



8 September 2014

Agenda Item: 8

**REPORT OF THE CORPORATE DIRECTOR FOR ADULT SOCIAL CARE
HEALTH, AND PUBLIC PROTECTION**

**CARE ACT 2014 – UPDATE ON LOCAL IMPLEMENTATION AND THE
IMPLICATIONS FOR NOTTINGHAMSHIRE COUNTY COUNCIL AND
PARTNER ORGANISATIONS**

Purpose of the Report

1. To update the Health and Wellbeing Board (HWB) on the changes that are required arising from the Care Act and to highlight the implications for the Council and partner organisations in relation to care and support for adults.

Information and Advice

Introduction

2. Implementation of the Care Act will totally change the way that care and support for adults and support for carers is provided in Nottinghamshire. It provides a new legal framework which governs responsibilities and duties; it will change the way that social care and health is delivered, and the way that care and support is paid for in England.
3. The Care Act sets out new and extended responsibilities for social care, health and housing. On the one hand it gives opportunities to review and improve services and ensure that people's needs are met, promoting their wellbeing and providing or arranging services or resources to help prevent, delay or reduce the development of needs for care and support. On the other hand it presents new challenges to Nottinghamshire County Council (NCC) and its partners. There are very significant financial and resource implications to meet the new statutory requirements. Financial modelling under way by local authorities supports the view that the reforms will be under-funded by Government. Implementation is also challenging, with very tight timescales; the social care changes need to be in place for April 2015 and the funding changes by April 2016. The Care Act became law in May 2014, and the draft social care regulations and guidance were released in June 2014 for consultation; these will be finalised in late October 2014. Draft regulations and guidance on the funding reforms is expected in late autumn 2014 for consultation, but it is anticipated these will not be finalised until late 2015. These timescales present significant risks around readiness for workforce, informatics and developing and embedding alternative methods of access and delivery of social care in order to manage demand.

4. The Care Act together with the Better Care Fund and provides a framework for co-operation and integration with health, housing and other health related services. This framework includes the following areas:
 - strategic commissioning and planning, including developing a diverse, sustainable and high quality market place to buy social care and health support
 - access, assessment and planning for care and support, including integrated personal health budgets
 - integrated advice and information across health, district councils and other partners
 - joined up service delivery.
5. In response to these challenges, the Care Act and Integration with Health programme is a key area of activity within the Council's Transformation Programme as described in the document 'Redefining Your Council' and the implementation of the Adult Social Care Strategy will ensure that we deliver these new duties and responsibilities in the most effective and cost effective way.

Care Act Programme and governance

6. In May 2014 the Adult Social Care and Health Committee (ASCHC) agreed to fund a dedicated programme team to assess the financial and resource implications and then to plan and implement the required changes. The programme team was in place by July 2014.
7. Governance arrangements are in place and progress is being reported on a quarterly basis to the ASCHC and provides reports into the HWB.
8. A total of 10 work streams and 4 enabling work streams have been set up with identified leads to ensure statutory timescales for the new and extended duties and responsibilities will be met.
9. Some of the work is briefly outlined below:
 - Assessment, personalisation and eligibility -
 - Review of assessment and support planning tools and development of alternative ways of access and assessment for care and support, including online, telephone or clinic based assessments and reviews.
 - Revision of all guidance, policies and tools to accommodate the national minimum eligibility threshold.
 - Carers -
 - Ensuring compliance with new and extended requirements of the Care Act, including the right to assessment and to meet a carer's needs for support and the duties to assess a young carer or parent carer.
 - Assessing the impact of the new requirements on cost and demand and exploring cost effective and efficient approaches to meet new requirements.

- Prevention and housing
 - Reviewing the breadth and coverage of information and advice and preventative services and the extent to which integrated services with housing and health partners might deliver better outcomes.
 - Development of a more integrated solution to accommodation needs.
- Advice, Information and advocacy
 - Develop a universal and comprehensive information and advice offer for all citizens of Nottinghamshire, including social care, housing, health and financial information
- Strategic market development and quality and risk
 - New home-based support and supported living services have been commissioned, jointly with the CCGs, from independent sector providers which embed reablement principles, placing emphasis on promoting independence and self care.
 - Reviewing and updating Market Position Statement to ensure full compliance with the Care Act.
 - Development of process to undertake to assess and maintain an overview of provider viability and potential provider failure.
 - Active participation in national work on market shaping (to be published at the end of the year).

Consultation and assessment of the draft guidance and regulations

10. The Government consulted on the draft regulations and guidance from June 2014 to 15 August 2014. The Council set up an intranet page to invite responses from staff and Members on the questions in the consultation. A Nottinghamshire Care Act newsletter circulated to wider stakeholders (including the community and voluntary sector) promoted the consultation. In addition, specific briefings were provided for the Health & Wellbeing Board, Clinical Commission Groups and Housing to encourage partners to respond on behalf of their individual organisation to key areas around integration. Two sessions with ASCHC Members helped finalise the comprehensive response from the Council.
11. The Care Act programme has completed an impact assessment on the draft regulations and guidance and considered the implications for the Council. This has informed the programme of work to implement the new and extended responsibilities and these findings in key areas are covered through this update report.

National Local Authority Stocktake

12. The Care Act Local Authority Stocktake was completed by all local authorities in May 2014 and will be repeated every quarter. Its completion is a condition of the Care Bill Implementation Grant 2014/15, which is a one off grant of £125,000 to contribute to implementation costs in 2014/5.
13. The purpose of the stocktake is to assure the government of progress in implementing the requirements of the Care Act across the country. Each local authority was required to complete a self assessment with nine proxy measures as an overall indicator of readiness.
14. Although the findings from the stocktake are awaited, the council's self-assessment indicated that they are largely on track for the delivery of the Care Act and are fairly

confident that it will be delivered. However, the stocktake does highlight a number of risks that are logged on the risk register, including the late release of national guidance and regulations; development of digital, IT and financial systems required within a short time frame and communications to the wider public on the reforms and affordability. These areas of concern are shared with other local authorities.

Progress on key areas

Workforce

15. The Council is a pilot site for the Skills for Care workforce capacity planning model to model the impact of the Care Act on its workforce and understands what changes it will need to make. Although the Care Act will impact on the workforce across the Council, modelling has started in some key areas that will be affected by the changes, including assessment and care management teams, Adult Care Financial Services and the front end, including the Customer Service Centre and the Adult Access Service.

ICT, Advice and Information

16. The provision of good quality information and advice by the local authority, in partnership with others, underpins the reforms. There is a requirement to provide a comprehensive universal information and advice service that covers social care, health, housing and financial information.
17. A new strategy is in place which reflects the Care Act principles and a review has been undertaken of 'Choose My Support', the online directory, which provides information and signposting. Alternative systems are being looked into and evaluated against the requirements laid out in the Act. The aim will be to align this, wherever possible, with the information tools used by district/borough councils and health colleagues.

Prisoners

18. A new responsibility for local authorities is assessing and meeting eligible social care needs of adult prisoners (not just on discharge from prison, but also while they are in custody). This change in legislation will affect Nottinghamshire which has a number of prisons and bail accommodation within its boundaries. Work is under way to make contact with all the prison governors to scope the impact of this new responsibility and understand the numbers of prisoners who could be eligible for a social care assessment.

Wellbeing and national eligibility criteria

19. For the first time the reforms set a national *minimum* eligibility threshold based on wellbeing, which is intended to help achieve more consistency and fairness across the country by putting an end to different thresholds set by different local authorities. The government intended for the national *minimum* threshold to be set at the equivalent of substantial, which is where most local authorities, including Nottinghamshire, currently operate. However, the new draft national eligibility criteria are very different to those in current usage, with one significant difference being the basis on the impact to wellbeing rather than risks to independence. There is a general concern from local authorities that

the new framework is looser and will lower most councils' thresholds, thus generating more demand on their services.

20. The Council has actively participated in national surveys to test the new eligibility threshold. Based on preliminary work carried out by the London School of Economics, the first draft of the proposed changes would have increased the numbers of 'definitely eligible' and 'probably eligible' by almost 20%. In response to these findings, the draft guidance and regulations were again revised and a further survey commissioned, in which NCC participated. Although this report has not been released to date, the findings based on our very small sample suggest older adults could gain whilst some groups could lose out. Consideration is now being given to how the national *minimum* eligibility threshold would be locally implemented within the framework of the Adult Social Care Strategy.

Rights for carers

21. The Care Act gives carers the same rights as those of the person they look after and does away with the requirement that the carer must provide a substantial amount of care on a regular basis.
22. In response to these new and extended responsibilities, new models of access, assessment and service provision are being considered to meet these new demands in the most cost effective way. Specifically, there will be an increase in the number of requests for assessment – from initial assessment to financial assessment and review. These additional assessments will need to be carried out in a flexible way, which builds upon the successful telephone-based service at the Adult Access Service and which will maximise the use of all available resources including online assessments, supported self assessment and joint assessments with the person being carried for.
23. The Care Act entitles a carer to services to meet their eligible needs and these additional services that the carer will be entitled to represent a financial risk if the money identified in the Better Care Fund is not sufficient.

Self-funders and assessments

24. The Care Act fundamentally changes who and how people pay for their care. From April 2016, the financial reforms extend the means tested threshold of £23,250 for residential care to £118,000 and introduces for the first time a cap on lifetime costs of £72,000 (this excludes living cost of £12,000 per annum). During 2015/16 it is anticipated that there will be a high demand for assessments from self-funders. Based on local data and an extensive survey carried out with care providers, estimates suggest current assessment activity could double.
25. In response to this anticipated demand, NCC needs to carry out these assessments in the most efficient way possible. Working in collaboration with the Digital Team, plans are progressing to develop an initial contact assessment online, which could then be developed and expanded with a full online assessment for identifying eligible care needs and a financial assessment.
26. In addition, the Council needs to explore other alternatives to the way that we currently assess, yet recognising for some groups of service users and carers that a face-to-face

assessment is still required. Other ways of delivering an assessment include telephone based assessment, clinics for face-to-face, supported self assessment and working more closely with partners and providers in completing assessments, support plans and reviews.

Financial Contributions, Fees and Charging

27. The Care Act sets out several powers that local authorities have in relation to charging, including: a contribution to the cost of arranging and/or providing care and support for people above the upper financial threshold (self-funders); charging interest and administrative fees against the deferred payment scheme and charging carers for services and support provided.
28. The deferred payment scheme and the support planning and brokerage functions for self-funders are intended to be cost neutral; therefore an authority is entitled to charge for those fees as long as it does not charge more than what it costs to provide those services.
29. Currently, it is not possible to charge carers for services in the same way as service users are charged, but the Act will make it lawful for local authorities to charge. Charging carers for support and services could bring in additional income, but the full impact of charging carers needs to be considered.

Financial Modelling: understanding the costs of the reform

30. The Department of Health, Local Government Association and the Association of Directors of Social Services are working closely to model the costs of both the social care reforms in 2015 and funding reform taking effect in 2016.
31. The Care Act is funded through the following:
 - Care Bill Implementation Grant, which is a one off grant of £125,000 to contribute to implementation costs in 2014/5
 - Better Care Fund to cover new costs in 2015/16 with an allocation of £2.6 million with £0.7 million capital.

In addition, there is consideration to a financial settlement from the government to meet costs *not* covered by the Better Care Fund. These include new assessments for self-funders, deferred payments and new responsibilities for prisoners.

32. All Councils are undertaking financial modelling to understand the impact of the Care Act.
33. Local authorities are very concerned that the Government has under-estimated the costs of the reforms and the current funding allocations identified above will be insufficient. This is supported by early modelling by county local authorities who have found the numbers of self-funders and carers have been underestimated.

Statutory and Policy Implications

34. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service 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

35. The Care Act has considerable implications for service users and carers, including people who fund their own care. Detailed consideration will need to be given to the full implications as part of the programme of work to scope, plan and implement the changes.

Financial Implications

36. These are covered within the body of the report.

Equalities Implications

37. The changes arising from the Care Act will impact on all vulnerable groups of adults and children across Nottinghamshire's communities. Equality Impact Assessment(s) will be completed to enable detailed understanding of the impact of the changes on people with protected characteristics and these will in turn help inform the changes that will be required to local policies and procedures.

Human Resources Implications

38. These are covered within the body of the report.

RECOMMENDATION/S

It is recommended that Committee:

- 1) note the implications of the new and extended responsibilities for local authorities and partners arising from the Care Act, including the financial and resource demands
- 2) note and comment on the update on the programme of work.

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Constitutional Comments (KK 22/08/14)

39. The proposals in this report are within the remit of the Adult Social Care & Health Committee.

Financial Comments (KAS 22/08/14)

40. The financial implications are contained within paragraph 30 to 33 of the report.

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.

- The Care Act Local Authority Stocktake completed May 2014.

Electoral Division(s) and Member(s) Affected

- All.