



12 May 2014

Agenda Item: 7

REPORT OF THE SERVICE DIRECTOR, SOUTH NOTTINGHAMSHIRE

IMPLEMENTATION OF THE CARE BILL 2014 – IMPLICATIONS AND RESOURCE REQUIREMENTS FOR NOTTINGHAMSHIRE COUNTY COUNCIL

Purpose of the Report

1. To update Committee on the changes that are required arising from the Care Bill and to highlight the implications for the Council in relation to care and support for adults.
2. To seek approval for funding a dedicated programme of resources to plan, design and implement the changes.

Information and Advice

Introduction

3. The Care Bill represents the greatest change in the way social care is delivered for decades and the changes will have a huge impact on local authorities. The Bill places new duties and responsibilities on local authorities as well as extending existing responsibilities. The Bill is currently going through the final stages in parliament and the release of draft social care regulations and guidance expected at the end of May 2014 for consultation and then finalised in October 2014. Draft regulations and guidance on the financial reforms will be released in Autumn 2014 for consultation.
4. The majority of the changes are set to take place in April 2015, along with the funding reforms arising from the Dilnot recommendations.
5. The Care Bill also 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.
6. On 25 November 2013, Adult Social Care and Health Committee agreed to fund a dedicated programme manager to complete an early assessment of the Care Bill for the Council to inform the resources required to deliver the changes. The report identified the need for a programme team to assess the financial and resource implications and then to plan and implement the required changes. Given the wide ranging scope of the Care Bill and exceptionally challenging timescales for implementation, the programme manager started on 6 January 2014 to commence this work.

7. This report considers the benefits of the Care Bill to the residents of Nottinghamshire; then an early assessment of the Council's current position in readiness to meet statutory requirements with early consideration to the significant financial and resource implications.

Background to the Care Bill

8. The Bill represents a landmark piece of legislation to modernise and consolidate social care law (which is based on thirty Acts including the 1948 National Assistance Act) to meet the recommendations from the Law Commission.

The benefits

9. Below highlights some of the key benefits of the Bill and later the report will explore the implications of this in further detail.

Wellbeing, prevention and access to advice and information

10. There is a strong emphasis on improving all people's overall wellbeing, including people who are self-funders, and there is a new requirement on councils to 'provide or arrange for the provision of services, facilities or resources, or take other steps, which it considers will prevent or reduce needs of adults requiring care or carers among their local population. This means that if people are not eligible for locally funded care and support, then the local authorities are required to provide information, in a range of formats, on access to 'universal services'.

National eligibility criteria

11. For the first time the reforms set a national *minimum* eligibility threshold, which is intended to help achieve more consistency and fairness across the country by putting an end to a postcode lottery where one local authority may set their eligibility threshold at critical and another at moderate. It is intended the national eligibility threshold will make it easier for people with support needs to move into a new local authority area and have the same outcomes with their new package of support.

Rights for carers

12. 'At last carers will be given the same recognition, respect and parity of esteem with those they support' ¹
13. For the first time carers will be recognised in the law in the same way as service users. The Bill gives local authorities the responsibility to assess a carer's own needs for support and does away with the requirement that the carer must provide 'a substantial amount of care on a regular basis'.

¹ Dame Phillippa Russell, Chair of Standing Commission on Carers

The Dilnot Reforms

14. 'For the first time individual liabilities will be limited, protecting people against the worst aspects of the current care lottery.'²
15. About three quarters of people will need some support as they get older, but while half of people can expect to pay about £20,000 in care costs, one in ten will spend over £100,000. The Bill aims to protect people from the risk of very high costs of care and ensure people can plan ahead to meet the cost of care in a fair and sustainable way. ³
16. The Bill seeks to address this problem through a number of measures:
- a new cap on care costs at £72,000, which means that the Council will become responsible for reasonable care costs for eligible needs once an individual reaches the cap (this excludes general living costs for example)
 - increase in the upper threshold for means tested support to £118,000 or less (currently it is £23,250 in assets)
 - a universal 'Deferred Payments Scheme' so people who own their own home are able to make an arrangement whereby they do not have to sell their home during their lifetime to pay for the care home costs
 - a requirement to provide access to independent financial advice so people can plan ahead for how their care costs will be met.

