

## **Appendix F – legal Requirements – Addendum A**

More detailed advice on the legal implications of proposed efficiencies will be required as and when the detail and specifics of a particular proposed efficiency are determined.

Attention is drawn to the following legislation relating to the specific efficiencies identified in this addendum.

### **Social Care Health & Housing**

#### **Efficiency 2 - Workchoice.**

Under the Care Act 2014 the Council has a duty to meet an adult's assessed needs for care and support which meet the eligibility criteria (s.18(1)) and certain conditions are satisfied. Carrying out the care and support function must be done in a way which promotes an adult's wellbeing (s.1) which includes their participation in work, education, training or recreation. How this duty is complied with depends on the particular circumstances and the Council should consider each case on its own merits. Withdrawal of this service will require an equality impact assessment and consultation on alternative options available before proceeding both in relation to existing service users and future provision.

### **Children's Services**

#### **Efficiency - End remaining Speech And Language Therapy & Homestart parenting support contracts not taken out in 2016/17.**

Under the Children Act 1989 the Council has a general duty to promote the welfare of children within their area who are in need by providing a range and level of services appropriate to those children's needs (s.17(1))

For these purposes s.17(10) states a child shall be taken to be in need if—

- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled

Specific needs are detailed as follows:

S.17(11) For the purposes of this Part, a child is disabled if he 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.

S.17 also allows the provision of services for children in need to be provided in various ways and repayment for the cost of those services to be made although this is to be means tested:

S.17(5) Every local authority—

- (a) shall facilitate the provision by others (including in particular voluntary organisations) of services which [it is a function of the authority] to provide by virtue of this section, or section 18, 20, [[22A to 22C], 23B to 23D, 24A or 24B]; and

(b) may make such arrangements as they see fit for any person to act on their behalf in the provision of any such service.

S.17(6) The services provided by a local authority in the exercise of functions conferred on them by this section may include [providing accommodation and] giving assistance in kind or . . . in cash.

S.17(7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).

Any review will need to take account of service users wishes under the Children Act 1989, circumstances of individual cases (including obligations in respect of any Special Educational Needs), and contract terms and conditions and appropriate Equality Impact Assessments and Consultation will need to take place.

### **Community Services**

#### **CS1718E019 – Highways Contracts - removal of school crossing patrols on zebra crossings**

Power to provide school crossings contained in Road Traffic Regulation Act 1984

S.26 Arrangements for patrolling school crossings

(1) Arrangements may be made by the appropriate authority for the patrolling of places where children cross roads on their way to or from school, or from one part of a school to another, . . . by persons appointed by or on behalf of the appropriate authority, other than constables.

(1A) Arrangements under subsection (1) above may be made for patrolling places at such times as the authority thinks fit.

(4) In taking decisions as to making arrangements under subsection (1) above . . . in England or Wales, the council of a county . . . shall have regard to any representations made to them . . . by local authorities for localities in the county...

(5) Any arrangements under subsection (1) above . . . if made in England or Wales by the council of the county... as respects places in the county...or district, may include an agreement between that council and the chief officer of police of the police force maintained for the police area in which those places are, . . . for the performance by the chief officer, . . . on such terms as may be specified in the agreement, of such functions for the purposes of the arrangements as may be so specified. Adequate impact assessments and appropriate consultation exercises will need to be carried out once specific patrols have been identified.

#### **Efficiency - CS1718E037 Waste - Reduction of HWRC Opening hours.**

The Council is obliged to provide places to deposit waste to residents which should be available at all reasonable times:

Environmental Protection Act 1990

S.51 Functions of waste disposal authorities

(1) It shall be the duty of each waste disposal authority to arrange—

(b) for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of waste so deposited;

(2) The arrangements made by a waste disposal authority under subsection (1)(b) above shall be such as to secure that—

(a) each place is situated either within the area of the authority or so as to be reasonably accessible to persons resident in its area;

(b) each place is available for the deposit of waste at all reasonable times (including at least one period on the Saturday or following day of each week except a week in which the Saturday is 25th December or 1st January);

(c) each place is available for the deposit of waste free of charge by persons resident in the area; but the arrangements may restrict the availability of specified places to specified descriptions of

waste.

An assessment of what is reasonable in relation to each centre will be required as will any appropriate consultation

### **Public Health**

**Efficiency – PH13 Aspire Neuro Linguistic Programming.**

**Efficiency PH 14 Re-focus healthcheck programme.**

**Efficiency - PH15 Adult weight management**

**Efficiency PH 16 and PH 17 Healthchecks**

S.2B(1) of the National Health Service Act 2006 imposes a duty on the Council to "take such steps as it considers appropriate for improving the health of the people in its area." These steps may include providing information and advice; providing services or facilities to promote health living; providing services or facilities for the prevention, diagnosis or treatment of illness; financial incentives to encourage healthier lifestyles and making available the services of any person or any facilities.

Under the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 in exercising the duty above the Council is obliged to offer health checks to all eligible persons between the ages of 40 and 74 once in every relevant period. Both eligibility and relevant period are specifically prescribed in the Regulations and should be complied with. Eligibility for healthchecks does not include persons with diagnoses detailed in sub-clauses 4(1)(a) to (c) of the Regulations as detailed.

### **Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013**

#### **4 Health check assessment**

- (1) In the exercise of its functions under section 2B of the Act (functions of local authorities and Secretary of State as to improvement of public health), each local authority shall provide, or shall make arrangements to secure the provision of, health checks to be offered to eligible persons in its area.
- (2) Subject to paragraph (5), in this regulation, an eligible person is a person in the local authority's area who is aged from 40 to 74 years.
- (3) Each eligible person shall be offered a health check once in every relevant period.
- (4) For the purposes of this regulation, the relevant period is—
  - (a) in the case of a person who is an eligible person on the date that this Part comes into force
    - (i) the period of five years starting with that date, and
    - (ii) each subsequent period of five years starting on the date on which the previous health check was offered;
  - (b) in the case of a person who becomes an eligible person (whether or not that person has ever previously been an eligible person) on a date after the date that this Part comes into force,
    - (i) the period of five years starting with the date on which the person becomes an eligible person, and
    - (ii) each subsequent period of five years starting on the date on which the previous health check was offered.

(5) Any person of a description specified in this paragraph shall not be an eligible person for the purposes of this regulation—

(a) a person who has been diagnosed with any of the following—

(i) coronary heart disease,

(ii) chronic kidney disease (CKD), being CKD which has been classified as stage 3, 4 or 5 CKD within the meaning of the National Institute for Health and Clinical Excellence clinical guideline 73 on Chronic Kidney Disease, published September 2008,

(iii) diabetes,

(iv) hypertension,

(v) atrial fibrillation,

(vi) transient ischaemic attack,

(vii) hypercholesterolaemia,

(viii) heart failure,

(ix) peripheral arterial disease,

(x) stroke;

(b) a person who is being prescribed statins for the purpose of lowering cholesterol;

(c) a person who has been assessed, either through a previous NHS health check or through any other check undertaken through the health service in England, as having a twenty per cent or higher risk of having a cardiovascular event during the ten years following the check.

(6) In discharging the requirement under paragraph (1), the local authority shall act with a view to securing continuous improvement in the percentage of eligible persons in its area participating in the health checks.