

**Matching Needs and Services: Eligibility Criteria and a Thresholds Model for Service Provision for Children with Disabilities**  
(Appendix 'A' refers)

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**Executive Summary**

This report seeks to establish consistent eligibility criteria for assessment and for indicative service provision for children and young people with disabilities, through a Thresholds Model which will be applied progressively throughout Lancashire.

This is a Key Decision and is included on the Forward Plan.

**Recommendation**

The Cabinet Member for Children and Schools is recommended to:

- (i) approve the Thresholds Model for eligibility criteria for assessment and for indicative service provision for children and young people with disabilities as set out in this report;
- (ii) approve the use of the Thresholds Model for eligibility criteria for assessment and for indicative service provision for children and young people with disabilities for all new referrals;
- (iii) approve the re-assessment of all children with disabilities, currently in receipt of service at their 6-month Child in Need (CIN) Review to determine their level of need within the new thresholds for assessment and indicative service provision and make the appropriate adjustments where necessary;
- (iv) approve a consultation with parents/carers and service users on the Thresholds Model for eligibility criteria for assessment and indicative levels of service provision; and
- (v) receive a further report following the conclusion of the consultation period outlining any changes that may be required.

## **Background and Advice**

The decision about how much service a family will receive is a complex matter and, whilst the social worker has a key role in the assessment and planning process, there is an intricate legal framework which guides and constrains service provision.

The eligibility for a child with a disability to receive an assessment as a "child in need" is set out in Section 17 of the Children Act 1989. Section 17 defines which children will be considered disabled, and gives children with disabilities an eligibility to an assessment, but it does not give any child or family an eligibility to a service. The eligibility for service is determined by the assessment process which is carried out using the "Framework for the Assessment of Children in Need and their Families." The assessment gathers information from a number of sources including family members, health professionals, education staff and other appropriate agencies. The assessment is done in partnership with the family, and looks at the family as an entity, taking into account the family's needs, strengths and weaknesses as well as those of the child. A Children in Need (CIN) Plan is then drawn up which seeks to address the areas of need.

The Children in Need Plan works on a deficit model, that is to say it seeks to meet the needs identified by the assessment and bring the family up to an acceptable level; there are no absolute entitlements. This can lead to some apparently anomalous situations where, for example, two families with children having the same condition may receive significantly differing levels of service. One family with high levels of support from extended family members may be assessed as requiring lower levels of support from the County Council than the other family which has a lower level of support from its extended family. The second family would, in all probability, receive a larger support package than the first.

It is worth noting that, once the Children in Need plan has been agreed, the County Council is under a duty to provide services to meet the assessed needs. The levels of service cannot be altered unless there is a change in the family's circumstances.

The assessment process relies heavily on the social worker's skill and experience. Whilst processes are in place to moderate assessments (supervision, resource panels, County Moderating Panel, on-going professional development and so on) variations can never be totally removed from the process. The development of an eligibility and thresholds model will help to reduce further such variations and offer greater transparency about how support levels are decided.

Local authorities are entitled to use eligibility criteria for discretionary services. Local authorities cannot impose eligibility criteria on services which they are under a statutory duty to provide. The use of eligibility criteria is heavily constrained by case law to the extent that, in many cases, they are of limited use. Local authorities are under a duty to provide a level of service which lawfully meets the assessed need. Children's Services cannot "fetter their discretion" by placing caps on the levels of service they offer. At best, local authorities can adopt a system of "indicative allowances", in other words, families who have certain levels of assessed need can expect up to a given level of service, whilst families who have higher levels of assessed needs can expect greater levels of service. However, the limits cannot be absolute, the system has to allow the limits to be breached in appropriate cases.

The "Eligibility and Threshold Model" that this report is seeking to introduce takes account of these issues. The model is a tool to aid the decision making process, it does not seek to impose a rigid framework. The indicative levels of need are broad enough to cover most circumstances, but a process is in place to allow for the allowances to be exceeded where necessary.

### **Eligibility for assessment**

Children and young people with a disability are "children in need". Section 17 of the 1989 Children Act defines a child as a child with a disability if he or she,

*"is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—*

*"development" means physical, intellectual, emotional, social or behavioural development; and*

*"health" means physical or mental health."*

Children with disabilities are those children and young people aged 0 – 18 years whose daily lives are substantially and permanently affected by one or more of the following:

- A hearing impairment
- A visual impairment
- A learning disability
- A physical disability
- A chronic/life threatening physical illness
- A communication disorder (including autism)
- A consciousness disorder (e.g. epilepsy)

Substantial impairment is defined as lasting more than 6 months. The needs of children and families will vary along many dimensions:

- For some children, their impairments will be apparent from birth or before; for others the impairments will develop or become apparent only gradually;
- An increasing proportion of children will have complex and multiple disabilities requiring coordinated interventions with the child and family from several professionals;
- Some children can have high expectations of future development if appropriate support is available. For other children the prognosis may be one of increasing difficulty and reduced life expectancy; and
- For some families, their need for support will focus on the provision of practical services and ideas to assist their child. For other families, their greatest need may be for emotional support.