Integration with health and other related housing services

17. Underlining the reforms is a vision of a more integrated approach to the design and delivery of social, housing and health care services.

Response to the Francis Inquiry on failings at Mid Staffordshire Hospital

18. This Bill sets out Ofsted-style ratings for hospitals and care homes so that people can compare and make choices about where to go for their care and support. It will also make it a criminal offence for health and care providers to supply false or misleading information in order to protect vulnerable people.

Implications for Nottinghamshire County Council

19. Below is an early assessment of the main new duties and responsibilities on local authorities and what this means for Nottinghamshire County Council. This is based on information currently available and will be refined as the detail of the changes is released from late May 2014 onwards.

² Kings Fund

³ Commission of Funding of Care and Support, Final report.

Prevention

20. This requires local authorities to be pro-active to prevent, delay or reduce the need for social care support and this applies to the whole population, including users and carers. This is about how the local authority works with other organisations to identify people who might have support needs that are not being met and to make available services that will enable a person to stay independent.
21. In Nottinghamshire, the Council is working with District Councils in developing a prevention and early intervention strategy to optimise preventive resources available. Nottinghamshire needs to consider the implications arising from the responsibility for ensuring there are sufficient preventative services which delay people's need for long term care and support.

Providing Information, Advice and Advocacy

22. The provision of good quality information and advice by the local authority in partnership with others, underpins the reforms. There is a new requirement to pro-actively identify people who have unmet needs and provide advice, information and support. Information must be accessible to and proportionate to the needs of the person. Where people are not eligible for support there is an additional requirement to provide a written statement of need and an offer of advice and information. There is also a requirement to provide information on how to access independent financial advice. For people who require it, there is a duty to provide advocacy.
23. In Nottinghamshire, the Council has an Advice, Information and Advocacy Strategy and an effective access point via the Customer Services Centre. The Council's approach to how information is accessed is through the website and the Customer Services Centre will need to be reviewed in light of the requirement to both pro-actively identify and offer advice and information to the public, and in a way that is appropriate to the individual, which will range from the web through to face to face and advocacy. The Council has a partnership with 'Paying for Care' to provide financial advice which will need to be reviewed in light of the new requirements for financial advice. The impact of the additional requirements for meeting new advice, information and advocacy needs, including providing the written statement of need, will need to be modelled to identify the financial and resource implications. Early work to pilot new approaches will inform the most cost effective way of delivering this.

Promoting the quality and diversity of local services

24. Local authorities will have a duty to develop a market that has a range of high quality providers that can meet the needs of all residents and allow them choice. This includes local authorities developing a market position statement to provide a powerful signal to the market by identifying care and support needs across the community and explain how the local authority intends to buy in services in the future. There is also a temporary duty to ensure continuity of service in the event of provider failure – this includes care home provision, community based care and support services and for all people receiving care including self-funders.

25. In Nottinghamshire, the Council publicised its web based Market Position Statement in Spring 2012 and received a positive response following a provider survey. This also identified areas requiring further work to provide information on self-funders and intentions regarding the role of housing in supporting vulnerable people. There are well established relationships and forums in place with existing contracted providers. However, further work is required to broaden this out to other providers. A project to increase numbers of small micro providers has successfully worked with 53 new providers. The additional resource to complete the work has ended and now requires capacity to both maintain and broaden the scope within current resources. Whenever a provider with whom the Council funds services exits the market for whatever reason, the Council works with that provider and partners to manage risks and ensure appropriate care and support is provided during the change. The Council has a duty of care to all vulnerable people, however further assessment is needed to understand the scope of the temporary duty in relation to self-funders. The full potential impact of the Care Bill to alter the local market requires further work to fully understand, for example, the potential likelihood and implications of self-funders requesting the Council to arrange and purchase care on their behalf.

