

25th November 2013**Agenda Item: 4****REPORT OF THE SERVICE DIRECTOR FOR JOINT COMMISSIONING,
QUALITY AND BUSINESS CHANGE****IMPLEMENTATION OF THE CARE BILL 2013****Purpose of the Report**

1. To inform Committee of the key elements of the Care Bill 2013 and to highlight the new and extended duties and responsibilities on local authorities in relation to care and support for adults including people who fund their own care.
2. To seek approval to establish a temporary 1 FTE Programme Manager post, (Hay Band F, subject to job evaluation) and temporary 1 FTE Business Support Administrator post (NJE Grade 3) until 31 March 2016 and business support capacity to:
 - scope the implications for the Council arising from the new duties and responsibilities, including financial and wider resource implications
 - to plan and commence implementation of the changes

Information and Advice

3. The Care Bill is a very significant piece of legislation relating to social care and aims to transform the social care system and its funding. As a result of this, there is a considerable amount of work to be done to prepare for its implementation, and to understand the impact it will have on the Council. The Bill introduces wide ranging changes in the ways in which adult social care services are arranged. The Department of Health is working together with the Local Government Association (LGA) and the Association of Directors of Adult Social Services (ADASS) to develop and shape the regulations which will come under the primary legislation, and to inform the statutory guidance on how local authorities will meet the legal obligations.
4. The legislation will have a major impact on local authorities in relation to their adult social care responsibilities. The Care Bill places new duties and responsibilities on local authorities as well as extending existing responsibilities. The Bill also seeks to introduce new regulations in relation to people's eligibility for care and support services, and in changing the existing charging regimes. Additionally, the Bill seeks to introduce funding reforms based on the recommendations of an independent commission led by Sir Andrew Dilnot in 2011.

5. The Care Bill places a duty on local authorities to carry out their care and support functions with the aim of integrating services with those provided by the NHS and other health related services including housing, to be in place by 2018.

New and extended duties and responsibilities

6. The Care Bill places a series of new duties and responsibilities about care and support for adults, the majority of which fall to local authorities. The key changes or extensions to local authority duties and responsibilities are:
 - people have a legal entitlement to a Personal Budget
 - carers have a legal entitlement to an assessment and also to information, advice and support
 - young people and their carers have a legal entitlement to an assessment before they turn 18 and local authorities should ensure there is continuity of provision, that services promote independence and reduce the need for long term care and support
 - to ensure people are able to access comprehensive information and advice about services in their local area, which is not only available on-line, to enable them to make decisions about their care and support, including independent financial advice
 - to identify people in the local area who might have care and support needs that are not being met
 - to arrange and make available services that prevent, delay or reduce the need for higher levels of care and support
 - to support a market that delivers a wide range of high quality services so that people have choice of care and support services
 - continuity of care and support for people who move geographical locations to different local authority areas
 - local authorities have a temporary duty to ensure continuity of service in the event of provider failure – this includes care home provision and community based care and support services and this includes all people receiving care including self-funders
 - a legal framework for adult safeguarding, including establishing multi-agency Safeguarding Adults Boards and a requirement for an annual safeguarding plan

Eligibility and Charging

7. The Care Bill creates the requirement for a single, consistent route to determining people's entitlement to care and support and extends the same entitlement to carers. The Bill places

a new legal duty for local authorities to meet an individual's 'eligible needs' based on a social care assessment. The key emphasis is that services are arranged in a flexible way to meet needs rather than being determined on what services are available. Local authorities are required to ensure that their processes for determining people's entitlement to care and support are fair and transparent.

8. Currently there are different means for determining different types of care and support. Also, local authorities set their own eligibility thresholds based on Fair Access to Care Services (FACS) guidance. The Bill requires the need for new regulations which will set the national minimum threshold for eligibility to be applied consistently by all local authorities.
9. The Bill also requires a change in the way in which service users' contributions are determined. Currently there are different systems for determining charges to service users, depending on the type of care that is being provided, including CRAG (Charging for Residential Accommodation Guide) for care homes, and Fairer Charging for community based care and support. There is limited information available on what will replace the current charging regime however it is clear that people will still need to be offered a financial assessment to determine the level of charge to be applied.
10. The funding reforms outlined below will mean that local authorities will be required to ensure that self-funders are provided with a financial assessment and will be required to put in place mechanisms to enable them to monitor their costs towards eligible services.

