

7 July 2014

Agenda Item: 11

## **REPORT OF THE SERVICE DIRECTOR PERSONAL CARE AND SUPPORT, SOUTH NOTTINGHAMSHIRE**

### **DEPARTMENT OF HEALTH FORMAL CONSULTATION ON THE DRAFT REGULATIONS AND GUIDANCE OF PART ONE OF THE CARE ACT 2014**

#### **Purpose of the Report**

1. To seek Member involvement in the preparation of the response to the Department of Health's formal consultation process relating to Part One of the Care Act 2014 about those new duties and responsibilities which will come in to force in April 2015.
2. To seek Member approval of the final consultation response being delegated to the Corporate Director, Adult Social Care, Health and Public Protection Department following consultation with the Chair and Vice-Chair of the Adult Social Care and Health Committee.

#### **Information and Advice**

3. The Care Bill received Royal Assent on 14 May 2014 at which time it became an Act of Parliament. A significant part of the Act is due to be implemented from April 2015, including the new national eligibility criteria.
4. Members will recall that during October/November 2013 the Department of Health undertook two initial consultation processes in parallel, on specific aspects of the Care Bill. These related to an early draft of the national eligibility criteria and the proposed Dilnot financial reforms. At this time, a small group of cross party Members were involved in formulating the County Council's response to the consultations.
5. Since this time, the Department of Health has been considering and formulating key policy decisions and the details of the regulations and the guidance which will sit under the Care Act. Nottinghamshire County Council has been involved in this to some extent by working directly with policy leads in the Department of Health in testing and helping shape aspects of the draft guidance, including the proposed eligibility criteria.
6. On 30 May 2014, the Department of Health issued the draft regulations and guidance to support the implementation of the elements of Part One of the Care Act which will come in to force in April 2015. They cover significant areas of new and changing responsibilities and duties including the following:
  - new national eligibility criteria

- person centred care and support planning
  - charging and financial assessments
  - deferred payments
  - adults' safeguarding
  - market shaping
  - integration and partnership working with health and with housing departments
7. At the same time as issuing the draft regulations and guidance on 30 May, the Department of Health launched the formal consultation process. The draft regulations and guidance are comprehensive and the consultation process includes 82 questions for consideration. The closing date of the formal consultation process is 15 August 2014. It is anticipated that the regulations and guidance will be finalised in October 2014 to enable local authorities to be ready for implementation by April 2015. The Department of Health is intending to issue the draft regulations and guidance on Part Two of the Care Act relating to the financial reforms in Autumn 2014 for consultation.
8. It is proposed that a small group of Members meet to consider the Council's response to the questions set out in the consultation document. Given the extensive documentation and number of questions for consideration, it is likely that the group will need to meet on a couple of occasions before the summer recess.
9. In addition, the Care Act Implementation Team has set up a web-page on the ASCH&PP Department's home page to encourage and facilitate responses to the consultation from Members and from the Council's staff. The site can be accessed via the following link: <http://intranet.nottsc.gov.uk/departments/asch/careact/>. The responses received through this will be considered, aggregated and included in the final response to be submitted to the Department of Health.

### **Other Options Considered**

10. No other options have been considered.

### **Reason/s for Recommendation/s**

11. The Department of Health has, from the onset, sought to work collaboratively with local government and a wide range of stakeholders in the formulation of the regulations and guidance which come under the Care Act 2014. Officers from the Council have been actively involved in the policy development and it is evident that this has helped shape the revised draft guidance for example in relation to the new national eligibility criteria.

### **Statutory and Policy Implications**

12. 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**

13. It is anticipated that the Care Act 2014 will bring considerable benefits to service users and carers, for example through the new statutory duty which will enable carers to have access to services in the same way as those provided to service users, regardless of the amount of informal care they provide. Some of the other benefits include the principles of equity and fairness by encouraging consistent application of policy and of practice as a result of national eligibility criteria, from having a single charging policy, though the transportability of assessments when service users move from one geographical area to another, and through effective transitions planning and continuity of care from children's to adults' social care services.

## **Financial Implications**

14. It is anticipated that there will be significant financial implications for the Council arising from the implementation of the Care Act 2014. In 2015/16, the Care Act implementation funding will be contained within the Better Care Fund with £135 million having been identified nationally. Nottinghamshire's allocation of this is approximately £2m. However, at this stage it is anticipated that this will not cover the full costs of implementing the new duties and responsibilities.

15. The Council is working with the Department of Health to undertake financial modelling regarding the new burdens and the extended responsibilities such as the new duties in relation to carers, the changes in the eligibility criteria, and the impact of the financial reforms relating to self funders.

## **Equalities Implications**

16. Given the recent publication of the draft regulations and guidance, the Council will be undertaking an Equality Impact Assessment to enable detailed understanding of the impact of the changes on people with protected characteristics and this will in turn help inform the changes that will be required to local policies and procedures.

## **RECOMMENDATION/S**

It is recommended that:

1) A small group of Members are involved in the preparation of the responses to the Department of Health's formal consultation process relating to Part One of the Care Act 2014.

2) Members approve the final consultation response being delegated to the Corporate Director, Adult Social Care, Health and Public Protection Department following consultation with the Chair and Vice-Chair of the Adult Social Care and Health Committee.

**CAROLINE BARIA**

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

### **Constitutional Comments (SG 25/06/2014)**

17. The proposals in this report fall within the remit of this Committee.

### **Financial Comments (KAS 26/06/14)**

18. The financial implications are contained within paragraphs 14 and 15 of the report.

### **Background Papers**

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.

None

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

All.