Assessment and eligibility

26. The 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.
27. The Bill sets a national minimum threshold for eligibility at which local authorities must meet a person's care and support needs. The description of eligible needs within new regulations will replace existing local thresholds and current statutory guidance called Fair Access to Care Services.
28. In Nottinghamshire, the eligibility threshold for Fair Access to Care is set at substantial. Although the intention is to set the new national threshold at a similar level, it is being viewed by local authorities as a significant extension of current scope and responsibilities. Early modelling on some scenarios confirmed that the current draft regulations would result in more individuals being eligible for support. The financial impact of the regulations will need to be assessed once there is a further iteration of the draft regulations. Carers will also be entitled to an assessment in line with current practice, though the extension of non-chargeable support services for them, in addition to increased requests for carers' assessments, needs to be fully understood and costed.

Funding reforms

29. The financial reforms will require significant changes in charging for social care and 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.
30. The cap on care costs sets a maximum amount that people will have to pay for their care (set at £72,000 in April 2016 and adjusted annually thereafter for people aged 65 and over). People living in a care home will need to contribute to their 'hotel' costs – general living costs that are included in the overall cost of residential care. In April 2016 these will be approximately £12,000 per year and will not count towards the cap on care costs.

31. People under 65 who develop care needs will have a lower cap on care costs.
32. People who have care needs before the age of 18 will be entitled to free care and have all of their care funded by the local authority.
33. A universal Deferred Payment Scheme (to be implemented from April 2015) means that people will not have to sell their home during their lifetime to pay for their care. Local authorities will be required to pay for their care services and accrue the debt until such time that the service user, or their family, are able to repay the debt – local authorities will be able to charge interest on these payment arrangements.
34. An increase in the test capital threshold for people in a care home will change from £23,250 in savings or capital to £118,000 for people whose capital/savings includes property and £27,000 for people whose capital/savings do not. The lower threshold of £27,000 reflects that the value of a person's home is not being considered as part of their assets.
35. 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. The costs associated with the design, implementation, review and monitoring of care accounts for all eligible service users has significant cost implications which will need to be identified and planned for.
36. In Nottinghamshire, work has commenced on the first stage of modelling the financial reforms to understand:
- the impact of the cap for people who currently fund their own support
 - the changes to the rules about charging, including an increase in people who will receive funding and a loss of income from people who currently contribute to their care costs, but will pay less under the new threshold level.
37. To inform the modelling, the Council require local information about self-funders, not just in care homes, but also those with eligible needs who are purchasing community based support services and to this end a survey was completed during February 2014. It is anticipated that a large number of people not previously in contact with adult social care will approach the Council for an assessment in order to start the calculation of their care costs towards the cap and then once the person has reached the cap, the Council will be responsible for funding their ongoing costs, minus hotel costs. The complicated 'rules' around the reforms are not well understood by the public and there is a risk that high numbers of people will approach the Council who are not eligible or unlikely ever to reach the cap. Hence, the financial and demand modelling is critical to understand the financial and resource implications.
38. The national impact assessment established there would be an increase of between 180,000 and 230,000 additional assessments in 2016/17 and between 440,000 and 530,000 extra reviews in 2016/7 for people already receiving care. The local information on self-funders will inform the resource modelling. Work is advanced in developing more proportionate assessments and with an 'asset based' approach, such as using their own resources or resources in the community. Further, the Council need to consider alternative

approaches to assessment, such as on line assessment and 'trusted assessors' with partner organisations.

39. In Nottinghamshire, there is already an established deferred payments scheme with 52 people who have a deferred payment agreement, although this is largely aimed at people in long term care. The scaling up of a discretionary scheme to a universal scheme has resource, legal and financial risks, including the potential increase in bad debt, which will be considered in full once the regulations become available. Central government has committed to meeting the costs of the scheme, but local authorities are awaiting further detail. There could be an option of developing a regional scheme with interested local authorities in the East Midlands.

