CQC assesses ASC in Leicestershire.*"
30. The recommendations from the review will be incorporated into the Department's improvement plan. Progress on the improvement plan will be reported to future meetings of this Committee.

31. Powers for the Secretary of State to intervene in a local authority were inserted by Section 164 of the Health and Care Act 2022 into the Care Act 2014. Under new Sections 72A and 72B of the Care Act 2014, where they are satisfied that local authorities have failed or are failing to discharge any of their Care Act functions to an acceptable standard, the Secretary of State may give to local authorities directions that they consider appropriate to deal with the failure. This may include requiring the County Council (1) to act in accordance with advice given by the Secretary of State (2) to collaborate with the Secretary of State; and (3) to provide the Secretary of State with information. The direction may include provision for specified functions of the Council to be exercised by the Secretary of State for so long as considered appropriate. The Secretary of State also has the power to make regulations disapplying or modifying an enactment in respect of a function of a local authority and may require the local authority to provide financial assistance to the Secretary of State (or a person nominated by the Secretary of State) for the purpose of meeting costs incurred as a result of the directions. Any directions given must be published with reasons.

Background papers

“People at the Heart of Care” White Paper: December 2021

<https://www.gov.uk/government/publications/people-at-the-heart-of-care-adult-social-care-reform-white-paper/people-at-the-heart-of-care-adult-social-care-reform>

Report to the Adults and Communities Overview and Scrutiny Committee: 7 November 2022 – Progress in Delivering the Social Care Reform Programme

<https://politics.leics.gov.uk/ieListDocuments.aspx?MIId=6842>

Report to the Adults and Communities Overview and Scrutiny Committee: 6 June 2022 – Update on the Social Care Reform Programme

<https://politics.leics.gov.uk/ieListDocuments.aspx?MIId=6840>

Report to the Adults and Communities Overview and Scrutiny Committee: 5 September 2022 – Adult Social Care Reform – Market Shaping and Charging Reform

<https://politics.leics.gov.uk/ieListDocuments.aspx?CIId=1040&MIId=6841&Ver=4>

Corporate Governance Committee: 27 January 2023 – Risk Management update (item 7) -

<https://politics.leics.gov.uk/ieListDocuments.aspx?MIId=7128>

Report to the Adults and Communities Overview and Scrutiny Committee: 6 March 2023
Adult Social Care Assurance Self-Assessment -

<https://politics.leics.gov.uk/ieListDocuments.aspx?MIId=7107> (item 65)

Guidance on Adult Social Care intervention framework for local authorities -

<https://www.gov.uk/government/publications/adult-social-care-intervention-framework-for-local-authorities>

Circulation under the Local Issues Alert Procedure

32. None.

Equality Implications

33. The self-assessment includes an assessment of the Council's overall performance around equalities, diversity, and inclusion, with a focus on the Adults and Communities Department. It sets out some key strengths in this area along with some potential areas for development.
34. Any proposed changes to the Council's policies, procedures, functions, and services which may arise from delivery of its improvement plan will be subject to an Equality Impact Assessment.

Human Rights Implications

35. There are no human rights implications arising from this report. Any proposed changes to the Council's policies, procedures, functions, and/or services which may arise from delivery of its Assurance improvement plan will be referred immediately to the Council's Legal Services for advice and support regarding human rights implications.

Appendices

Appendix A - Adult Social Care Annual Conversation Timetable

Appendix B - Adult Social Care Annual Conversation Feedback

Officers to Contact

Jon Wilson
Director of Adults and Communities
Adults and Communities Department
Tel: 0116 305 7454
Email: jon.wilson@leics.gov.uk

Christine Collingwood
Social Care Reform Programme Manager
Tel: 0116 3050696
Email: christine.collingwood@leics.gov.uk

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