

IMPLICATIONS OF THE CARE ACT 2014

To: **Adults Committee**

Meeting Date: **9 September 2014**

From: **Adrian Loades, Executive Director: Children, Families and Adults Services**

Electoral division(s): **All**

Forward Plan ref: **Not applicable** *Key decision:* **No**

Purpose: **This report provides the Committee with further information on the implications of the Care Act 2014 most of which the Council has to implement in April 2015, with changes to the funding of adult social care being introduced in April 2016.**

Recommendation: **The Adults Committee is asked to consider and comment on the developing understanding of the implications of the Care Act 2014.**

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1.0 BACKGROUND

- 1.1 Part 1 of the Care Act represents a fundamental revision of adult social care legislation, finance and policy. It simplifies, consolidates and improves a confusing and sometimes conflicting legislative framework that has developed over the last 60 years.
- 1.2 The Act contains some clauses which are new in law but not new in policy and practice, as well as new provisions. The implementation of the Act is a major undertaking and the work is being managed through the Care Act Programme Board. The draft regulations and guidance for the Act were launched in June and have helped to inform our understanding of the implications of the Act and the work we need to focus on. Practice guidance and tools are currently being developed by the Department of Health to support Local Authorities to implement the Care Act. Until these are available we will need to progress our work locally, developing our understanding and collaborating with Local Authorities across the Eastern Region.

2.0 KEY PROVISIONS AND IMPLICATIONS

This section sets out the key provisions of the Act and provides an update to the Committee on the implications based on the detail provided in the draft regulations and guidance that were issued in June for a consultation period that ended on 15 August. The final regulations and guidance are expected in September and the Department of Health are working on practice guidance and tools that will support Local Authorities in the implementation of the requirements of the Act.

- 2.1 **New statutory principles which embed the promotion of individual wellbeing as the driving force underpinning the provision of care and support.**
 - 2.1.1 This is a new duty that requires the Council to promote wellbeing generally and specifically for people who present with care and support needs, whether or not these needs meet the eligibility criteria.
 - 2.1.2 The new model of social work/social care, Transforming Lives will deliver this approach through the provision of information and advice, working with partners in the community and voluntary sector, Districts and housing. The focus on understanding and maintaining or developing people's community networks will facilitate this approach.
 - 2.1.3 Workforce development for Council staff and other agencies will be required to ensure that staff understand the importance of maintaining wellbeing in the context of preventative approaches and in the context of care and support. Skills for Care are currently developing training materials to support the implementation of the Care Act and these are expected in September. It is anticipated that these materials will clearly explain the promotion of individual wellbeing and we will be able to tailor that to fit with our local agenda, Transforming Lives. This work will be taken forward by the Workforce Development Project Group on behalf of the Care Act Programme Board and the Transforming Lives Project Board.

- 2.2 **Population-level duties on local authorities to provide information and advice, prevention services, and shape the market for care and support services. These will be supported by duties to promote co-operation and integration to improve the way organisations work together.**
- 2.2.1 Work is underway to respond to the information requirements of the Act that will utilise the range of information sources and media available through both statutory and community and voluntary sector organisations. The Communication and Information Project Group have been working on a model and approach that could provide different levels of detail for people depending on what information they required at any point in time: this would include universal information to inform the general population about the Care Act and care and support and more detailed information for those people needing to access care and support services.
- 2.2.2 Building on existing prevention services is a key feature of the work to deliver Transforming Lives and discussions are continuing with the community and voluntary sector, housing and Districts to scope what these services or interventions will look like in the future. The importance of discussing with people how their own networks can be maintained or strengthened to reduce reliance on statutory services has been emphasised through these discussions.
- 2.2.3 We have a responsibility within the Act to ensure our workforce and the workforce of provider services and other partners are aware of the underlying principles of the Act: Promoting wellbeing; Preventing, reducing and delaying the need for care and support; Choice and Control; Safeguarding adults with care and support needs from abuse or neglect. We currently provide training to Council staff and staff working in the rest of the care sector and will need to review and revise training to ensure that the message are consistent with the Act and our local implementation. This work links to the work on promoting wellbeing that is being led by the Workforce Development Project Group and will again draw on the materials that are being developed by Skills for Care.
- 2.3 **Clear legal entitlements to care and support, including giving carers a right to support for the first time to put them on the same footing as the people for whom they care.**
- 2.3.1 The legal entitlement to care and support for people with needs has been clarified and in particular the Council's duty to assess people who are funding their own care (self-funders). This will place new demands on the Council to undertake assessments and maintain a relationship (at least annually) with self-funders who have assessed eligible needs. As the Care Act is enacted there is expected to be a significant demand for assessments as current self-funders request assessments which are required to set up a Care Account.
- 2.3.2 The Care Account will be used to record the amount that the Council would pay to meet the person's assessed care and support needs and this will be tracked for self-funders to make sure that they do not pay more than the cap on care costs – set at £72,000 for older people.

