

Southend-on-Sea Borough Council

Report of Group Manager Business Support, Department for People

To

Health and Wellbeing Board

On

16th June 2014

Report prepared by:
Sarah Baker, Group Manager Business Support

Department for People Care Act update

1. Purpose of Report

- To update Health and Wellbeing Board on the progress of the Care Act and the implications of the Care Act for Southend Borough Council in relation to care and support for adults.
- To formalise the action plan for implementation of the Care Act within Southend Borough Council.
- To provide details of the potential financial impact of the Act to the authority

2. Recommendations

- 2.1 That Health and Wellbeing Board note the contents and feed back any actions required to the project sponsor, Simon Leftley.**

3. Background

- 3.1** The Care Bill received Royal Assent on 15th May 2014 and became The Care Act 2014. The full detail of the changes is still being considered by the government with a host of new draft regulations and guidance expected in late June 2014 for consultation and then finalised in October 2014.
- 3.2** The Care Act is considered to be one of the most important pieces of social care legislation since the 1948 National Assistance Act and 1990 NHS and Community Care Act. At the moment care and support is delivered against a number of Acts of Parliament, some over 60 years old. The Bill will replace these with a single, modern law which will provide adult social care (ASC) with a new legal framework putting the wellbeing of individuals at the heart of care and support services.

- 3.3 The Care Act sets ways in which adult social care is funded, including introducing a Care Cap, which limits the amount an individual has to pay for their care in their lifetime. It also addresses the infrastructure required to manage the cap.
- 3.4 The Care Act will have a significant impact on local authorities, placing new duties and responsibilities on local authorities as well as extending existing responsibilities
- 3.5 The majority of changes are set to take place in April 2015, with the reform of funding to take effect from April 2016.
- 3.6 The Care Act 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 to be in place by 2018.

Progress to date

- 3.7 A project group was set up initially to co-ordinate the Southend Council response to the Department of Health consultation on the Care Bill. The project group has continued to meet monthly to keep group members updated with the progress of the bill, to initiate plans to take the project forward and start to gather information about how changes will impact on the current services and processes in the authority. Work streams have been set up and work stream leads identified.
- 3.8 Sarah Baker has been allocated the role of leading on the implementation of the Care Act and will chair the monthly board meetings. The work stream leads will report their progress to date on their specific topics to the board. Further information of the three work streams and their responsibilities is attached as **Appendix 1**

Financial Modelling

- 3.9 The Department of Health have published their impact assessment on the cost of the Care Act to local authorities. This has been challenged by ADASS as insufficient to meet the changes, incurring a potential financial risk to local authorities.
- 3.10 ADASS, together with Surrey County Council, have developed a different financial model. All authorities were asked to complete it; however this was postponed following a number of queries and concerns from authorities about gathering the information requested. The latest information from ADASS is that a further 20 -30 authorities will be completing the model with revised instructions. If successful then the revised model will be re-issued.
- 3.11 The findings of the DoH modelling and ADASS modelling will be looked at by London School of Economics to come to a final decision about the cost of reform.

4 Main Areas of Change within the Act.

Promoting a person's wellbeing

- 4.1 The Act creates a new duty to promote a person's well being and underpins the approach to care and support. This links with the Health and Well-Being Board and the health and wellbeing strategy.

Prevention

- 4.2 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, whether or not they currently use services. The local authority will need to work 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.
- 4.3 Close work with Public Health will assist with early intervention and enable us to target the vulnerable areas of Southend. Continued expansion of the SPOR will achieve further benefits by establishing a single route of referral and assist with individuals remaining independent in the community.

Providing Information, Advice and Advocacy

- 4.4 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 need and provide advice, information and support.
- 4.5 Information must be accessible to and proportionate to the needs of the person, ranging from information on a web site to a face to face discussion or even advocacy. Where people are not eligible for support there is an additional requirement to provide a written statement of need and 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.
- 4.6 Southend has an existing partnership with Paying for Care to provide financial advice which will need to be reviewed because of the potential increase in numbers needing this service. 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. Early work to pilot new approaches will inform the most cost effective way of delivering this.

Promoting the quality and diversity of local services

- 4.7 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 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.

- 4.8 Southend Council work collaboratively with care providers. In October 2014, following on from the consultation, provider representation will be sought from each of the relevant project meetings so that expectations are known and a consistent message is given.

Assessment and eligibility

- 4.9 The Act creates the requirement for a single, consistent route to determining people's entitlement to care and support and extends the same entitlement to carers.
- 4.10 The Act 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.
- 4.11 In Southend, the eligibility threshold for Fair Access to Care is set at substantial. Although the intention was to set the national threshold at a similar level, it is generally viewed by local authorities as a significant extension of current scope and responsibilities. Early modelling on some scenarios by authorities confirmed that the current draft regulations may 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.
- 4.12 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 and this piece of work is currently underway.