Safeguarding

40. The Bill requires each local authority to have in place a multi-agency Safeguarding Adults Board and to instigate and oversee Safeguarding Adults reviews where somebody experiencing abuse or neglect dies or there are concerns about how the local authority acted. Boards will also be required to have a work plan and publish an annual report. There is a new duty to carry out enquiries (or ask others to do so) where it is suspected an adult is at risk of abuse or neglect.
41. In Nottinghamshire, the Council is well placed to meet these new requirements with a Safeguarding Adults Board in place with membership from an extensive range of statutory and voluntary agencies and the Board already has a Serious Case Review process. Board members oversee the development and implementation of a work plan and produce an annual report. Until the regulations are published, it is unclear what further implications there are around extension of responsibilities and eligibility. However, there is a concern that the duty to carry out enquiries for adults at 'risk of abuse or neglect' extends our current responsibilities with the current threshold set at '*significant* abuse or neglect'.

Continuity of care around transitions

42. The Bill sets out a range of new duties to support transitions from children's to adults' services including the power to assess a child as well as the need of a young carer in advance of their 18th birthday. The Bill places a new duty to assess the adult carers of children to identify any support needs. There is also a new requirement to ensure continuity of care around transition so that if a young person is receiving services under the Children Act 1989, then these services must continue until adult care and support is ready to take over.
43. In Nottinghamshire there is a transitions team that works with 220 young people from the age of 14 and upwards who have a substantial disability. However, the new requirements have considerable resource implications on a small team and the additional numbers of young people who will require an assessment and/or a statement of information and advice (on what the young person can do to prevent or delay support needs) needs to be modelled. Further work with the Pathfinder team is required to determine how this can be taken forward in the context of the new Education, Health and Social Care Planning process.

Summary of implications for the Council

44. The Bill represents opportunities for significant improvement and change in adult social care. It will transform the way the current adult social care system operates and will require the Council to change processes, systems, practice and culture.
45. Nottinghamshire is well placed to respond to many areas proposed in the Bill and will draw upon existing work that is underway.
46. However, the Bill also presents great challenges with risks arising from the new duties and extended responsibilities and with a very tight timescale for implementation. These can be summarised as the following:
- increase in care costs following the introduction of the cap
 - increase in costs and loss of income arising from the revised financial thresholds for accessing social care funding
 - increase in demand for assessments, support plans and reviews at a time of reducing front line assessment staff
 - potential increase in number of service users and carers following changes to assessment entitlement and eligibility
 - deferred payments, financial risks, liabilities
 - unknown impact of the changes to the market with higher fees traditionally paid by self-funders
 - a tight schedule for implementation with regulations and statutory guidance not finalised until October 2014 with implementation of most of the Bill by April 2015
 - a reducing workforce when there will be additional pressures in social care by April 2015 onwards in the areas of:
 - assessment and care management
 - financial assessments, set up and monitoring of care accounts and deferred payments
47. The Authority is currently working on the financial impact of the implementation of the bill. However at this time it is too early to quantify the financial impact.

Programme resources to plan, design and implement the changes

48. The extent of the new and extended responsibilities arising from the Bill have been scoped out with an early assessment of each of the clauses against our current position, the local policies and practices, and the timescale to inform the impact on the Council to meet the requirements.
49. The programme is complex and will require a fundamental change to our processes, systems, policies and practices. Implementation of the reforms will have a significant bearing on the cost of the delivery of social care, and failure to prepare for and meet the new statutory requirements and duties will pose a substantial financial risk to the Council.
50. Work-streams have been scoped out based on identifying a new area of work or risk, re-scoping of existing projects or business as usual. The work-streams are as follows:

