

REPORT TO: Health Policy & Performance Board

DATE: 29th May 2012

REPORTING OFFICER: Strategic Director - Communities

PORTFOLIO: Health & Adults; Community Safety

SUBJECT: Close to Home – An inquiry into Older People and Human Rights in Home Care

WARD(S) Borough-wide

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to present the Board with a summary of the findings and recommendations from the Equality and Human Rights Commission's inquiry into Older People and Human Rights in Home Care, along with details of a self – assessment conducted within Halton Borough Council (HBC), against the recommendations generated from the inquiry.

2.0 RECOMMENDATION

RECOMMENDED: That the Board:-

- 1) **Note contents of the report**
- 2) **Note completed HBC self-assessment document, resulting actions and progress to date attached at Appendix 1.**

3.0 SUPPORTING INFORMATION

- 3.1 As a result of wanting to find out whether the human rights of older people wanting or receiving care in their own homes were being fully promoted and protected; in November 2011, the Equality and Human Rights Commission undertook a systematic inquiry into the issue and the results of the inquiry were published in November 2011. Link to the full report below:-

<http://www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-home-care-of-older-people/close-to-home-report/>

- 3.2 In summary, the inquiry concluded that of the 500,000 older people who receive essential care in their own home paid for wholly or partly by their local authority, for too many, this care, delivered behind closed doors is not supporting the dignity, autonomy and family life which their human rights should guarantee.
- 3.3 Good quality home care is invaluable in providing older people with the support they need to keep their independence and control over their lives in familiar surroundings.

- 3.4 The inquiry found that although many older people receive care at home which respects and enhances their human rights, this was by no means a universal experience. It uncovered areas of real concern in the treatment of some older people and significant shortcomings in the way that care is commissioned by local authorities.
- 3.5 It also found that the legal safeguards provided by the Human Rights Act, which should be used to guarantee respect for the human rights of older people including preventing inhuman or degrading treatment, were not as widely used as they should be.
- 3.6 The inquiry concluded that bare compliance with the Act was not enough; public authorities also need to have 'positive obligations'; to promote and protect human rights. The inquiry also discovered a significant legal loophole which means that the majority of older people who receive care at home - that is, if they pay for all or part of it themselves or if it is delivered by a private or voluntary sector organisation - are not protected by the Act.
- 3.7 The inquiry was undertaken at an important point for social care, when the funding and delivery of care faces fundamental reform and therefore the results presents a good opportunity to make the changes recommended. There are a total of 25 recommendations within the report, which can be catergorised into three categories, as follows:
- **Proper protection** - The gaps in the current legal system need to be closed so that older people receive better protection. In particular, the loophole in the Human Rights Act needs to be closed so that home care is covered in the same way as residential care. The Commission will be working to secure support for these essential changes.
 - **More effective monitoring** - Local authorities need to do more to incorporate human rights into the ways in which they commission care services and need to overcome the barriers which many older people face when raising concerns or making complaints. Problems in care delivery do not come to light quickly enough. The Commission will support local councils in understanding what they need to do and what best practice is.
 - **Better guidance** - Older people and their families need to have access to better information when making choices about care provision and also need to know more about how their human rights should be protected when care is delivered. The Commission will work with private providers and the voluntary sector to provide accessible guidance on human rights for older people receiving care.
- 3.8 Halton Borough Council contributed to the inquiry and are highlighted a couple of times within the report by the Commission as having best practice within this area, for example via use of the 'Dignity Challenge' approach.
- 3.9 As a result of the inquiry it was decided to undertake an in house self-assessment exercise against the recommendations made by the Commission. Contributions were made to the assessment from Quality Assurance,

Commissioning, Safeguarding, Dignity, Direct Payments and Policy and the resulting self- assessment is attached at **Appendix 1**.

3.10 A number of recommendations made by the Commission can only be implemented at a national level and therefore it has been identified that no action is required in these areas. For the other recommendations when the assessment has been made (using R/A/G) then a supporting commentary has been added in support of the assessment. As a result of the assessment some action points have been highlighted in order to make improvements. These are highlighted within the self - assessment.

3.11 A report and the appended self-assessment were presented to the Safeguarding Adults Board on 5th April 2012. The Board acknowledged that most of the recommendations were already in place within Halton and it was confirmed that the associated action plan would be monitored through the Dignity Network.

4.0 POLICY IMPLICATIONS

4.1 As a result of some of the action points outlined within the self – assessment, this may result in the need to amend certain policies and procedures, for example the Safeguarding Adults in Halton – Interagency Policy, Procedures and Guidance, however this will be kept under review.

5.0 OTHER/FINANCIAL IMPLICATIONS

5.1 None identified at this stage.

6.0 IMPLICATIONS FOR OTHER COUNCIL PRIORITIES

6.1 Children & Young People in Halton

None identified

6.2 Employment, Learning & Skills in Halton

None identified

6.3 A Healthy Halton

The Commission's inquiry found that for far too many, the care provided to them is not supporting their dignity and human rights and it highlighted that the commissioning, monitoring and delivery of services have a crucial role to play in ensuring that this doesn't happen. The work undertaken as part of HBC's self-assessment exercise has provided assurances that the commissioning, monitoring and delivery of relevant services within Halton does support people's dignity, autonomy and family life.

6.4 A Safer Halton

The effectiveness of safeguarding adult arrangements is fundamental to making Halton a safe place of residence for adults whose circumstances make them vulnerable to abuse. The self-assessment exercise undertaken

does provide assurances that appropriate safeguarding processes are in place.

6.5 Halton's Urban Renewal

None identified

7.0 RISK ANALYSIS

7.1 If as a result of this inquiry and its associated recommendations we don't ensure that the services we commission and provide don't respect and enhance the human rights of older people then we open ourselves up to criticism and a position where we may fail in our duty to provide services which prevent inhuman or degrading treatment.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 An Equality Impact Assessment is not required for this report.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Close to home: An inquiry into older people and human rights in home care	People & Communities Policy Team	Louise Wilson