Funding reforms

- 4.13 The financial reforms significantly changes 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 for people in residential care with a property being taken into account within the assessment.
- 4.14 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 residential care 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.

- 4.15 People aged 18-64 who develop care needs will have a lower cap on care costs. 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.
- 4.16 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 able to charge interest on these payment arrangements. Southend currently operates a Deferred Payment Scheme, but this will change in line with the new scheme e.g. interest applied from start of scheme.
- 4.17 The capital threshold for people in residential care 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.
- 4.18 People with an eligible need will have a 'care account' which shows the care costs that they have accrued as well as tracks the 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.
- 4.19 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.

Safeguarding

- 4.20 The Act requires Local Authorities to have a Safeguarding Adults Board and to carry out safeguarding adults reviews where somebody experiencing abuse or neglect dies or there are concerns about how the local authority acted. Boards may also require information sharing from other partners. Boards are also 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.
- 4.21 Southend is well placed to meet these new requirements with a Safeguarding Adults Board in place and the Board already has a Serious Case Review process. Until the regulations are published, it is unclear if there are further implications around extension of responsibilities. Safeguarding will run through each of the 3 work streams.

Continuity of care and support when an adult moves.

- 4.22 The Act states that when an adult with care needs moves between local authorities, the first local authority must provide all relevant information. The second local authority must provide information and assess the adult and their carer, taking into account their previous support plan. Until an assessment can be done, the second local authority must continue with the

first authority's support plan. This arrangement currently exists between the three local authorities in Essex.

5. Timescales of the Care Act

5.1 The majority of the new legislation will come into effect in April 2015. The requirements related to the capped charging and extended means test will come into effect a year later in April 2016.

Date	Key Requirements	Timescale
June 2014	Consultation on draft regulations and guidance for April 2015	10 weeks to mid August
June 2014	Review of existing information and advice arrangements	June 14 complete April 15
September 2014	Working estimate of number of self-funders currently unknown to the authority	June to September 15
	Working estimate of expected number of carers assessments	June to September 15
	Estimate of impact of care Act for 2015/2016	June to September 15
	Estimate of number of new Deferred Payments expected	June to September 15
October 2014	Introduce regulations to Parliament, publish Guidance	Complete
November 2014	Communication Plan following published guidance and start of National Campaign	Ongoing
December 2014	Launch consultation on draft regulations and guidance for introduction of cap on care costs and care accounts	Unknown return date
April 2015	Regulations and Guidance come into force	Complete
7th May 2015	General Election	
October 2015	Introduce regulations to Parliament, publish Guidance	Complete
April 2016	Regulations and Guidance come into force	Complete

Key: Govt task

Key: SBC task

6. Summary of implications for the Council

6.1 Southend is already working to respond to many areas proposed in the Bill; however, the Act also presents great challenges with risks arising from the new duties and extended responsibilities. These can be summarised as follows:-

- Potential 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
- Potential increase in demand for assessments, support plans and reviews at a time of reducing front line assessment staff
- Additional work under the Mental Capacity Act and potentially more applications to the Court Of Protection for deputyship.
- 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 Act by April 2015
- 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.

Hence, it is imperative the financial and resource modelling starts to understand the financial impact for the Council and to triangulate with figures from central government when released.

7. Reasons for Recommendations

- 7.1 The Act 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.
- 7.2 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.
- 7.3 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.

8. Corporate Implications

- 8.1 Contribution to Council's Vision and Corporate Priorities.

The proposals support Corporate Priority 4, to maintain improved outcomes for vulnerable adults and older people.

8.2 Financial Implications.

Although the Government has estimated additional costs for Local Authorities in respect of the Care Bill the actual costs are likely to be significantly higher

8.3 Legal Implications.

The Care Act is a significant change to Social Care legislation and imposes a number of statutory duties onto Local Authorities. A member of the Council's legal team attends the Project Team meetings and provides advice and guidance.

8.4 People Implications.

The extent of the new and extended responsibilities arising from the Bill will be scoped out following a full assessment of the impact of each of the clauses against our current position and local policies and practices. In order to carry out this piece of work, 3 work streams have been created; the membership of each group is informed by a skills analysis of the key tasks required within the work-streams.

8.5 Property Implications

None

8.6 Consultation

National consultation on the proposed changes as a result of the Care Bill has already taken place, further consultation will commence in May 2014 following on from the royal assent.

8.7 Equalities and Diversity Implications.

A full Equality Analysis will be undertaken on the potential impact, following on from a national one being completed. The Care Bill has considerable implications for service users and carers including for 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

8.8 Risk Assessment.

A risk log will be maintained as part of the Care Bill project so that risks can be mitigated or escalated when necessary.

8.9 Value for Money.

None

8.10 Community Safety Implications.

None.

8.11 Environmental Impact

None

9. Background Papers

None

10. Appendices

Appendix 1 – Summary of workstreams and duties