

6 January 2016**Agenda Item: 5****REPORT OF CORPORATE DIRECTOR, ADULT SOCIAL CARE, HEALTH AND
PUBLIC PROTECTION****CARE ACT 2014 – UPDATE ON FIRST SIX MONTHS****Purpose of the Report**

1. This report:
 - a) provides an update on the first six months of implementation of the Care Act
 - b) highlights work required to embed the new requirements and meet good practice
 - c) updates on the postponement of part two of the Care Act.

Information and Advice**Background**

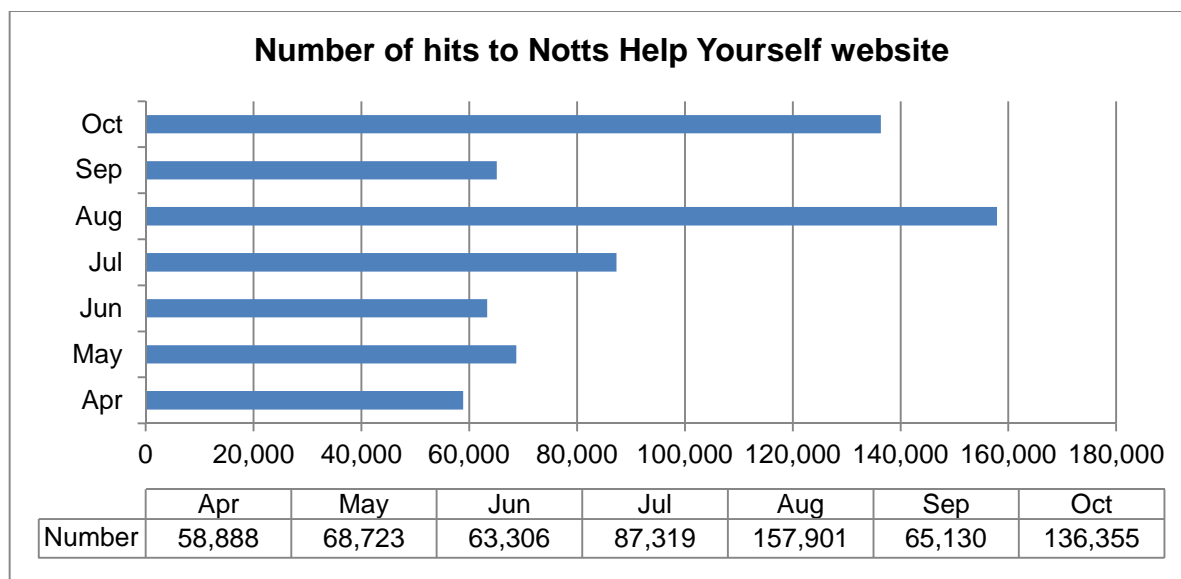
2. The Care Act 2014 is the most significant change to social care law for over 60 years. It builds on recent reviews and reforms, replacing numerous previous laws, to provide a coherent approach to adult social care in England. Part One of the Act (and its Statutory Guidance) consolidates and modernises the framework of care and support law.
3. Part One of the Care Act 2014 contained over 782 requirements within the guidance. This was implemented nationally in April 2015 introducing a whole range of new responsibilities and extending others. The legislation sets out how people's care and support needs should be met and introduces the right to an assessment for anyone, including carers and self-funders, in need of support. The new statutory principle of individual wellbeing underpins the Care Act, and the guidance places more emphasis on outcomes and helping people to connect with their local community.
4. Since April 2015, the Council has been compliant with all the requirements, but identified that there was still work to be done to be satisfied that full compliance is being achieved in terms of the Council's responsibilities to meet the needs of prisoners, young people in transition from Children's Social Care to Adult Social Care and the further development of the market.
5. This report updates the Committee on progress and provides a position on the impact of the Care Act on demand and activity. The focus is on the following key areas in the Act:
 - Information, Advice and Independent Advocacy

- Prevention and Housing
- Assessment, eligibility and personalisation
- New responsibilities to carers, prisoners and young people in transition to adult services
- Adult Safeguarding
- Strategic Market Development and managing quality and risk in the Market.

Information, advice and advocacy

6. 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. In Nottinghamshire, an Information, Advice and Advocacy Strategy for Adult Social Care was published in May 2014 which outlines the responsibilities and approach to the requirements set out in the Care Act.
7. A new online directory of information and support services has been developed and went live in March 2015 to provide information and advice on care and support to all who need it, when they need it. It is called Nottinghamshire Help Yourself and is accessible by Council staff, service users and carers and partner agencies, including the voluntary/ community sector. Between April and October, there have been 637,622 hits on the site. The directory also contains information on health, housing and voluntary groups. Social care staff and staff from other agencies can help people to search the site to find the information they need with the aim to provide personalised information and advice to people at all stages of their contact with the Department. The staff at the customer service centre, who are often the first point of contact with customers, now offer support to people to help them to search Nottinghamshire Help Yourself where help is needed. For those people who go on to have an assessment, social care staff are supporting people to look more broadly at how their support needs could be met beyond the use of traditional services.
8. The demand for information and advice and the use of the directory of support available in Nottinghamshire is increasing compared to the usage of the previous directory. The increase in usage is positive and something that will continue to be monitored as one of the ways in which The Council meets its responsibility to provide information and advice to Nottinghamshire citizens.

Fig. 1: Number of hits to Notts. Help Yourself from April – October 2015



9. The contract for the online directory is in the process of being re-tendered and the new contract will be awarded in December.
10. In addition, Nottinghamshire County Council provides the following advice and information to carers:
 - Carers Support Service is a dedicated team of Community Care Officers who offer information, advice and Carers' Assessments over the phone. The Service was established in 2012 as part of the Adult Access Service to support carers. Approximately 20-30 new referrals are being made to the Carers' Support Service every week. This shows a higher demand than in previous years. This reflects the fact since April 2015, Councils have had a legal responsibility to provide services to carers in addition to the previous duty to assess.
 - Nottinghamshire Carers Hub provides information and advice; training and development and engagement with carers
 - the Council commissions a specialist carers service for carers who are caring for a person with dementia and a service for carers looking after a person at the end of their life
 - the Council produces a Carers Information Pack and provides Grant Aid to a number of organisations in the voluntary and community sector to provide information and advice to carers.
11. The duty to provide information and advice includes a duty to provide independent financial advice to people who fund all of their own care. Following a procurement exercise, Age UK secured a contract with the Council which started in June 2015 to provide a service which focuses on the provision of independent financial advice to people who fund their own care or who may do so in the future. The provision of independent financial advice is important to ensure that people are supported to make informed decisions and to financially plan for the cost of care. The service can provide the following:
 - supporting people to access independent, confidential and impartial advice relating to options for paying for long term care

- identifying and explaining options for meeting care costs
- advice about Power of Attorney and / or Court of Protection
- an offer of website and telephone support.

12. The department will be promoting and communicating this service more widely and one of the ways that this will be done is via a short video. The video is now available and is being promoted to partners and is available on the Council's website to help to explain the service and how using it can support the person's financial planning.

Independent Advocacy

13. The Care Act 2014 extended the use of advocacy to include the requirement to offer advocacy to anyone who appears to experience 'substantial difficulty' being involved in assessments, including safeguarding assessments, care and support planning and reviews.
14. The current advocacy service is provided by an organisation called PohWER, with whom it has been agreed will pilot the use of independent advocates with people who require this additional support to be involved in their assessment, support plan or review. The pilot commenced in April 2015 and will end in September 2016. Additional funds were provided to the existing provider to meet the anticipated increase in demand. All service user and carer contact and assessment forms were amended to ensure that advocacy features in them and all assessment staff were trained to screen people for the need for independent advocacy.
15. Currently the referral rate for Care Act advocates is low both locally and nationally. In Nottinghamshire the number of people referred for advocacy in Quarter 2 2015/16 was 8.
16. This contrasts with the use of, and demand for, advocates to support people under the Mental Capacity Act and Deprivation of Liberty Safeguards which continues to rise. So far this year there have been 601 referrals to independent advocacy from both Nottingham City and Nottinghamshire County Council; it is estimated that two thirds of these referrals have been made by Nottinghamshire.
17. The offer of advocacy under the Care Act is for any person who has substantial difficulties being involved in the assessment and does not have an appropriate friend or family member to advocate on their behalf. As a response to the low number of referrals, a sampling exercise has been undertaken which suggests that there is a need to re-iterate the need to record decisions about the need to provide advocacy where the person would otherwise struggle to be as involved as possible in the assessment. It is planned to re-communicate this message via managers and to make the advocacy section of the relevant form mandatory to complete.

Prevention and housing

18. The Care Act requires local authorities (and their partners in health, housing, welfare and employment services) to take steps to prevent, reduce or delay the need for care and support for all local people.

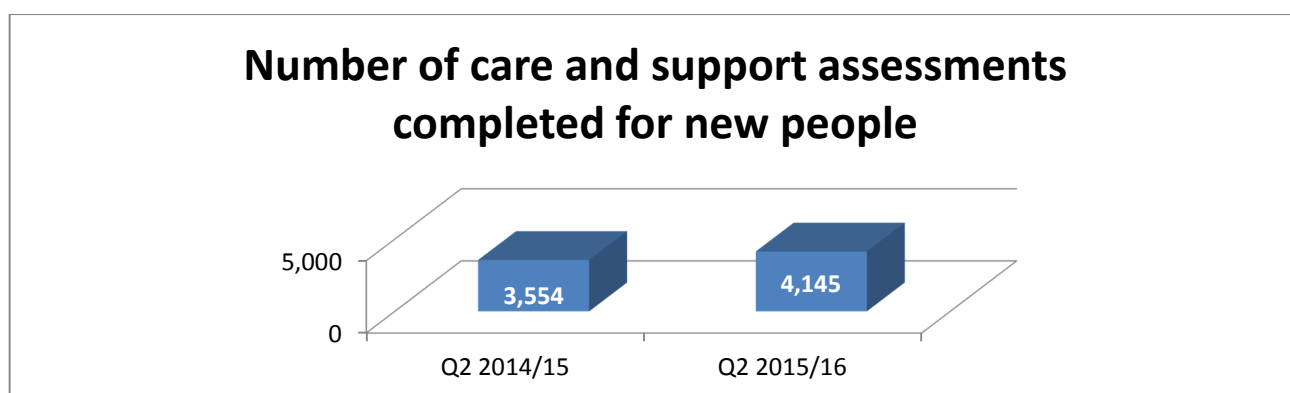
19. In preparation for this, a range of early intervention and prevention focussed services have been re-focussed and from January 2016, providers will be in place across four areas of services to:
- provide support for people with mental health needs
 - provide early intervention support to promote continued self-management among older people and people with long term conditions
 - promote independence support for vulnerable adults
 - provide deaf support for deaf, deafened and hearing impaired people experiencing barriers to resources/services and social isolation.
20. The Adults elements of the Grant Aid programme 2015-18 have been divided into three priority themes of Information & Advice, Promoting Independence and Connecting Communities to complement commissioned services and enable a diverse market of community-based, prevention focussed services.

Assessment, eligibility and personalisation

Assessment and Eligibility

21. The Care Act extended the right to an assessment to anybody who appears to need care and support. For the first time, carers have the same right to an assessment as people with care and support needs.
22. The Care Act extended the responsibility for assessment to prisoners and people living in approved premises or bail accommodation in the community.
23. The right to assessment includes people whose income and savings exceed the financial threshold above which the Local Authority is not required to contribute to the cost of their care. These individuals are generally referred to as self-funders.
24. The Care Act guidance provides a framework for assessment and introduced a new national eligibility scheme for both carers and service users. All the Council's processes and systems were updated to be compliant with the Care Act.
25. The Act places the individual at the centre of their assessment and provides a new responsibility on councils to offer a supported self-assessment. In Nottinghamshire, the use of online assessment tools to offer an alternative way to contact the department and provide an efficient way to offer supported self- assessments is being developed.
26. Alongside these developments, the Council is working to offer greater proportionality in the methods of assessment it offers by increasing the use of telephone assessments and establishing clinic venues for assessments to take place.
27. The number of social care assessments completed up to October 2015 represent a 16.6% increase over the same period last year. Completing care and support assessments is a current pressure within the department and this is not yet reflected in the overall number completed. Action to address the waiting lists for assessments is underway and will be mitigated by the current recruitment activity.

Fig. 2: Number of social care assessments completed between April-October 2015 compared with April-October 2014



Prisons

28. The Act establishes that the local authority in which a prison, approved premises or bail accommodation is based will be responsible for assessing and meeting the care and support needs of the offenders residing there. In Nottinghamshire there are three prisons, Whatton, Lowdham and Ranby, and work is ongoing to work collaboratively with the prisons by attending their partnership boards and to reach agreement with the provider of health and social care in prisons to establish the volume of work that they are likely to undertake on the Council's behalf. A recent national survey of 79 prisons which looked at the volume of referrals from each establishment concluded that a referral rate of between 1-5 prisoners was the most common amongst all prisons surveyed. In Nottinghamshire, 16 referrals have been received, 6 of these were resolved with advice and information and ten assessments have been completed. Work has commenced to raise awareness in prisons to ensure appropriate referrals of prisoners for assessment for social care.

Carers

29. There has been a 3.8% rise in the number of carer's contacts completed by the department compared to the number last year (2006 carers compared to 1913 in the same period last year) and an 8.3% increase in the number of carers assessments completed (1260 carers compared to 1163 in the same period last year). This is likely to rise further as the department is still experiencing a backlog of assessments which is being dealt with by some additional temporary staff. Following assessment, one of the ways that an eligible carer's needs might be met is via a personal budget: this can either be a one off direct payment to support them to have a life beyond caring or, in some circumstances, an on-going personal budget.

Personalisation

30. In Nottinghamshire, the Council has been offering personal budgets to eligible service users and carers since 2010. There are 100% of people on a personal budget in community settings and 51% of service users and carers take their personal budget entirely as a direct payment.

Transitions

31. The Care Act extends the right of young people with needs for care and support to have an assessment of their care and support needs before they reach the age of 18 years where it would benefit them and their families to do so to help them to plan for their future. This has led to offers of assessment at an earlier age and to a broader range of young people including those with mental health difficulties. The department has extended its use of reablement in younger adults and young people in transition are starting to benefit from this service. This is an area that the department continues to monitor to ensure that it is working towards best practice.

Direct payments in residential care

32. Nottinghamshire is contributing to a national trailblazer programme which seeks to understand how best to implement direct payments in residential care. The experience of the trail blazer programme will inform the decision on whether to implement this nationally from next year.
33. In relation to direct payments, the Act reaffirms that this is the Government's preferred mechanism for personalised care and support: providing independence, choice and control by enabling people to commission their own care and support in order to meet their eligible needs.
34. Building on existing work to personalise services in residential and nursing care, this work aims to see how using direct payments can enable people to have even greater choice over how their care and support is provided. The Council currently has 15 people in residential care with a direct payment, which is 50% of the number nationally receiving a direct payment in residential care from all the other participating councils combined.

Adult safeguarding

35. Although local authorities have been responsible for safeguarding for many years, there has never been a clear set of laws behind it. As a result, it has often been very unclear who is responsible for what, in practice. The Care Act aims to put this right by creating a legal framework so key organisations and individuals with responsibilities for adult safeguarding can agree on how they must work together and what roles they must play to keep adults at risk safe.
36. The Care Act requires local authorities to lead a multi-agency local adult safeguarding system that seeks to prevent abuse and neglect and stop it quickly when it happens. In Nottinghamshire, the Council has made changes to the safeguarding process to make it more personal. The Council uses an outcomes based approach to resolving the safeguarding enquiry, putting the person's identified outcomes at the centre of the process. In the period between April-September 2015, 325 (62%) of people identified a preferred outcome of the safeguarding enquiry that they were the subject of, of these 303 people (93%), subsequently identified that the enquiry had achieved that outcome.
37. The Care Act requires the Council to make enquiries, or request others to make them, when they think an adult with care and support needs may be at risk of abuse or neglect and they

need to find out what action may be needed. In response, the Council has strengthened the process to require others to undertake enquiries on its behalf and is responding to additional categories of abuse both in terms of enquires and safeguarding adults reviews. In Nottinghamshire the Safeguarding Board Chair is now accountable to the Chief Executive and the Safeguarding Adults Board Strategic plan is published to make it accessible to all.

38. The Care Act requires the Council to carry out Safeguarding Adults Reviews when someone with care and support needs dies as a result of neglect or abuse and there is a concern that the Local Authority or its partners could have done more to protect them. In response, the Council has created a more flexible approach to Safeguarding Adults Reviews and will carry out reviews based on the extended categories of abuse.

Training

39. To prepare staff for these changes a training programme was developed which included face to face training for assessment staff and e-learning for assessment staff and the wider Council staff groups. Between 13th January and 15th July 2015, 666 staff attended face to face training and 1,103 people have accessed e-learning.
40. An additional series of videos have been developed aimed at the wider workforce to raise awareness of the Care Act, with a particular focus on the links between the Care Act and the Adult Care Strategy. The Adult Social Care Strategy sets out the Council's proposals for the future of adult social care in Nottinghamshire. The cost of making the videos was largely met from regional Care Act monies which Nottinghamshire secured through a successful bid.
41. The 11 videos focus on various themes which range from how people can make contact with the Council, to using a strengths based approach to assessment and support planning and the importance of independent financial advice to help people to plan for the cost of their care. The videos are now ready and being promoted both locally and regionally with partners, staff, provider organisations and with council members.

Strategic Market Development and Managing Quality and Risk in the Market

42. The Care Act requires local authorities to ensure that there is diversity and quality in the market of care providers so that there are enough high quality services for people to choose from. Local authorities must also step in to ensure that no vulnerable person is left without the care they need if their service closes due to business failure.
43. The Market Development Team (MDT) has worked with Optimum Workforce Development (OWL) to improve their offer to the greater health and social care workforce and support improvement in care standards and outcomes for people in receipt of care. To coordinate support, learning opportunities, and training for care providers in Nottinghamshire, an improvement agency has been developed. This is for care providers who have been subject to contractual sanctions and/or have been judged by the Care Quality Commission (CQC) as inadequate and in special measures.
44. The Council has analysed the care home market in Nottinghamshire and mapped risks, including the loss of a large single organisation or specialist service and is developing a strategy for working alongside other commissioners to plan and support service users

impacted if provider failure impacts. The Council is planning to develop this risk escalation process further.

45. Nottinghamshire has also commissioned a piece of work with other local authorities and Laing Buisson to look at the costs of care. This work has resulted in a national report and, as a result, further work is starting in Nottinghamshire to look at the impact of the introduction of the living wage on providers. As a first step, and in view of difficulties in the provision of sufficient capacity this year, the price paid to homecare providers was increased by 10% from December the 1st 2015.

Local Government Association Care Act Stocktake

46. The Care Act Local Authority Stocktake was completed by all local authorities in May 2014 and since has been repeated every quarter.
47. 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 is required to complete a self-assessment with nine proxy measures as an overall indicator of readiness.
48. The fifth stocktake in October 2015 assessed the impact of the implementation of part 1 of the Care Act and focussed mainly on the provision of assessment and review data and the costs of service provision.
49. Although it is still early days to assess the full impact of the Care Act, local data suggests that the increase in demand generally for assessments is contributing to the on-going pressures on the Adult Social Care department alongside reducing resources and previous reductions in staffing.

Workforce Modelling and Recruitment

50. A workforce capacity model has been designed and developed that calculates the additional levels of staff required to meet new responsibilities arising from the Care Act. The model takes into account any planned changes to the way the Council works in the future, such as mobilisation of the Adult Social Care workforce over the next year and other changes to ways of working in line with the Adult Social Care Strategy, such as offering various methods of assessments to service users, including telephone assessments and reviews.
51. The requirement for additional staffing to meet current and new demand is detailed in the report titled 'Adult Social Care and Health – Overview of Current Developments' which was considered by Adult Social Care and Health Committee on 5th October 2015.
52. Recruitment into agreed temporary posts has been completed and a rolling programme of recruitment has commenced to recruit into the posts which were not filled first time around.

Health Integration

53. The guidance to the Care Act states that a local authority must promote integration between care and support provision, health and health related services, with the aim of joining up services. In Nottinghamshire, there has been the following progress:

54. All planning areas (North, Mid and South Nottinghamshire) are proposing and/or involved in new models of care development. North and South (Rushcliffe Vanguard) are interested in exploring further the merits of working as an Accountable Care Organisation to provide locally delivered care to citizens. Mid-Nottinghamshire are formally signing into a Memorandum of Understanding in order to develop a provider alliance as part of the area's work towards a Primary and Acute Care service provider. All of these levels of planning and decision-making are being managed presently through the County Council's governance processes in order to be confirmed and agreed by Adult Social Care and Health Committee and include commissioning and providing services.
55. In each planning area there are operationally in situ integrated care teams which involve health and social care staff working together to assess and manage the needs of people with high, complex health needs identified primarily through their GP practise and at risk of hospital admission and the need for care.
56. Increased and closer partnership working is in planning with key Health partners across the County in order to look at operationally delivering assessment and care services in a more effective way – approaches include discussions around reablement and Intermediate Care working together and therapy services working more collaboratively as well as points of access opportunities. Each planning area is at different stages of progress and information and decision-making is informed where required through the department's Senior Leadership Team, Health Integration Delivery group, the Members Reference Group held monthly and Adult Social Care and Health Committee.
57. A countywide event was held on 13th November for 12 Health organisations to provide information about the Adult Social Care Strategy and to consider ways of implementing jointly. The event focussed on how the principles of the Adult Social Care strategy could be agreed as joint health and social care aims and how to cascade and make it operational across health teams and organisations.
58. A formal action plan is being devised that crosses joint strategy, risk planning and enabling joint operations in order to deliver the ASCH strategy and Care Act principles in practise including prevention, self-care and prevention of the need for formal care support.

Implications of postponement of Part Two of the Care Act

59. On 17 July 2015 Alistair Burt MP, Minister of State for Community and Social Care, confirmed by letter that part 2 of the Care Act reforms due to be implemented in April 2016 is to be postponed until 2020.
60. In brief, the postponement includes the cap on care, the creation of care accounts, the requirement to assess self-funders from October 2015 in preparation for the introduction of Care Accounts, the requirement to provide an independent personal budget, the increase in the financial means-test threshold, the duty to arrange care for self-funders in residential care, the ability for people to top up fees from their own resources and the introduction of a new appeals system.
61. Although the financial reforms have been postponed, the responsibilities under the Care Act part 1 from April 2015 remain unchanged and importantly the self-assessment report

completed for Care Act part 1 identified a number of areas where work needs to continue to embed the changes and ensure best practice.

Funding for the Care Act 2015/16

62. The Council received the following funding for the additional responsibilities in the Care Act for 2015/16

Care Act Income	£m 2015/16
Confirmed revenue grants	4.78
Better Care Fund Revenue Grant	1.95
Better Care Fund Capital Grant	0.74
Total income (revenue + capital)	7.47
Total revenue income	6.73

The spending review identifies an additional allocation which will amount to approximately £4.5m. It has been confirmed that elements of the Care Act funding will continue to be funded from Better Care Fund allocations for 2016/17.

63. In view of the continuing reductions in Council budgets not all the Care Act funding was committed until the actual level of additional work was identified. However, there have been a number of operational pressures related to the reduction in staffing numbers which commenced in 2011/12. Following the postponement, work was undertaken to review the completed and planned recruitment of staff into posts associated with either part 1 or part 2 of the Care Act and a review of the estimated increase in demand for services against the Care Act grant received.
63. From this considered review, it has been agreed that due to on-going pressures for assessments, recruitment to most of the social care posts should go ahead to mitigate the increase in demand and the extended responsibilities associated with part 1 of the Care Act. If a part of the grant money for the current financial year is required to be returned or re-badged for other uses, it has been agreed that this can be identified through some recruitment which will not go ahead and from a proportion of the grant monies set aside for increases in demand for services. Following the announcement, the department has reviewed workforce capacity modelling and is not recruiting to some of the posts relating to part 2 of the Care Act.

Other Options Considered

68. The report is for noting only.

Reason for Recommendation

69. The report is for noting only.

Statutory and Policy Implications

70. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), 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

71. The Care Act has considerable implications for service users and carers, on-going consideration will need to be given to the full implications alongside the implementation of the Adult Social Care Strategy.

Financial Implications

72. The funding implications are included in the body of the report.

Public Sector Equality Duty Implications

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

Human Resources Implications

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

RECOMMENDATION/S

That the Committee:

- 1) notes the achievements to date on the implementation of the Care Act
- 2) notes the further work identified to embed the changes and meet good practice
- 3) notes the work to monitor and review the impact of the new duties and responsibilities of the Care Act on the Council.

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Constitutional Comments

75. As this report is for noting only, no Constitutional Comments are required.

Financial Comments (KAS 10/12/15)

76. The financial implications are contained within paragraph 72 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.

Information, Advice and Advocacy Strategy for Adult Social Care (May 2014)

Adult Social Care and Health – Overview of Current Developments – report to Adult Social Care & Health Committee on 5th October 2015.

Electoral Divisions and Members Affected

All

ASCH344