

North Somerset Council

Update on position in relation to the Care Act Easements for ADASS / DHSC

Author: Richard Orson (Principal Social Worker)

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Context

North Somerset Council has been operating at Stage 2 of the Care Act Easement Guidance since it was first published. We have worked flexibly to ensure legal duties under the Care Act are met. Some services (e.g. day care) have been affected by social distancing guidance and have closed, but this is separate from decisions taken as a result of workforce or demand pressures.

Our position in relation to the Care Act easements is iterative and under continuous review. Since the Coronavirus Act 2020 came into force and the associated guidance was published, the Assistant Director for Adult Services (currently acting as DASS) has met at least twice weekly with the Principal Social Worker, Principal Occupational Therapist and Service Leaders to consider system pressures which might lead us to operate under the easements. On at least a weekly basis, a representative from the contracts and commissioning service has joined the meeting to offer a perspective on pressures within the provider market.

A formal review of our position under the Care Act Easement guidance is undertaken every two months or when there is a significant change in local or national circumstances, for example a change to a higher tier of restrictions or a national lockdown.

Due to the current national increase in Covid 19 cases and the lockdown measures announced on 4th January 2020, the local authority's position in relation to the easements is currently under review. As part of this process the local authority's governance structures relating to the easements are being reviewed alongside the current flexibilities which are being applied. Given the changing local and national picture, it is difficult to provide a definitive position. Regardless of circumstances, the local authority will continue to meet its legal duties under the Care Act for as long as possible and will take all available measures to mitigate the need to operate under the easements. The decision to operate under the easements is regarded by the senior leadership team as an absolute last resort and easements will only ever be applied if it becomes necessary to prioritise care provision based on risk.

There are significant system pressures in several key areas impacting on social care delivery including hospital discharge and local outbreaks in hospitals and care homes. As a result, most local health and social care providers are currently in Opel 4 (North Somerset Council is currently in Opel 3) in relation to the NHS OPEL Framework. While this is an indicator of pressures on the health and social care system, it is not a deciding factor in relation to the easements.

As of today, there are recorded cases of Covid 19 in 22 of the 98 care homes in North Somerset, with some care staff affected. On one recent occasion (shortly before Christmas), staffing was depleted in a dementia nursing home due to Covid to the extent that staff from the local authority and CCG were called upon to staff the home and ensure patients received safe and effective care over the weekend. This is an isolated event. It has been possible, thus far, to meet eligible need despite workforce pressures in the care system

While a minority of staff within the local authority's adult social care services have been affected by Covid 19, this has not at any stage reached a point where staffing capacity has reduced to the extent we are unable to meet our legal duties under the Care Act. This is continuously monitored using a service escalation tool devised by service leaders at the start of the pandemic.

Possible Triggers / Tipping points

Any decision to operate under the easements will be made in line with the Covid 19 Ethical Framework for Adult Social Care, the Human Rights Act and will be as a direct result of workforce and / or demand issues caused by Covid 19.

Workforce

One potential tipping point is around local authority staffing meaning we are unable to undertake key duties relating to assessment, care planning or financial assessment. Pressures will be monitored regularly, addressed as they arise and no one factor is determinative of whether we would operate under the easements. However, there are a number of factors which would cause us to consider operating under the easements. If, for example, regular trained staffing reduced below 80%, we would need to start considering whether to ease our legal duties in respect of the Care Act. Below 50% would be considered a critical situation and would be a strong indication of the need to operate under the easements. We would need to carefully consider the processes by which we undertake assessments and plan for care if these duties are eased as we do not have alternative mechanisms to the Care Act and its statutory guidance in place currently.

In relation to the provider market, staffing issues may lead to a significant reduction in providers available to meet eligible need. This would be flagged via weekly meetings with senior managers in the Contracts and Commissioning Service and may necessitate the local authority prioritising which eligible needs must be met. Should this become necessary, a process for risk assessing and prioritising existing care provision is in place and currently under review.

Demand

Again, this is kept under constant review by service and team managers in weekly meetings and it is not possible to provide an exact tipping point as it is dependent on a range of variables including workforce pressures. Our current service escalation tool considers it critical when demand increases beyond an additional 80% to what we would ordinarily expect. Care Act easements would undoubtedly be considered

at this stage, and would be being discussed as an option long beforehand when demand is first heightened (20% increase).

Mitigating steps

NSC is committed to taking all steps possible to mitigate having to operate under the easements. Measures taken so far include:

- Maintaining close links and referral routes to VCSE as alternative to commissioned support
- New preventative “Wellness Service” expanded to continue through the winter months
- BNSSG social media campaign for recruitment of carers
- Continuing to recruit and induct new staff including NQSWs throughout pandemic
- Engagement in Return to Social Work programme
- Maintaining a list of families and people who require regular support - conducting daily / weekly support calls to help those people maintain caring relationships and prevent carer breakdown.
- Implementation of the following measures to ensure we address issues promptly:
 - regular meetings with DASS, service leaders, contracts and commissioning, principals and team managers
 - single communications method (SWOTs Happening newsletter)
 - development of clear operating protocols
 - professional forum to support staff with complex ethical decision making using Ethical Framework
 - proportionate assessments are the default position with essential visits being undertaken as necessary following appropriate risk assessment
- PSW has written to providers to clarify legal duties and expectations in relation to the Care Act easements and Ethical Framework.
- Engagement with health partners to promote the Ethical Framework