- 2.3.3 Work has been progressing over the summer on modelling the requirement for additional staff to undertake assessments and compare this to the funding allocated for these additional burdens (see sections 3.0 and 5.1 below). A report on this will be presented to the Care Act programme Board in September. Alongside the modelling, work is continuing to explore what a “proportionate assessment” would look like in different situations, particularly for self-funders - as this could reduce some of the demand for additional staff.
- 2.3.4 The new legal entitlement for carers is expected to lead to new demand for assessment, and where needs are eligible, for personal budgets. This is more difficult to model than self-funders, so a number of assumptions are being made, informed by work of other local authorities, to gain a view on the impact on staff resources. The work of the Support for Carers Project is developing a new model of support for carers focusing on prevention and maintaining wellbeing to reduce or delay the need for care and support.
- 2.4 **Revised national eligibility criteria setting out the minimum level of eligibility at which Local Authorities must meet the care and support needs of an individual or a carer.**
- 2.4.1 The government have set the national eligibility criteria at “substantial” using the current matrix Fair Access to Care but the matrix itself was not included in the draft guidance issued in June. Instead the guidance set out the areas that need to be explored to ascertain if someone has eligible care and support needs, and includes the impact of needs on the person’s wellbeing.
- 2.4.2 Although we currently operate with the threshold for eligibility at “substantial”, we will still need to review the questions that frame our assessment to check if they fit with the new articulation of eligibility.
- 2.4.3 Linked to the work above, we also need to be able to use the assessment in a proportionate way, depending on the complexity of need or situation for each person. The work around assessments will be informed by practice guidance and tools, but work is continuing to explore what changes are needed to our assessments locally and regionally while these are developed nationally.
- 2.5 **Set out in law that everyone, including carers, should have a personal budget as part of their care and support plan, and give people the right to ask for this to be made as a Direct Payment.**
- 2.5.1 The Council currently has processes to identify the personal budget to meet assessed eligible needs of service users, known as a resource allocation system (RAS). These processes will need to be reviewed and revised alongside the assessment questions to ensure an appropriate allocation of money in the personal budget is identified to meet the needs. A process for personal budgets needs to be developed for carers and will be progressed with the work on personal budgets for service users.
- 2.5.2 The Council is involved in work with the national organisation InControl to test out a new RAS for carers and a revised RAS for service users. This work will help inform the review of our current assessments and our current RAS for service users.

- 2.5.3 The Council already supports people to receive their personal budget as a Direct Payment and this approach will continue to be promoted.
- 2.6 **A new cap on care costs, setting the maximum amount that people will have to pay for care within their lifetime.**
- 2.6.1 Although the cap on care costs and the Care Account that will track the amount that the Council would have spent to meet the eligible needs of self-funders will not be introduced until April 2016, the Council will need to engage with self-funders and their families during 2015 to undertake assessments. As discussed above, this will require more staff resource and the modelling of this is therefore very important so that we can plan the recruitment and induction of staff to carry out this work, acknowledging that all other Local Authorities will be expanding their workforces too.
- 2.6.2 A Care Account will also need to be developed and this is being built into the specification for the adult social care IT system that will be subject to a procurement process over the next 2 years.
- 2.6.3 **Deferred payments to ensure that nobody has to sell their home to pay for care within their lifetime.**
- 2.6.4 The Council's existing scheme has been running well but with only around 40 people at any one time. The scheme needs to be reviewed to see what changes are needed to scale it up if demand increases after April 2016. Both the processes and the staff resources will need to be considered. The requirement for a system to support deferred payments will also be included in the specification for the IT system. There is a short term opportunity to use the system that is operational in Northamptonshire through LGSS that is currently being explored.
- 2.7 **New duties to ensure that no-one's care and support is interrupted when they move home from one local authority area to another.**
- 2.7.1 The Council already takes a responsible approach to maintaining the support to people who move into the County based on what they were receiving when this information is provided by the previous Local Authority. Current procedures will need to be checked but minimal change is expected to be needed.
- 2.7.2 **A new statutory framework for adult safeguarding, setting out the responsibilities of local authorities and their partners, and creating Safeguarding Adults Boards in every area.**
- 2.7.3 The Council has a well-established Safeguarding Adult Board and the members of that board have supported the appointment of an Independent Chair to mark the change to the statutory nature of the Board and to bring more independent challenge to the work of all partners in safeguarding adults from abuse and neglect. The intention is to recruit to this role ready for April 2015.

- 2.7.4 A key issue that is being discussed at national and regional level is the interplay between compliance against contract standards, poor practice and safeguarding adults from abuse. This raises the issue of whether there should be greater clarity around when a safeguarding investigation is triggered when contract compliance or poor practice is identified. We are working on this with colleagues in the Regional Safeguarding Network.
- 2.7.5 Another area that requires attention, and is also a focus of the Regional work, is how to make safeguarding more personalised or person –centred. Identifying the outcomes that the person wants and tailoring the safeguarding process to fit the individual’s situation will need to be considered to achieve this. This is also an area of improvement being supported by the Department of Health.