Funding Reforms

11. The Care Bill introduces funding reforms which will require local authorities to assume financial responsibility for people who have eligible needs where they fund their own social care and support, once they reach a cap. The reforms also increase the upper threshold for means tested services. The changes include:
 - introducing a cap on the costs that people will have to pay for their care (set at £72,000 in April 2016 and adjusted annually thereafter)
 - a lower cap for adults of a working age who have eligible care and support needs
 - free care for adults who have eligible care and support needs before the age of 18
 - a universal Deferred Payment Scheme (to be implemented from April 2015) which means that people will not have to sell their home during their lifetime to pay for their care – local authorities will be able to charge interest on these payment arrangements
 - an increase in the upper capital threshold for state support from £23,250 to £118,000 and an increase in the lower capital threshold for phased state support from £14,250 to £17,500 for adults in care homes
 - a requirement for people in care homes to contribute to general living expenses at £12,000 per year
 - people with an eligible need will have a 'care account' which shows the care costs that they have accrued and which tracks their progress towards the costs cap - this

will enable local authorities to identify the point at which they will need to assume funding responsibilities for the individuals' eligible needs.

Integration

12. The Care Bill requires local authorities and the NHS organisations to integrate further in the commissioning and delivery of health and social care services. The government has identified funding known as the Integration Transformation Fund (ITF) which will be allocated to local authorities and agreed by their Health and Wellbeing Boards.
13. The total allocation of the ITF is expected to be £3.8 billion nationally, and this amount was agreed between the Department of Health and the Department of Communities and Local Government as part of the summer spending review. This money is being viewed by central government as a significant step towards integrated services and the head of the NHS, Sir David Nicholson, has described the ITF as a 'game changer' in terms of the potential to reduce pressures on acute and primary care provision.
14. There is already a national allocation of £1.8 billion of NHS funds devolved to local authorities, and this will form part of the total £3.8 billion that will be devolved from 2015/16; the additional £2 billion will be funded from a top-slicing of Clinical Commissioning Group budgets. It is important to stress that not all of the additional resource will be available to meet health and social care costs pressures.
15. Whilst some of the new money will be allocated directly to local authorities, an anticipated £1 billion will be paid on a 'Payment By Results' basis. The money will be paid based on the preparation of a plan to be agreed by the Health and Wellbeing Boards and government, as to how the new money will be used, and the balance on the actual delivery of the plan itself. Further elements of the ITF will be to fund capital expenditure in the form of Disabled Facilities Grants and there will also be an element of the fund that will effectively be to support the 'set-up costs' of the Care Bill. It is understood that any additional set-up costs, over and above the specified allocation, will fall on the Department of Health and not on local government.
16. The local government finance settlement is expected in December, and it is also expected that the specific allocations of the ITF to individual authorities, along with the performance criteria on which the 'Payment By Results' will be assessed. This could have significant implications for the County Council's Medium Term Financial Strategy and finance will be undertaking an assessment of the impact and incorporating that into the budget report in February 2014.

Timetable for implementation

17. Given the extensive and wide ranging changes, there will be a phased introduction to the new duties and requirements of the Care Bill, as follows:
 - From April 2015
 - Duties on prevention and wellbeing
 - Duties on information and advice – including advice on paying for care
 - Duty on market shaping
 - National minimum threshold for eligibility

- Assessments - including carers' assessments
 - Personal Budgets and care and support plans
 - Safeguarding
 - Universal deferred payment agreements
- From April 2016
 - Extended financial support
 - Cap on care costs
 - Care accounts

Implications for the Council

18. It is anticipated that additional funding will be made available to local authorities in relation to these new duties but at this stage it is not clear what the level of funding will be and whether this will cover the actual costs that local authorities will have to meet. Also, it is not clear whether the funding will include temporary allocations for implementation of the changes.

19. Local authorities are now considering the implications of the changes arising from the new legislation. It is critical that this work is commenced at the earliest opportunity in order to assess the impact and also to plan for the implementation of the new responsibilities. Some of the issues that the Council will need to address are:

- understanding the implications for the Council of a national eligibility framework
- local information about self-funders, not just in care homes but also those with eligible needs who are purchasing community based support services
- gaining an understanding of the new processes that will need to be put in place for the provision of 'care accounts' including;
 - financial assessments of self-funders
 - the monitoring of self-funders' eligible care costs, based on what the local authority would pay for the care i.e. 'reasonable cost', not on the amount the self-funder is paying
 - production and provision of 'care account' statements for self-funders
- assessing the financial implications of the cap on care costs and of an increase in the upper threshold for financial support from the local authority
- awareness of those people, including carers, who have unmet needs who would be eligible for social care services
- an understanding of the numbers of carers who will be entitled to an assessment, to support planning where relevant
- some assessment of the numbers of self-funders and carers that will be entitled to an assessment of need, support planning and annual reviews
- the financial implications of extended carers' support services – which will be non-chargeable

