

Agenda Item No 9

DUDLEY HEALTH AND WELLBEING BOARD

REPORT SUMMARY SHEET

Date	30.09.2014
Title of Report	Care Act implications and implementation
Organisation and Author	Brendan Clifford Assistant Director DACHS Matt Bowsher Assistant Director DACHS Shobha Asar-Paul Head of Policy and Performance DACHS
Purpose of the report	This report sets out the key requirements of the Care Act, the potential impact on the Council and local progress on its implementation.
Key points to note	Whilst the Care Act will necessitate changes in practice and service delivery, it should be noted that a large number of clauses are modernising or consolidating existing legislation or are new in law but not in practice. It introduces a cap on care costs, new rights for carers and a national eligibility threshold for care and support.
Recommendations for the Board	That the Board accept the report and notes the progress being made in preparing for Care Act implementation from April 2015.
Item type	Information
H&WB strategy priority area	Cross cutting

DUDLEY HEALTH AND WELLBEING BOARD

DATE: 30th September 2014

REPORT OF: Andrea Pope-Smith, Director of Adult, Community and Housing Services

TITLE OF REPORT: Care Act implications and implementation

HEALTH AND WELLBEING STRATEGY PRIORITY

Cross cutting

1. PURPOSE OF REPORT

1.1 The Care Act 2014 received Royal Assent on 14 May 2014. It is the most significant reform of health and adult social care for 60 years, its consequence makes it an important area for the Board to consider.

2. BACKGROUND

2.1 The current social care legislation has evolved over a number of decades and in a piecemeal manner. The Care Act sets out to consolidate several pieces of legislation with one Act and makes several new provisions. The new legislation is designed to be less complex and easier to apply for all concerned including local authorities, partner agencies, the public and lawyers and, in the case of legal challenge, the Courts.

3. THE MAIN ITEM/S OF THE REPORT

3.1 The Act is the Government's legal response to the recommendations made by the Dilnot Commission on social care funding and the Law Commission's examination of how a social care system could be sustained given increased demand.

3.2 Regulations and guidance for application will follow in October in preparation for implementation from April 2015 onwards.

3.3 The Act comprises three sections:

- Care and Support,
- Care Standards- following on from the Francis Inquiry into the failings at Mid-Staffordshire hospital, and
- Health Education England and the Health Research Authority.

3.4 It introduces a cap on care costs, new rights for carers and a national eligibility threshold for care and support.

3.5 Key themes of the Care Act are wellbeing, prevention, carers' rights, choice and personalisation. Underlining the Care Act reforms is a vision of a more integrated approach to the design and delivery of social care and health care services. The Better Care Fund is a vehicle for this.

4. KEY MESSAGES

Part One – Care and Support

This section of the Act covers a wide range of new (in law) provisions for adults needing care and support, and their carers. It emphasises an approach to social care that promotes wellbeing and asset-based methodology. It strengthens carers' rights and introduces an adult safeguarding framework. This section-(highlights below) also contains powers to introduce a system of capped care costs and a universal deferred payment scheme.

4.1. The wellbeing principle in the Act includes a specific reference to the dignity of the adult and the availability of safe and settled accommodation. Applying to carers as well as adults who use care and support.

4.2. The provision of universal information and advice and the market-shaping role are linked to the duty of prevention.

4.3. As part of assessments of needs, care and support plans, councils must consider whether other support is available that could contribute to the outcomes the adult wishes to achieve, and provide information on this.

4.4. The local authority must, as part of its general information and advice provision, provide advice about how to access independent financial advice.

4.5. A duty on local authorities to promote the diversity and quality of local services -market-shaping

4.6. Councils should consider the importance of enabling carers and people who use care and support to undertake work, education or training.

4.7. There are new clauses that contain duties on the local authority and other authorities which have functions relevant to care and support to cooperate. This will not cover independent and private organisations but does now include the director of public health.

4.8. The 'regular and substantial test' for carers has been removed, a carer's assessment should focus on the impact of caring and on the outcomes they want to achieve.

4.9. A provision has been introduced for local authorities to be required to refer adults who they believe have a primary health need to the NHS for assessment for NHS continuing healthcare.

4.10. The clause on the national minimum eligibility threshold makes it clear that an assets-based approach will be taken on this. Councils will have to make clear that everyone with needs for care and support who is assessed, whether they meet the threshold or not, will be informed of the local community preventative support available.

4.11. The Act contains regulation-making powers to set the level of the Care Cap and prevents local authorities from being able to charge for the costs of meeting eligible needs once people have reached the cap. This will allow the Secretary of State to amend the cap and to set

different levels of cap for different age groups. The cap will be adjusted once a year in line with inflation.

4.12. The Government has clarified concerns over the boundary between the care and support system and the NHS, which enables the existing boundaries to be maintained.

4.13 People have the right to request direct payments, rather than being forced to use them.

4.14. There will be a new regime of central oversight, which will be operated by CQC, to monitor the financial position of the most 'difficult to replace' providers in England.

5. PART TWO – CARE STANDARDS

5.1 Part Two of the Act takes forward the measures within the Government's five-point plan in response to the Francis Report. Measures include requirements for the CQC to develop a system of performance reviews and assessments which will allow for comparison of organisations against a single version of performance. It also gives CQC powers to appoint a new Chief Inspector of Hospitals to instigate a new failure regime. The Act makes it an offence for care providers to supply or publish certain types of false or misleading information and introduce additional legal sanctions.

6. PART THREE- HEALTH EDUCATION ENGLAND

6.1 Part Three sees HEE established to provide national leadership for education and training. HEE has appointed and supported the development of Local Education and Training Boards (LETBs) which have taken on responsibility for the workforce planning and education and training functions as previously provided by SHAs.

7. LOCAL PROGRESS IN IMPLEMENTATION

7.1 The implementation of the Customer Journey remodelling of adult social care has been developed in line with the principles of the Care Act- ensuring wellbeing, support and prevention are embedded throughout the Customer Journey; the Better Care Fund and integrating services with local health economies is a strand of the Care Act- the Dudley submission was one of the few that was highly regarded and the local economy is working to meet further milestones in its submission. Health and Wellbeing partners agreed not to pursue fast track submission pending receipt of clear guidance, the BCF plan submission date is 19th September following which there will be an assurance period conducted by NHS England. The schemes associated with the BCF again are completely linked to Care Act requirements and local Health and Wellbeing priorities.

7.2 We have fully participated in regional and national Care Act programme initiatives which seek to facilitate greater local clarity on implications and a benchmarked assessment of progress towards compliance- some examples include the LGA Stocktake surveys, financial and demand modelling and workforce development planning. We have developed a workforce development plan which includes leadership and culture change and are awaiting national products to be delivered between November 2014- March 15, once these are published we will assess what additional local approaches need to be provided.

7.3 Internal and external facing web pages have been developed to keep staff, public and partners updated and engaged.

7.4 We commissioned specialist training for operational staff on legal aspects of the Care Act and continue to work with regional bodies as resources and tools are developed to further equip staff and support providers.

7.5 We will be delivering a series of "Care Act in a nutshell" workshops for the public and partners on key aspects of the Care Act from October 2014 onwards. These events will also welcome elected members, stakeholders; we envisage facilitating a further workshop for members to consider the issues and policy implications arising from the In A Nutshell sessions.

8. FINANCE

8.1 There are potentially significant financial implications of implementing the Care Act funding reforms which are still not fully defined. It is likely that the following areas will incur additional expenditure for the local authority:

- a. providing additional support to and increased no of assessments for carers
- b. providing assessments for those who are self-funders and providing monitoring arrangements for costs in readiness for the introduction of the care cap;
- c. Universal deferred payments which will allow people to defer when they pay their assessed contributions towards the cost of their care.
- d. increased access to information, advice and preventative services (for people currently not supported).

8.2 The Act introduces new duties on Councils in the event of a social care provider's financial failure. The local council would be temporarily responsible for the people affected irrespective of the type of care and including those who are self-funders.

8.3 Everyone with eligible needs will also have a care account that will show the total cost of meeting those needs over time.

8.4 From April 2016 a cap on care costs of £72,000 will be introduced; in addition the threshold below which people will receive support from the Local authority towards their care costs will increase to £118,000 of assets (savings and or property).

8.5 People would have their needs assessed by their local council as usual, if they are found to have eligible needs and they qualify for local authority support they will be given a personal budget; an independent personal budget in the event a person is eligible for support but does not receive council support.

8.6 The Association of Directors of Adult Social Services, the LGA and other regional and national bodies have been working with Councils in encouraging the completion of toolkits and surveys to facilitate a better understanding of financial impacts.

8.7 Further financial modelling will take place in October and this will clarify and assist with local budget planning. At this time there will also be greater certainty on secondary legislation.

8.8 No announcements have yet been made on the funding to be made available from central Government however the Government are consulting on potential funding streams that could be made available to support some of the costs of the care bill and the basis on which those funding streams will be made available.

8.9 Consultation on the Care Cap and part of the Care Act thresholds and their financial impacts for local councils will be issued in late 2014.

8.10 As alluded to above; the Better Care Fund ties in closely to delivering key strands of the Care Act reform.

9. LAW

The Care Act will change the legislative framework for care, as outlined above. The Care Act places new duties and responsibilities on local authorities, many of which are placing in law what was policy. The Department of Health will be issuing regulations and guidance to the Act in October 2014.

10. EQUALITY IMPACT

Some strands of the Care Bill requirements will need consultation and engagement with local people and those who use our services. Equality impact assessments will be undertaken to enable us to ensure that we are implementing change in a way that

11. RECOMMENDATIONS

Accept the report and consider progress in preparing for the implementation of the Care Act.

Background Papers

Care Act 2014 factsheets

<https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets>



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