3.0 Resources to support implementation

- 3.1 The Department of Health has identified some funding to support the implementation of the Act: £3.2million for new burdens in the Council’s budget from April 2105 and £1.3million in the Better Care Fund from April 2015. The level of funding is subject to consultation and the local modelling work described below will be used to inform our response.
- 3.2 There are two aspects to the financial implications of the Care Act:
- The costs of implementing the changes required from 2015
 - The longer term financial implications of the introduction of the cap on care and changes to the threshold below which Councils will be required to contribute to the cost of people’s care.
- 3.3 All Councils are being encouraged by the Association of Directors of Adult Social Services (ADASS) to undertake a modelling exercise that will provide information on the long term financial implications. This information will feed into discussions with the Department of Health and the Treasury ahead of the next comprehensive spending review. Work has started on the modelling using a tool developed by Lincolnshire but the assumptions used need to be checked with operational staff before the work is finalised.
- 3.4 The tool will also inform our view of whether or not the proposed allocations for Cambridgeshire will be sufficient to meet the cost of implementation from April 2015. This information will also feed into ADASS regionally and nationally and will be shared with the Committee once the work is completed.

4.0 ALIGNMENT WITH CORPORATE PRIORITIES

4.1 Developing the local economy for the benefit of all

- 4.1.1 The Care Act requires the Council to shape and manage the market and our local programmes including Transforming Lives and Support for Carers will have the potential to further develop the social care market locally and through that develop the local economy.

4.2 **Helping people live healthy and independent lives**

- 4.2.1 The Care Act reinforces this Council priority and the work that we are undertaking to deliver the Act including Transforming Lives and Support for Carers focus on people living healthy and independent lives.

4.3 **Supporting and protecting vulnerable people**

- 4.3.1 The Care Act and the work to implement the requirements of the Act will support and protect vulnerable people by ensuring that people, including people who are caring for a relative or friend, are assessed and where they have eligible needs, the Council will identify a personal budget or individual budget to meet their needs, and provide support to arrange to meet those needs if required.

5.0 **SIGNIFICANT IMPLICATIONS**

5.1 **Resource Implications**

- 5.1.1 The report has highlighted the aspects of the Care Act that are expected to have resource implications and sets out the allocations from the Department of to support the implementation of the Bill, set out below.

- 5.1.2 The Better Care Fund (BCF) includes an allocation of £130m revenue and £50m capital nationally (approximately £1.3m revenue and £0.5m capital locally) and a further £335m nationally (approximately £3.2m locally) has been identified in Local Authority allocations for "new burdens". The work of the Care Act programme board will determine exactly how to deploy this funding to deliver on the requirements of the Act. The close alignment of our intentions within the BCF and the Care Act means that other expenditure from the BCF will also contribute to delivering the requirements of the Care Act, in particular preventative activities and assessment and crisis intervention. **N.B.** The Better Care Fund is the transfer of £38m locally from the NHS into a pooled budget with the Council, but it should be noted that this is not new money it is already within the CCG funding allocation.

- 5.1.3 However, current opinion of the Local Government Association and the Association of Directors of Adult Social Services is that the allocations are not sufficient to address the longer term requirements of the Act. The Care and Support Reform Programme led by the Department of Health includes a work stream, Paying for the Reforms that is reviewing the costs of implementing the requirements of the Act and the affordability risk to Local Authorities to inform resource allocation methodologies and decisions in the next Comprehensive Spending Review. Early work by a few Local Authorities, which indicated that the cost pressures could be up to 23% higher than the Department of Health has estimated is likely to be moderated by the modelling work that Local Authorities are currently undertaking.

5.2 **Statutory, Risk and Legal Implications**

- 5.2.1 The Care Act introduces new legislation and statutory responsibilities that all relevant staff will need to understand and operate within. Briefings and training and the development of a number of 'Care Act experts' will be necessary so that The Council is not exposed to challenge through none compliance with the Act. This will be addressed through the Care Act Programme.

5.3 **Equality and Diversity Implications**

- 5.3.1 The current and future requirements on the Council in respect of delivering adult social care require us to take account of each person's individual needs including issues relating to equality and diversity. The Council will continue to actively promote best practice in this respect through staff training, supervision and the programme set up to deliver the requirements of the Care Act.

5.4 **Engagement and Consultation Implications**

- 5.4.1 The Care Act Programme Board will be developing a communication and engagement strategy to ensure that service users, carers and the wider community are involved in the work to respond to the requirements of the Act. Projects that are already underway, for example Transforming Lives, are developing communication and engagement strategies and these will be overseen by the Communications and Information work stream within the Care Act Programme.

5.5 **Public Health Implications**

- 5.5.1 The new responsibility for wellbeing and prevention resonates with the public health agenda and adult social care will work collaboratively with public health colleagues to ensure that these new responsibilities for adult social care are fulfilled in the most efficient and effective way possible.

5.6 **Localism and Local Member Involvement**

- 5.6.1 The Council's approach to implementing the Care Act, through the Transforming Lives model has a strong focus on local communities and Members have a key role to play in supporting the development of resilient communities.

Source Documents	Location
Care Act 2014	http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted