



**5 January 2015**

**Agenda Item: 4**

## **REPORT OF THE SERVICE DIRECTOR, SOUTH NOTTINGHAMSHIRE CARE ACT 2014 – UPDATE ON LOCAL IMPLEMENTATION**

### **Purpose of the Report**

1. To update on progress made towards meeting the statutory requirements of the Care Act.
2. Note the update on the financial and resource impact modelling.
3. Note the timing and policy decisions required to be taken.

### **Information and Advice**

#### **National Local Authority Stocktake**

4. The Care Act Local Authority Stocktake was completed by all local authorities in September 2014 and will be repeated in January 2015. Its completion is a condition of the Care Bill Implementation Grant 2014/15, which is a one off grant of £125,000 towards implementation costs in 2014/5.
5. The purpose of the stocktake is to assure the government of progress in implementing the requirements of the Care Act across the country and to identify specific areas where further support may be required. The stocktake is a self-assessment that covers the following areas:
  - programme management and governance
  - people (including self-funders; meeting duties to carers; preventing needs for care and support; provision of information; advice and advocacy; prisoners)
  - money (including cost modelling and deferred payment agreements)
  - IT systems
  - communications strategy and planning
  - market shaping and commissioning.
6. Nottinghamshire County Council's self-assessment reported that moderate progress has been made to date and that the Council is fairly confident the requirements will be delivered. The Council's own assessment is broadly in line with other local authorities, 66% of which reported moderate progress and 25% advanced progress. There are nine proxy measures used by the government to assess progress and Nottinghamshire's progress was assessed as "on track". A large number of other councils were assessed as "behind" on one or two areas and have been provided with some regional and or national support for implementation.

7. Nottinghamshire's self-assessment highlighted a number of risks, many of which are shared with other councils. The total cost of implementing the Care Act during a time of austerity remains the biggest area of concern and risk to successful delivery. Further, the delay in the release of the final guidance and regulations from government until October 2014, coupled with uncertainty of some of the financial implications and a lack of clarity on some significant final changes, have delayed preparations for implementation, leading to critically reduced timescales for design, development and decision making.
8. To help local authorities meet the implementation timescale, a number of tools and support materials have been commissioned by the National Care Act Programme team for release. These include learning and development tools for awareness raising and training, practice guidance and practical tools for implementation.

### **Final guidance and regulations**

9. The final regulations and guidance for Part One of the Care Act, which ran from June to August 2014 were released on 23 October 2014 in response to the feedback from the consultation. All of the requirements in Part One of the Act come into force from April 2015.
10. Draft regulations and guidance for Part Two are anticipated in January 2015, with release of the final regulations and guidance in October 2015 for implementation in April 2016. These relate to the funding changes, including the cap on care costs.
11. The key changes of the final regulations and guidance for Part One of the Care Act include a revised national minimum eligibility threshold for both service users and carers in response to the findings of independent research with 27 local authorities, including Nottinghamshire. These findings showed that more people may be eligible for social care services than with the current FACs criteria. It was also found that the draft eligibility criteria for carers was confusing, but the final guidance is now clearer. Although the eligibility regulations have been strengthened, there remains uncertainty about the impact of the revised criteria in practice.
12. To manage potential increase in demands for care and support, the Council needs to provide local practice guidance and training that will enable assessment workers to interpret the criteria to arrive at a professional decision that is consistent with both the requirements of the Care Act and the Adult Social Care Strategy.
13. Other changes in the final regulations and guidance include a delay until April 2016 of the right for self-funders in care homes to request care and support services to be arranged. This is because the impact on the provider market is not known. Nottinghamshire County Council and a number of other County authorities have commissioned research to understand the key issues and challenges for County Councils.
14. Finally, the safeguarding section of the statutory guidance has been significantly redrafted and widens the scope of safeguarding, and the responsibilities of the local authority and other partners. In illustrating types of abuse and neglect, the guidance extends the range of abuse categories to include self-neglect and modern slavery. There is also more explicit recognition of carers and their support needs particularly within the context of their wellbeing and prevention of abuse and neglect. The Care Act represents a shift in professional practice, placing the adult and their views at the centre of safeguarding

enquiries, rather than people being taken through a process. In recognition of that, training toolkits are being developed and the safeguarding training programme will be updated to reflect these changes.

15. Work is complete on an analysis of the main changes and the implications for implementation locally. The Council has also sought legal advice where there is an area of legal complexity and guidance is required on how to implement the legislation within the context of existing local policy. The Care Act Programme team have work-streams in place with a plan to progress the work to meet the new requirements.

## **Progress update**

### **Information, advice and advocacy**

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. To inform the development of this, the Council held three information summits with partners in the autumn. The Council continues to work with partners, including those from Health, Housing and Voluntary/Community sector, to ensure that organisations can provide a full advice and information offer on social care and health and know when it is appropriate to refer to social care.
18. A new online directory of information and support services that is accessible by the Council, its partners including the Voluntary/Community sector is being developed with a planned go live date in advance of April 2015. This directory will also contain information on health, housing and voluntary groups.
19. Independent advocacy must be arranged if a person would otherwise be unable to participate in, or understand, the care and support system. Work is underway jointly with Nottingham City Council to ensure that the existing provider will be able to meet the expected increased demand. All service user and carer contact and assessment forms are being amended to ensure that advocacy features in them.

### **Assessment, eligibility and personalisation**

20. It is anticipated that the number of people contacting the Council for an assessment will increase after April 2015. From the financial modelling, it is estimated that the number of assessments could more than double, due largely to an increase in requests from carers and self-funders.
21. The work-stream group has developed proposals, which will enable the Council to complete a greater number of assessments through a range of new models. These will be progressed during 2015/6 and will include:
  - a suite of on-line assessment forms with the extended contact assessment and a financial “ready reckoner” available in advance of April 2015

- increased numbers of telephone based assessments, both at the point of first contact and in the district teams
- new opportunities to complete face to face assessments in clinic settings.

22. The Care Act requires supported self-assessment to be offered to people and the work-stream group is exploring ways of helping service users and their support networks to play a greater role in the assessment. In addition, this work-stream group is exploring the role of third party assessors in completing assessments, support plans and reviews. Finally, assessment and care management tools are being revised to reflect the changes in the new eligibility threshold.

## **Carers**

23. Under the Care Act, carers can be eligible for support in their own right. Carers' eligibility does not depend on whether the adult for whom they care has eligible needs. There are two ways by which carers can be eligible for support: the first is in order to help them to maintain their caring role; the second is if their caring is having a significant impact on their well-being and is having an adverse effect on their lives. This is a change from the current position and there is an expected increase in the number of carers who will be assessed under the new legislation and provided with support.

24. This work-stream is looking at the existing facilities and services for carers to ensure they will be sufficient to meet demand and the new requirements from April 2015.

25. Work is underway to ensure greater numbers of carers' assessments and reviews can be completed. This work builds on telephone based assessments at the point of first contact and there is the potential to use third party assessors via the Carers' Advice and Information Hub.

26. Assessment and care management tools are being revised to reflect the new requirements and to ensure that they can be completed over the telephone and on-line, as well as face-to-face.

## **Prevention and housing**

27. This work-stream is currently looking at the existing preventative and early intervention services the Council has available, both in the authority and within the voluntary sector, and ensuring they will be sufficient to meet demand and Care Act requirements come April 2015.

28. Work is underway with district and borough councils to ensure that there is a consistent referral pathway between social care and housing; that suitable information and advice is available for housing within social care systems and vice versa; and to incorporate some key questions within our forms about people's accommodation.

## **Strategic Market Development and Quality and Risk**

29. The market position statement is currently being reviewed to ensure that it is Care Act compliant. Information Summits and Provider Forums for both care home and home care providers have also taken place.

30. Provider events are also attended by health colleagues from across all of the three health planning areas and the Council continues to further develop our integrated plans including the transfer to assess models of support. Work has also begun with Economic Development colleagues to explore how the Council can work together with local businesses. One avenue of exploration is recruitment and retention and how the learning from other businesses can be shared with social care providers. The work with micro providers is also continuing with an event scheduled specifically looking at “market shaping”. A full consultation plan is currently being drafted.
31. The authority currently undertakes a range of activity around provider quality and risk, with developments to comply with the Care Act. These include:
- annual care home provider audits, which will move to an outcome focus
  - managing and using a risk tool which collates and holds qualitative intelligence about care providers, and which is used as the basis of information sharing with partner agencies and to focus on service improvements
  - participating in a multi-agency escalation process to enable the effective oversight of failing providers
  - co-ordinating activity following the ‘Strategic Review of the Care Home Sector’, to look at the existing mechanisms to inform future ways of working to promote and support a diverse and robust care home sector
  - promoting business continuity and emergency planning measures with the care sector – for example, a business continuity session run at a provider forum in November 2014.
32. Nottinghamshire has also commissioned a piece of work with other local authorities and Laing Buisson to look at the impact of self-funders. Data has been provided and an early draft of outcomes is currently being analysed. The outcome of this work will inform the future plan to ensure that the Council fulfils its obligation to the self-funding market. Self-funders will also have access to “Open Objects” a web based system that enables all providers to list their services.

### **Direct payments in residential care**

33. Nottinghamshire is contributing to a national trailblazer programme which seeks to understand how best to implement direct payments in residential care. It will inform the implementation of the new policy to all local authorities in April 2016.
34. 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.
35. 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 aims to have 25 people on a direct payment by the end of the project.

## **Planning for self-funder assessments**

36. Work is underway to put a plan in place to respond to self-funders and begin assessing in preparation for the cap on care costs ahead of 1 April 2016. There are a number of advantages to planning early assessments of self-funders, including managing resources and work-force capacity. By providing an assessment, followed by an advice and information offer with access to preventative type services based on their eligible social care needs, self-funders can make informed decisions about planning and arranging their care and support and how this will be funded.

## **Workforce, awareness raising and training**

37. A significant amount of work has been completed to model the increase in demand that is expected and the numbers of social care staff required to meet this demand. To understand the resource requirements, a resource planning model has been developed.
38. To date, the Council has provided briefings and workshops to prepare the Council and its partners for the new and extended responsibilities under the Act. Key stakeholders have been briefed, including the Health and Well-Being Board; the Better Care Fund Programme Board; Council members, through briefing sessions run in September 2014; partners such as health and housing; and providers.
39. Front line social care staff and the wider workforce need to be fully aware of the Council's new and extended responsibilities. To this end, the Council is providing a range of learning and development opportunities to prepare people for the upcoming changes including an e-learning package, which will be available to all Council staff and the wider workforce, such as partners, providers and the voluntary and community sector in early 2015. This will provide all staff with an overview and introduction to the Act to explain basic concepts and run alongside other information such as newsletters and updates. For staff in social care services who assess and review there will also be a one day training course running between February and May.

## **Financial and workforce modelling**

40. The first indicative financial modelling was published in September. It gave an indication of some of the main areas of cost (the Dilnot reforms, services to carers' reforms and assessment costs) and was built up using estimates derived from local historical data and a model developed by Lincolnshire County Council, which the East Midlands regional councils agreed to use for data support and comparability purposes.
41. The number of self-funders is unknown and the Council used two different methods of estimation: the Association of Directors of Adult Social Services (ADASS) recommended method was a desktop exercise, driven by the number of care home beds in the County. That method gave an indicative result of 9,100 self-funders; additionally, Nottinghamshire County Council undertook a survey of care providers to ask them about their self-funder activity, and extrapolated out the results to get an alternative estimate of 6,900 self-funders. Because of the size of the difference between these two estimates, the cost estimate was published as a range.

42. Estimating the number of carers who will engage with the Council is also challenging. For the model, a variation on the Department of Health's impact assessment methodology was used, which is based on increasing all local authorities' carer activity to a level of good practice, based on a percentage ratio of carers assessments to service user assessments. This gave an estimate of 600 new carers approaching the Council in 2015/16. As Nottinghamshire has been pro-active in engaging with carers in recent years, it is now recognised that this is likely to be a conservative estimate.
43. The modelling suggested a cost of the Care Act of around £4m in 2015/16 (prior to the Dilnot reforms coming into force), which then jumps to between £41m and £47m in 2016/17, and it further projects that the costs for 2019/20 will rise to between £52m and £60m. The majority of the costs projected arise from the loss of income in April 2016 relating to the extension of the residential means-tested threshold from £23,250 to £118,000 where the person owns their own home. Costs related to the cap on care costs (where there is a limit of £72,000 on the amount that people have to pay towards their eligible care and support needs) are not anticipated to be felt properly until after 2020.
44. A number of areas remained to be modelled when the figures were released, which could have a significant extra cost to the Council. These include changes to the eligibility threshold, new safeguarding duties, deferred payment agreements and new duties towards prisoners. This is the focus for current work with the updated release of the model planned for early 2015.
45. Against these costs, revenue grant funding of an estimated £6.8m is anticipated in 2015/16, of which around £4m relates to cost areas already modelled. No commitment to funding has been given for any of the future years and will be subject to the next comprehensive spending review following the general elections in May 2015.

## **Communications**

46. A national public awareness campaign is being planned by the Department of Health along with Public Health England to run between January and March 2015.
47. The campaign is to ensure those affected by the care and support forms being introduced in April 2015 are aware of the changes and encouraged to seek further information. The public awareness campaign will advertising on the web, radio advertising, national newspapers and direct mail door drops to households that include the harder-to-reach target audience of self-funders and informal carers, to inform them of the reforms.
48. The Department of Health are holding regional workshops to introduce the campaign and toolkit that can be adopted for a local response. The East Midlands workshop was held on 11 December 2014.

## **National and regional work**

49. Nottinghamshire County Council was invited to present a workshop on the implementation of the Care Act from a local authority perspective at the County Council Network Conference held in October 2015.

50. The Council was also invited to present a workshop on the workforce modelling at the East Midlands Care Act leads meeting in October 2015 where it was seen as an exemplar of good practice. The Department of Health has also expressed interest in sharing the model with other Councils.
51. Nottinghamshire County Council continues to support national work and is advising on the development of practice guidance for assessment and eligibility with the Social Care Institute for Excellence; development of guidance for charging and deferred payments with the National Association of Financial Assessment Officers; advising on the next iteration of the stocktake to be completed by local authorities in January 2015; and invited to take part in a Department of Health workshop on the implementation of the 2016/17 changes.
52. The Council also ran a webinar on behalf of the 'Health and Social Care Information Centre' to share with other local authorities the Council's approach and plans to implementing the Care Act, including how the Council has involved a wide range of partners to develop Information Advice and Guidance services on the Care Act.

## **Statutory and Policy Implications**

53. 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**

54. 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**

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

## **Equalities Implications**

56. 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**

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



## **RECOMMENDATION/S**

1) It is recommended that Committee:

- note the update on progress made towards meeting the statutory requirements of the Care Act
- note the update on the financial and resource impact modelling.

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**For any enquiries about this report please contact:**

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### **Constitutional Comments**

62. As this report is for noting only, no constitutional comments are required.

### **Financial Comments (KAS 20/12/14)**

63. The financial implications are contained within 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.

- ASCH Committee Report – Charging Provisions for the Care Act
- ASCH256 – Provision of Financial Information and Advice as part of the Care Act Implementation
- ASCH246 – Online Assessment and Information Advice Provision
- ASCH 245 – Update on Local Implementation and the Implications for NCC and Partner Organisations
- ASCH250 – Department of Health Funding Formula for Implementation of the Care Act in 2015/16 and the Second Care Act Stocktake
- ASCH207 – Implementation of the Care Bill 2014 – Implications and Resource Requirements for Nottinghamshire County Council
- ASCH198 – Implementation of the Care Bill 2014 – Implications and Resource Requirements for Nottinghamshire County Council
- Formal Consultation on Part One of the Care Act 2014
- ASCH175 - Committee Report – Implementation of Care Bill 25 November 2013

### **Electoral Division(s) and Member(s) Affected**

- All.

ASCH276