Children with disabilities who are substantially affected as described above are entitled to an assessment of their needs.

## Eligibility for services

Services for children with disabilities may be accessed from universal services, or from community based organisations, either directly through a common assessment completed using the Common Assessment Framework or following an initial assessment.

The authority is working towards an entitlement model that enables all disabled children and young people to be able to access community based social and leisure activities. Universal services should be able to meet the needs of those children and young people who require little or no additional support, and are expected to make reasonable adjustments to enable them to access services as required under Disability Discrimination Act/Equalities Act.

The Children with Disabilities Team provides services for children with more complex needs and substantial impairment at Level 3 of Lancashire's Continuum of Need, although it is anticipated that this will be reviewed in the near future. Thus, the Children with Disabilities Teams provide services for:

- Children/young people with severe or profound learning difficulties;
- Children/young people with severe or profound physical disability;
- Children/young people with severe and profound sensory impairment
- Children/young people with a life limiting illness or complex medical condition;
- Children/young people with an autistic spectrum disorder with another profound or complex disability.

The Children with Disabilities Teams take account of the unique combination of the child's disability, the circumstances of their home life and the wider context of their social environment, which means that each referral must be assessed on its merits.

However, the "Islington" Judgement made it clear that local authorities can "set the bar" when designing their eligibility for service provision and choose not to offer a service to those families who do not meet the local authority's eligibility criteria. However, once the criteria are met, the authority is under an absolute duty to deliver services. Any eligibility criteria must fulfil a number of requirements, amongst others, they:

- must be lawful;
- should promote the various duties placed on local authorities, e.g. to promote equality, limit the effect on the child of a disability, etc
- may not "fetter the authority's discretion", i.e. be responsive to individual circumstances
- cannot refer to individual services which have no statutory basis.

In order to address these issues, a Thresholds Model has been devised to enable consistent assessment of needs and service response to a child's assessed needs across the county.

## A Thresholds Model for Children with Disabilities

The proposed "Thresholds Model" has been developed for use in the Children with Disabilities Teams. In essence, each case is allocated a 'level' by reference to a checklist of evidence and each level is then allocated 'an indicative level of service,' calculated by reference to the revised Residential Short Break regulations of 75 nights per year before the review and visiting regulations apply in full commencing from April 2011. The model is flexible enough to allow a mix and match approach; the family could opt for a reduction in the number of nights and increase the amount of day or domiciliary care or vice versa. The model is also flexible enough to take account of individual need and does not "fetter discretion". Furthermore the indicative levels of service may be adjusted to take account of resource constraints (provided only that the service offered was sufficient to meet the assessed need) and the authority could determine whether or not to offer any service to a particular level, as was the case with Adult and Community Service's "Fair Access to Care" scheme.

The Thresholds Model has 3 levels of need:

- Children who fall below Level 1 (i.e **Level 0**) are not considered to have significant social care needs and generally their needs can be met by universal services and other non-assessed services. This reflects the "Islington" approach which allows authorities to set the eligibility criteria for the provision of discretionary services.
- Children who fall into **Level 1** are offered an appropriate amount of domiciliary and day care services averaging 250 hours up to an indicative maximum of 400 hours per year, roughly the equivalent of up to 28 nights short breaks. This equates to around 5-7½ hours support per week which is consistent with the average level of provision offered in many local authorities. It is not anticipated that overnight short breaks will routinely feature in the Children in Need Plans of Level 1 children but their parents can opt to receive an overnight break with a concomitant reduction in domiciliary care, at the rate of 13 hours domiciliary care for each overnight stay.
- **Level 2** children are offered higher levels of support, which can probably be met by up to 550 hours of services per year (around 10 hours per week) up to an indicative maximum of 800 hours per year, which roughly equates to 56 nights of short breaks.
- **Level 3** children are offered the highest levels of support, up to an indicative maximum of 1000 hours per year, which roughly equates to the maximum 75 nights of short breaks per year allowed for in the new regulations before the review and visiting regulations apply in full. In some cases higher levels of service will be required. It is probable that overnight short breaks will feature in the plans of Level 3 children as these children have the most complex needs. As with the other levels, an overnight short break will be considered the equivalent of 13 hours of domiciliary care.

The approach adopted in the Thresholds Model continues to offer support packages tailored to meet individual needs. Carers can opt for a mixture of overnight and domiciliary provision provided the indicative amount is not exceeded.

The indicative levels of service in the Thresholds Model are only a guide. When assessing cases, the authority is required to respond to individual need, hence in

exceptional cases, the indicative amount may have to be exceeded. The Thresholds Model may not be appropriate for use in exceptionally complex cases where a multi-agency approach to meeting need is required. This is being developed through a joint commissioning strategy with health services through a Complex Cases Group.

However, it is important to note that existing cases can only have service levels reduced following an assessment which shows that the child's needs have reduced or have been met.

### **Predicting the cohort of children with disabilities and financial implications of the Thresholds Model**

The Direct Payments (DP) data set which shows the annual hours agreed for each child is the most complete information available to give an indication of the numbers and financial implications of moving to a thresholds approach. Data is held on 410 children; of whom 374 cases are active. The twelve month period from October 2009-October 2010 has been used to inform the following predictions.

For the purpose of this exercise, it is assumed that the characteristics of DP recipients match the characteristics of the general children with disabilities cohort. This is thought to be a reasonable working assumption. It is assumed that each child will receive the maximum indicative allowance. As will be seen, this is far from being the case. It is also assumed that the active Children with Disabilities caseload is 900 children.

Of the Direct Payment recipients;

- 55% fall into Level 1 (n=229)
- 31% fall into Level 2 (n=124)
- 14% fall into Level 3 (n=57)
- the average offer to Level 1 children is 274 hours,
- the average offer to Level 2 children is 560 hours
- the average offer to Level 3 children is 1477 hours\*

\* The high average hours offered to level 3 children is a result of 7 children each receiving very substantial packages in excess of 2000 hours per annum. If these children are excluded the average offer fall to 1140 hours

An examination of the DP spreadsheet offers some interesting insights into overall service provision.

- In Level 1 cases 11,500 hours per annum of personal care are delivered as opposed to 45,000 hours of social inclusion. (Approx 1:4) This clearly reflects the lower "care" needs of these children. It also suggests that on average a child will receive support of about 4 hours per week to access his or her community.
- In Level 2 cases 30,000 hours per annum of personal care are delivered as opposed to 40,000 social inclusion hours. (Approx 1:1.3) The "care" needs for this group of children assume a greater significance, whilst they also receive a greater amount of support to access the community; approximately 6 hours per week.

- In Level 3 cases 55,000 hours per annum of personal care are delivered as opposed to 27,500 social inclusion hours. (Approx 2:1) This clearly demonstrates the high levels of the children's 'care' needs and it suggests that on average each child receives approximately 9 hours of support to access the community. However it should be noted that 'hours' relates to staff time purchased, it does not necessarily follow that a child receiving 9 hours per week to access community activities will actually spend 9 hours in the community. Some children's needs are so profound that they require an enhanced staffing ratio and it is likely that many children in Level 3 will require such a ratio. A child assessed as needing 2:1 care would only actually access 4.5 hours of community activity. Even if this is not the case it may be that the provision of service by the Directorate is the only way a Level 3 child can access the community, children with lower levels of need may have alternative mechanisms and opportunities.

## **Consultations**

Subject to approval of the recommendations set out in this report, it is anticipated to carry out a consultation with parents/carers of children with disabilities, through the Lancashire and district Parent/Carer Fora, and through with all parents/carers recorded on the database who are in receipt of children with disabilities social care services.

## **Implications:**

This item has the following implications, as indicated:

## **Risk management**

The assessment of need process relies heavily on the social worker's skill and experience. Whilst processes are in place to moderate assessments (supervision, resource panels, County Moderating Panel, on-going professional development and so on) variations can never be totally removed from the process. The development of an eligibility and thresholds model will help to reduce further such variations and offer greater transparency about how support levels are decided.

## **Financial implications**

For 2011/12 the budget for service provision for children and young people with disabilities is £10.2m. This covers expenditure for in-house short break provision and the delivery of personal and social care purchased through both direct payments and third parties.

The financial implications of the Thresholds model vary significantly depending upon (a) whether families choose a package with reduced number of domiciliary and day care hours in favour of some overnight short break, and (b) whether families agree to employ a personal assistant and accept direct payments rather than the service being provided by a third party or (c) a combination of these. However, it is anticipated that the cost of implementing the model will be contained within the existing budgetary provision.

The financial projections also take account of commissioning third party agencies to meet the needs of the most challenging children with disabilities especially in terms of behaviour and/or health needs. However, it is anticipated that reshaping of in-house respite provision will enable the most complex children, and thereby the most expensive packages to have their needs met within LCC establishments in future which would lead to considerable saving compared to the current costs.

**Any representations made to the Cabinet Member prior to the issue being considered in accordance with the Public Notice of Forward Plans**

Name: Organisation: Comments:

Nil

**Local Government (Access to Information) Act 1985  
List of Background Papers**

Paper Date Contact/Directorate/Tel

Nil

Reason for inclusion in Part II, if appropriate

N/A