- the implications arising from the responsibility of ensuring there are sufficient preventative services which delay people's need for long term care and support
- the development of processes to recover costs for meeting a person's eligible needs where funding responsibility lies with another local authority
- the resource implications of extended responsibilities in relation to transitions from children's to adults' services
- the implications for assessment and care management staff with a move to proportionate assessments with an 'asset based' approach i.e. enabling people to determine the best way in which their needs can be met utilising their own resources, with any additional support being provided via the local authority
- the implication of extended responsibilities to provide written information and advice to people with non-eligible needs on what can be done to prevent or delay the need for care and support

20. In order to gain early understanding of the changes and the implications for the Council, it is proposed that a programme of work is commenced to consider in detail the implications of the Bill and to scope and plan the implementation of the required changes. This work will also enable the Council to identify future resource requirements arising from implementation of the new responsibilities.

21. It is proposed that a temporary post of Programme Manager is established to lead the programme of work. Discussions are being held with the Service Director, Finance and Procurement, to consider the staff resources required from the Finance Division. It is anticipated that, during the course of the early planning phase some dedicated project management and further business support capacity will be required to enable the full programme of work to be scoped, the resource implications identified, and then for the planning and implementation of the required changes. It is anticipated that funding will be allocated via the Department of Health for implementation of the changes. Given the very tight timeframes for implementation, it is proposed that the Programme Manager and Business Support posts are established at the earliest opportunity and funded from departmental reserves pending implementation costs being allocated by the Department of Health.

Other Options Considered

22. Consideration has been given to whether the programme of work can be contained within the Adult Social Care, Health and Public Protection Department's existing resources. However, given the wide ranging changes and the financial implications for the Council, and given the tight timeframes for full implementation of the new statutory responsibilities, it is not considered feasible to complete this work without dedicated resources.

Reason/s for Recommendation/s

23. The majority of the new duties and responsibilities will need to be implemented with effect from April 2016 although some of the changes will have to be implemented in April 2015 and detailed work in relation to these needs to commence.

24. There are potentially considerable financial implications for the Council arising from the extended responsibilities and it is imperative that the Council gains a detailed understanding of the implications and is able to fully plan and prepare for the implementation of the new duties and responsibilities.

Statutory and Policy Implications

25. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

26. The Care Bill has considerable implications for service users and carers. The Bill also places statutory duties on local authorities to provide information, advice and some support services to people who fund their own care. In the main, the emphasis in the Care Bill is to promote people's wellbeing by ensuring that services help them to stay well and remain independent.
27. Detailed consideration will be given to the full implications for service users and carers as part of the programme of work to plan for and implement the changes. One of the strands of work under the implementation programme will be activities relating to service user and carer engagement in relation to key aspects of the Care Bill.

Financial Implications

28. Funding of £70,767 per annum will be required to fund the two posts through to March 2016. This funding will be met from departmental reserves.

Equalities Implications

29. The changes arising from the Care Bill will impact on all groups across Nottinghamshire's communities. As and where the new regulations and guidance are issued detailed Equality Impact Assessments will be completed to inform the changes that will be required to local policies and procedures.

Human Resources Implications

30. This report proposes to establish the following posts on a temporary basis until 31 March 2016:
- 1 FTE Programme Manager post, Hay Band F (Subject to job evaluation), scp 56-61 (£62,042.02-£69,038.62). The post is to carry approved car user status.
 - 1 FTE Business Support Administrator post, NJE Grade 3, scp 14-18 (£19,861.80-£21,728.41)

Ways of Working Implications

31. Accommodation will be made available for the two posts within County Hall.

RECOMMENDATION/S

It is recommended that the Adult Social Care and Health Committee:

- 1) Notes the new and extended responsibilities for local authorities arising from the Care Bill
- 2) Approves the establishment of 1 FTE Programme Manager post (Hay Band F, subject to job evaluation, scp 56-61, with approved car user status) and 1 FTE Business Support Administrator post (NJE Grade 3 scp 14-18) on a temporary basis until 31 March 2016 to commence the programme of work.

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Constitutional Comments (LM 8/11/13)

32. The Adult Social Care and Health Committee has delegated authority to approve the recommendations in the report.

Financial Comments (CLK 15/11/13)

33. As detailed in paragraph 16, the Care Bill and funding allocations could have significant implications for the County Council's Medium Term Financial Strategy and finance will be undertaking an assessment of the impact and incorporating that into the budget report in February 2014.

34. The additional posts that are sought to be established, which are detailed in paragraph 2 are funded from reserves and have no financial implications.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Job Descriptions for the Posts

Electoral Division(s) and Member(s) Affected

All