

# **Appendix 1**

## **Key responsibilities**

Key responsibilities for Adult Social Care and Health include:

- Responsibilities under the Care Act 2014
- Maintaining links between the Council and partner organisations in the Health Service
- Safeguarding – Swindon Local Safeguarding Adults Board (LSAB)
- Care Quality Commission (CQC) and inspection
- Responsibilities under the Mental Health Act

More detail on all these areas of work are set out below:

### **1. Care Act 2014 Implementation**

The Care Act 2014 became law on 1<sup>st</sup> April 2015. Over the past 12 months we have:

- Provided training and briefings to staff in adult services, SEQOL, AWP, the voluntary sector, elected members and the wider Council
- Targeted legal training for social workers on the changes
- Revised all out policies and procedures, now published on the Swindon Borough Council website
- Developed an online self-assessment for service users or their carers to reduce the time taken to complete assessments. This is due to go live in the autumn of 2015
- Co-located the voluntary sector at Sanford House offering advice and information about services
- Increased the support to carers through Swindon Carers' Centre so more carers receive an assessment and support
- Established a Local Authority single point of contact for all adult safeguarding referrals so that the local authority monitors the management of safeguarding investigations
- Started the consultation on changes to the Fairer Charging Policy and deferred payments

### **2. Maintaining links between the Council and partner organisations in the Health Service**

Links between the Council and partner organisations in the Health Service are maintained through strong governance arrangements.

- An NHS section 75 agreement is in place between the Council and the Swindon Clinical Commissioning Group (CCG)

- The Health and Wellbeing Board is now well established
- Links between the Swindon CCG and Council are in place at senior management level with joint management posts
- Joint meetings between the CCG and Corporate Board are held quarterly
- The Cabinet Member Adult Social Care and Health actively meets partners in Health to discuss key issues

### **3. Safeguarding – Swindon Local Safeguarding Adults Board**

The LSAB is chaired by an independent Chair. The LSAB produces an Annual Report. The most recent report (2014) can be found at: <http://www.swindon.gov.uk/sc/Health%20Document%20Library/Information%20-%20Safeguarding%20Adults%20at%20Risk%20%20Annual%20Report%2013-14.pdf>

The Annual Report includes:

- Information on activity and data collected through the year about cases investigated under Safeguarding Adults procedures
- An outline of progress made in addressing the priorities from the previous Annual Report
- Submissions from key partner agencies and members of the Local Safeguarding Adults Board
- An overview of priorities, and news of other local, regional and national initiatives.

Over the last year, a major focus for the LSAB was to consider the Care Act 2014 which has brought safeguarding adults onto a statutory footing. Overall the duty on the local authority is:

In relation to any person who is aged 18 or over and at risk of abuse or neglect because of their needs for care and support:

- make enquiries, or ensure others do so, if it believes an adult is, or is at risk of, abuse or neglect
- set up a Safeguarding Adults Board (already in place in Swindon)
- arrange, where appropriate, for an independent advocate
- cooperate with each of its relevant partners
- Carry out safeguarding adult reviews (previously referred to as Serious Case Reviews and previously not statutory).

The definition of people to be covered by safeguarding arrangements has changed and is now:

- An Adult who has needs for care and support (whether or not the authority is meeting any of those needs),
- is experiencing, or is at risk of, abuse or neglect,

- and as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

Also in the Care Act there is reference to the delegation of safeguarding and it was considered that the arrangements up until 1<sup>st</sup> April 2015 where safeguarding cases were managed by either SEQOL or AWP may not be robust or lawful. Cabinet made the decision that the management of safeguarding cases would be brought back in to the local authority and a team would be developed to do this. Arrangements now also include a single referral point (previously it was necessary for the person who was raising the concern to know the appropriate team to refer into).

#### **4. CQC and inspection**

From April 2015, the CQC has changed how it inspects services. Services will now be rated as per the following 3 categories

- Inadequate
- requires improvement
- good or outstanding

This will be based on how providers perform against five key questions: is their service;

- safe
- caring
- responsive
- effective
- well-led

There are now specialist inspectors for the different areas (Adult Social Care and Health), where as previously one inspector would cover both health and social care provisions.

Swindon Adult Social Care continue to work closely with inspectors and share information where needed. We also meet bi-monthly with the CQC and colleagues from Wiltshire CC to discuss current and emerging concerns about services in the local area.

#### **5. Responsibilities under the Mental Health Act and Mental Capacity Act**

##### Statutory Mental Health Assessments

Swindon Borough Council holds responsibility under successive Mental Health Acts to provide an Approved Mental Health Professional (AMHP) service. For the full year to March 31<sup>st</sup> 2015 there have been 284 Statutory Mental Health Assessments conducted by Swindon AMHPs based in AWP.

A Mental Health Act Assessment is an assessment that deems whether a person should be detained under the Mental Health Act or not.

The Code of Practice has been revised and came into operation on April 2015 incorporating the influence of Case Law that has developed since the 2007 Mental Health Act this informs practice. Within the context of seeking least restrictive outcomes for individuals, detailed work with Wiltshire Police has led to the development of contingency plans for specific individuals who have been repeat attenders at the place of Safety (having been detained by the Police under section 136 of the Mental Health Act)

### Mental Capacity Act

Deprivation of Liberty Safeguards form part of the Mental Capacity Act responsibilities. From April 2013, Swindon became the Supervisory Body for all registered hospitals in its area in addition to the existing Supervisory Body responsibility for registered care homes.

