1. Purpose

i. To summarise recent concerning trends in the increased use of residential and nursing home care and reduced support in the community that raise issues about outcomes for individuals, including their safety, consumer, legal and human rights, and the operation of the market.

ii. To set out policy and practice issues that local authorities should consider in admissions to residential care, both for short and long term care; the use of reablement and intermediate care; discharge to assess models and the operation of hospital discharge processes.

iii. To remind Directors of the core elements of good practice in both commissioning and social care practice, based on statutory requirements and the human and other rights of people with care and support needs.

iv. Recognising that local systems of health and social care are likely to face another difficult winter, to summarise the arrangements that should be in place with local system partners in the NHS and independent sector about how these pressures will be jointly managed in terms of capacity, resources and inter-organisational and professional collaboration.

2. Context

2.1 ADASS has consistently supported efforts to enable older and disabled people to live as independently as possible in their own homes both in terms of work within local authorities and through the national policy agenda. Our stance towards the NHS Plan and the Green Paper is rooted in the central importance of independent living in the community wherever possible.

2.2 However the most recent adult social care activity and expenditure data and the findings of the Autumn short survey of Directors give rise to serious concern that progress in recent years in supporting more people in the community is not being sustained and that the use of long-term residential and nursing home care is increasing:

- There was a 4.24% increase in the number of new clients, aged 65+, who requested support and then went into short-term care: to maximise independence in 2016/17 compared to 2017/18 (196,635 to 204,980).
- The number of new clients entering nursing care increased by 5.35% from 2016/17 to 2017/18 (10,195 to 10,740).
- The number of new clients entering long-term residential care increased from 17,260 to 18,040, or 4.52% from 2016/17 to 2017/18.
- The number of new clients entering long-term community care fell from 104,585 in 2016/17 to 103,820 in 2017/18, or -0.73%.

2.3 In the last eighteen months local authorities have achieved a reduction in delayed transfers of care attributable to social care of around 40% although this started to rise again over the summer. The Autumn survey revealed widespread concern amongst Directors that this success had led to unintended consequences:

- a moderate, significant, or very significant increase in rapid discharges to short-term care home placements that became long-term - 82% of responding Directors;
- an increase in the number of admissions to hospital that would have been avoidable had there been sufficient social, primary, and community services - 73% of responding Directors;
- an increase in the number of people waiting for care packages at home - 69% of responding Directors;
- A reduced focus on home first/community models of discharge – 50% of responding directors.

Directors also expressed concern about more people waiting for home care packages (69%) and for assessments at home (50%).

2.4 The Competition and Markets Authority (CMA) published its consumer law advice for care homes on the 16th November 2018. The CMA had indicated that many concerns had been raised with them about inadequate information on what people will be getting by way of care services and what and when they will have to pay for

it. The published CMA advice to care homes is clear that regardless of who pays for care - the council, NHS or the person themselves - the person (or their representative or advocate, if they lack capacity) should be given full information and advice as to what they will get, what it means (especially if this cost exceeds their means in the longer term) and what and when they will have to pay for it. The guidance makes specific reference to hospital discharge and the need to ensure that care homes have systems in place to meet their information obligations in cases of emergency/rapid admissions, whilst also ensuring that residents get the care they need, when they need it. It notes that the fact that an admission to a care home may happen quickly is a further reason why sufficient information must be given to the resident and their representatives in a clear fashion, not an excuse to fail to provide them with the information they need to make informed decisions; it will not be enough to provide them with information once the resident has moved into the home.

2.5 The purpose of this Advice Note is to set out the whole range of issues that Directors should consider in reviewing the adequacy of local arrangements for people's transitions between home, hospital, residential and other care settings.

3. Principles & Good Practice

1. The driving principle should be ensuring that individuals are offered the right care, in the right place, at the right time. No one should be admitted directly to long-term care from hospital unless in very exceptional circumstances e.g. for end-of-life care where this is not possible at home. The default pathway should be discharge home, with the right support; reablement should always be considered.
2. People have legal rights and all agencies must operate within the legislative framework that exists to protect rights of vulnerable people in vulnerable situations – these cannot be disregarded because hospitals, or any other part of the care system, are under pressure.
3. People in need of urgent clinical care, often in pain and in distress, waiting at home, in ambulances or emergency departments have needs and rights too. It is important for local authorities and NHS partners to working collaboratively to address local pressures across the whole system, and to ensure that professionals & clinicians have a shared understanding and agreement about how risk thresholds are implemented in a consistent way in home, hospital and community settings.
4. The principles of the Care Act should be uppermost, especially the importance of assessments being needs-driven, and the requirements of statutory guidance in respect of choice, access to advocacy where needed and the involvement of carers. The Mental Capacity Act should be used where appropriate to protect the needs and rights of the individuals.
5. Local authority and NHS commissioners should work together to ensure there is sufficient capacity to offer step-up intermediate care (to avoid hospital admission) and step-down intermediate care (to facilitate timely discharge).
6. 'Discharge to assess' models should be kept under review to make sure they are working as intended so that (i) short-term admissions to care homes do not end up becoming long-term placements. For example, persuading someone to enter short-term care that is really long-term care because there are no therapies or reablement is wrong in human, consumer and financial terms and ties up budgets; (ii) premature or inappropriate discharge arrangements do not result in readmission to hospital.
7. Care planning and communication with individuals and families should involve providing clear information about care options, including cost (now and in the future) implications for individual charges of any changes or transfers in care settings.

4. Local arrangements

To ensure that the above principles are reflected in policy and practice, Directors should review whether all of the following elements are in place and how well they are working:

1. Clear and jointly agreed hospital discharge processes that have been reviewed within last 12 months and agreed care pathways for key transitions e.g. from acute hospital to reablement/intermediate care.

2. In particular, agreement with clinicians to ensure that there is a shared understanding of 'medically fit to transfer' or "medically optimised" – not necessarily the same as 'fit for discharge' – so that care homes are aware of the level of needs they are being expected to meet.
3. Commissioning decisions are made jointly and together, especially for additional capacity to facilitate earlier hospital discharge. Directors may wish to consider the role played by different local fora e.g. local joint commissioning/integration boards, winter planning teams, urgent care boards.
4. As part of assessment and care planning processes, individuals, families and carers are given clear information about:
    - The options for the care and support they need – the kind of service (short term care, reablement etc.), where they are to receive it (own home, residential setting, reablement or intermediate care facility), and the desired outcome (especially where this involves a setting other than their own home).
    - the costs and charges of different services, and how to get further advice, irrespective of who is arranging the care (NHS, local authority, individual/family themselves); this should reflect the forthcoming guidance issued by the Competition and Markets Authority about consumer protection.
5. Engagement with local information and advice providers to ensure good awareness of processes and arrangements.
6. Agreements in place with providers that specify the purpose and outcomes of short-term care, including rehabilitation and availability of support from therapists, primary care and community health services; an escalation protocol to avoid the need for hospital readmission; physical capacity; all reflected in contract management and monitoring; clear recording of admissions and outcomes - so data about what is happening to people across the care pathway can be used to review how well individual services and the system are working.
7. Ensure that the above principles are reflected in reviewing local arrangements for:
    i. end of life care and fast track continuing health care;
    ii. the operation of any local trusted assessor, discharge to assess and intermediate care or reablement schemes;
    iii. awareness of system partners of their responsibilities in situations where people lack capacity.
8. The Health and Wellbeing Board can play a strategic role in overseeing local performance and the outcomes achieved for local people. The Health Scrutiny Committee and local Healthwatch might also help to perform the function of critical friend and offer reflection and analysis of people's experience of the health and care system.

Sources of further information

Top Tips for working safely in escalation in the urgent care system when increasing acute bed availability through fast track discharge, ADASS, September 2018

Framework for maximising the use of care homes and use of therapy-led units for patients medically fit for discharge, NHS England, 2017

Reducing delays in hospital transfers of care for older people - Key messages in planning and commissioning John Bolton, Institute of Public Care, 2018

Developing trusted assessment schemes: 'essential elements' – ADASS, NHS England & others, 2017

Guidance: Care homes market study: summary of final report, Competition & Markets Authority, 2017

Quick guide: discharge to assess, DH, ADASS, NHS England, 2016

Home First/Discharge to Assess, LGA Improvement resources