- Finance and resource modelling
- Assessment, eligibility and personalisation
- Carers
- Law reform/legislation
- Strategic market development
- Paying for support
- Charging for support
- Advice, information and advocacy
- Safeguarding
- Quality and risk
- Prevention and housing

51. The enabling or cross cutting work-streams are:

- Communications and co-production
- Cultural change
- Performance framework
- Workforce
- ICT
- Policy and legal
- Integration with health

52. The programme will need to draw upon a range of expertise and knowledge to deliver key elements of the Care Bill. For example, staff from Adult Care Financial Services will need to make a strong contribution to new work-streams – both Charging for Support and Paying for Support. In other areas, such as Strategic Commissioning, there is work underway and these work-streams will need to be re-focused using existing resources. For example, there is an Information and Advice Strategy that is being revised in light of the Care Bill.

53. The programme team will co-ordinate work across the work-streams, ensure infrastructure work-streams are in place and manage inter-dependencies. There are a number of enabling or cross cutting work-streams where operational expertise will need to be committed to the project at key points from across departmental resources, including ICT, legal, Children's services, workforce modelling and development.

54. The composition of the programme team is based on the requirements to deliver key areas of work and is front loaded recognising that the majority of the planning and preparation needs to take place in 2015/6 with under a year before the majority of the Bill becomes enacted.

55. The Programme Manager post and the Business Support Post is already established in the committee report dated the 25th November 2013, but is included in the overall resources to cover the full programme of work:

Programme Manager: 1.0 FTE, F Grade
Funding agreed Nov 2013

In Post

56. The Programme Manager's responsibility is to ensure the successful delivery and the efficient functioning of the programme and realisation of the benefits defined by its objectives. To ensure the delivery of programme objectives to the appropriate levels of quality, time, budget and performance in accordance with the programme plan. The Programme Manager will have line management responsibilities for the Programme Team.

Project Manager: 1.0 FTE, D Grade (12 months)

57. The Project Manager will have day to day responsibility for the Programme Team and for the delivery of the work-streams within the Care Bill programme. They will be responsible for ensuring that effective project management practices are adhered to and that risks, issues and interdependencies are identified and managed effectively. The Project Manager will oversee pilots and developments. This role will lead on communications and co-production. The Project Manager will have line management responsibilities and deputise for the Programme Manager.

Finance Business Partner: 1.0 FTE, C Grade (12 months)

58. The Finance Business Partner will lead on the Finance Modelling work stream and contribute to work on Paying for Support and Charging for Support work-streams which include; financial cap, care account, charges and charging framework.

Commissioning Officers: 3.0 FTE, C Grade (9 months)

59. The Commissioning Officers will be allocated specific work streams to lead on within the Care Bill programme of work to ensure clear ownership and accountability and to promote attainment of the specialist knowledge required to deliver the objectives of the programme. They will also act as the Care Bill team liaison with interdependent projects within ASCH including; carers, advice, information and advocacy, prevention and housing. The Commissioning Officer role will also provide the necessary expertise in the extensive changes to the end to end process, including assessment and care management and financial assessment systems.

Programme Officer: 1.0 FTE, B Grade (9 months)

60. This role will link to the Transformation Team; it will support the Programme Manager and Project Manager in ensuring the Care Bill programme of work is set up, monitored and delivered to the required standard and within the constraints of time, cost and legal requirements. They will also be required to work in conjunction with the team's Finance Business Partner to ensure that finance systems are aligned with business developments and workflows.

Business Support Officer: 0.5 FTE, Grade 3
Funding agreed Nov 2013

61. The purpose of this role is to ensure that effective programme office processes and mechanisms are in place to support the programme team and their activities. This post has been reduced to a 0.5 post to meet the overall costs of project within the funding available.

Governance Arrangements

62. The Care Bill implementation will be overseen by the Adult Transformation Board and will form a key programme of activity within the County Council Transformation Programme as described in the document, Redefining the Council.
63. The Council will need to co-operate across departments and with partner organisations to deliver the changes within the Care Bill and consideration should be given to the following areas: Transformation (changes to the end to end social care process); Children's Services (Transition); IT (Informatics); Finance (Deferred Payments and Cap on Care Costs); Communications and Website (Information and Advice, Communicating the Changes); Public Health (Wellbeing and Prevention); CCGs (Integration with Health) District and Borough councils (Wellbeing and Prevention); and community and voluntary organisations (Wellbeing and Prevention).

Other Options Considered

64. The Care Bill is currently going through Parliament and at the same time, the underpinning statutory guidance and regulations are being drafted. Once the Bill is passed, there will be an expectation on local authorities that they meet the required timeframes for implementation. Given that the majority of the changes will need to be implemented with effect from April 2015, it is prudent to undertake the work necessary to consider the financial implications for the Council and to develop the programme of implementation, including establishing member oversight.
65. Consideration has been given to whether the programme of work can be contained within the ASCH&PP Department's existing resources. However, given the wide ranging changes and the financial implications for the Council, it is not considered feasible to complete this work without dedicated resources. There are significant financial and resource risks for the Council if the financial modelling is not completed and is comprehensive in its assessment.

Reason/s for Recommendation/s

66. The majority of the new duties and responsibilities will need to be implemented with effect from April 2015 with the major financial reforms implemented in April 2016. There are considerable financial and resource implications for the Council arising from this complex and wide ranging programme of work. It is imperative that the Council gains a detailed understanding of the implications; to fully plan and prepare for the implementation of the new duties and responsibilities, including resource modelling; and deliver the new legislative changes in order to be compliant.

Statutory and Policy Implications

67. 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

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

Financial Implications

69. The total costs for the programme resources in 2014/15 are £328,956.

70. At the ADASS Spring Conference Norman Lamb, announced £23 million nationally to support local authorities this year to meet some of the implementation costs during 2014/15. Letters to local authorities with the detail of how and when this support will be available is pending. In 2015/16, Care Bill implementation funding is within the Better Care Funding (BCF), with £135 million available nationally.

Diagram 1: Programme costs

Post	Period	Nos.	Grade	Cost
				Year 1
Programme Manager	Two years (agreed in committee report 2013/081)	1.0 fte	F	£69,038
Project Manager	One year (extension subject to future funding from BCF)	1.0 fte	D	£51,234
Finance Business Partner	One year	1.0 fte	C	£47,784
Commissioning Officers	9 months (extension subject to future funding from BCF)	3.0 fte	C	£107,514
Programme Officer	9 months (extension subject to future funding from BCF)	1.0 fte	B	£31,543
Business Support	Two years (agreed in committee report 2013/081)	0.5 fte	3	£10,864
Communications				£800
Travel, phones and IT				£7,000
1% pay increase				£3,179
TOTAL				£328,956

Equalities Implications

71. The changes arising from the Care Bill will impact on all vulnerable groups of adults and children across Nottinghamshire's communities. As and when the new regulations and guidance are issued 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

72. There are likely to be significant human resource implications both in relation to planning the programme of work and in the implementation of the Care Bill. Further reports will be brought to Committee for consideration once these resource implications have been fully scoped.

RECOMMENDATION/S

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

- 1) Note the new and extended responsibilities for local authorities arising from the Care Bill and the assessment of Nottinghamshire County Council's current position
- 2) Agree the funding for dedicated programme team to plan, design and implement the changes including the establishment of the following posts:

Programme Manager	1.0 FTE	Grade F
Project manager	1.0 FTE	Grade D
Finance Business Partner	1.0 FTE	Grade C
Commissioning Officer (9 months)	3.0 FTE	Grade C
Programme Officer (9 months)	1.0 FTE	Grade B
Business Support	0.5 FTE	Grade 3

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Constitutional Comments (LM 29/04/14)

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

Financial Comments (KAS 24/04/14)

74. The financial implications are contained in the report.

Background Papers and Published Documents

None

Electoral Division(s) and Member(s) Affected

All