Where the manager of the care home/hospital believes that they are, or are about to be depriving a person, who lacks the Mental Capacity to make their own decisions regarding where they live and the support that they need, the home or hospital can grant itself up to 7 days Authority to Deprive that person of their Liberty in order that they can receive the care that they require. The Managing Authority is responsible for notifying the Supervisory Body that they have taken action and to request the Supervisory Body to appoint a Best interests assessor (a specially trained social worker, nurse or occupational therapist). This oversight provides the opportunity to scrutinise the overall care plan ensuring it is the least restrictive and that it is in the person's best interests.

Whilst periods of authorisation are kept to a minimum needed to effect change or to seek review, case law in 2014 has increased who may require this protection by possibly tenfold so many people will have recurring one year periods of Authorisation and detailed review. The case law also extended this protection to a group of people living in supported living settings and a range of settings for 16 -17 year olds: here court authorised deprivation of liberty orders will be required and SBC will be the applicant.

In the financial year 2014 there were a total of 572 referrals for authorisation compared with 87 the year previously. Already this year rates are increasing with 243 received in the first quarter.

### **What are the challenges facing the portfolio?**

1. Managing second year of increased Deprivation of Liberty Safeguards (DoLS) referrals following the March 2014 ruling by the Supreme Court.

This case law re-interpreted DoLS legislation repositioning it firmly as protecting the Human Rights Act (HRA) Article 5 rights of vulnerable adults who lack capacity to consent to where they live in order to have care and treatment. In keeping with previous patterns of adoption of

DoLS in Swindon from its inception by managers of care homes and hospitals, we have had a gradual month on month increase since the new “acid test”. Whilst numbers for 2014 – 15 (572) were not fully reflective of estimates of a tenfold increase, there has been a significant increase in first quarter of 2015 – 2016 eg a twelve fold increase in June 2015. This predominantly reflects providers who are gradually achieving higher levels of compliance in addition to a proportion of revisiting Authorisations already in place.

<b>INCREASE IN DOLS REFERRALS TO SWINDON BOROUGH COUNCIL SUPERVISORY BODY 2013 -2015</b>				
<b>MONTH</b>	<b>APRIL</b>	<b>MAY</b>	<b>JUNE</b>	<b>TOTALS</b>
<b>2013</b>	10	10	8	28
<b>2014</b>	34	37	42	113
<b>2015</b>	82	58	103	243

The DoLS Service introduced a detailed triage system in May 2014 to identify those referrals where assessment should be prioritised for early assessment to safeguard proper attention to HRA Article 5 and Article 8 rights.

### **What have we done well?**

Through budget augmentation in 2014-2015 and 2015-2016, we have appointed additional staff to undertake Best Interest Assessments under DoLS,

We have invested additional resources into Mental Health Advocacy for those service users who require it under the DoLS process.

### **How can the use of DoLS improve service-user well-being?**

**Miss J** lived in a dementia specialist care home and became regularly distressed, frustrated and angry: the assessing BIA questioned why she had no graduated de-escalation plan in place that addressed the meaning of these behaviours: she made a condition that this should be completed within a week of the Authorisation being made. Staff sought out specialist support from mental health services to complete this in the time scale and noted substantial changes in Miss J as a result of staff understanding the meaning of her behaviour and altering their responses to her. The Supervisory Body now sees good quality graduated de-escalation plans in the referrals for all service users where appropriate from this care home and has used them with others as an example of good practice

**Mr Q** moved on a temporary basis to a nursing home following a best interests decision: he was confused and completely immobile following prolonged and severe self-neglect. The BIA recommended a short

Authorisation with conditions about seating and physiotherapy to improve his mobility and general physical health. The Supervisory Body appointed a paid Representative and she was able to see that actions around seating and services were insufficient, meaning that Mr Q was spending overly long periods in bed. She advocated successfully for these and as his physical health and mobility has improved, he is also more able to assert his preferences: as a result, assessment for less restrictive accommodation is now being undertaken at his request and in line with his wishes.

### **What would you do differently?**

We need to augment how we address the issue of a “dol” in other settings: having rolled out training for identifying service users who may need a court appointed authorisation to the relevant services across health and social care, we now need to increase our capacity to set these cases before the Court of Protection either in a paper application or through an oral represented hearing.

We need to develop effective strategies for increasing awareness of MCA in transitions and services for 16 and 17 year olds

### **Appointee and Deputyship**

Where there are no 3rd parties willing and able to support vulnerable people who are unable to manage their own affairs, Swindon Borough Council utilises 2 separate methods to give governance for handling and assisting to manage their finances:

The Appointee service is for those unable to manage their Welfare Benefits. This is a delegation from the Secretary of State for Work and Pensions. The number of Appointeeships as at March 2014 was 159.

The Deputy Service applies to people deemed by the Court of Protection to lack capacity to manage their property and financial affairs and is part of The Mental Capacity Act 2005. The Council is appointed as Deputy and is able to make decisions, in the person's best interests, regarding most or all of the person's financial affairs (the exact scope of this decision making is specified in the declaration made by the Court of Protection regarding each individual). The number of Deputyships held as at March 2014 was 50.

These services transferred back from CAPITA in October 2014 as part of Finance Admin. The team are now situated in the same office as Adult Social Care and we are already seeing benefits and efficiencies through this closer working relationship.