

Southend-on-Sea Borough Council

Agenda
Item No.

8

Report of Corporate Director for People

to
People Scrutiny

on
8th October 2013

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The Care Bill and Caring for Our Future Consultation

People Scrutiny Committee (including Health)
Executive Councillor: Councillor Salter
Part 1 Public Agenda Item

1. Purpose of Report

- 1.1 This report is to inform members of the content of The Care Bill and the Caring for our Future Consultation.

2. Recommendations

- 2.1 **Members are asked to note the report and comment on the proposed response to the consultation circulated separately.**

3. Background

- 3.1 The Government have noted that it is over six decades since the foundations of social care law were put in place, based on principles that are no longer relevant in today's society. They argue new laws that reflect modern standards, modern expectations and modern practices. The first part of the Care Bill is in reforming care and support and achieving the aspirations of the White Paper, *Caring for our Future*. It also introduces a cap on the costs that people will have to pay for care in their lifetime, as recommended by the Commission on the Funding of Care and Support. The Bill pulls together threads from over a dozen different Acts into a single, modern framework for care and support. But it is not just a compilation – it reforms how the law works. It highlights the importance of preventing and reducing needs, and putting people in control of their care and support. It also puts carers on a par with those for whom they care.
- 3.2 The second part of the Bill takes forward elements of the Government's response to the unacceptable failings in care at Stafford Hospital. The quality of care and people's experience should be the basis on which providers of health and care are judged and this Bill takes a step towards that. It will allow for Ofsted-style ratings for hospitals and care homes that will allow patients and the public to compare organisations or services in a fair and balanced way, so they

can see which they prefer and where they want to go. The Bill will give the new Chief Inspector of Hospitals the power to instigate a process to tackle unresolved problems with the quality of care more effectively than before.

- 3.3 Part 3 of the Bill establishes Health Education England as a statutory body which will assist local healthcare providers and professionals to take responsibility for educating and training their staff. It also establishes the Health Research Authority in the same way, strengthening its ability to protect patients' interests in health and social care research whilst promoting research and streamlining the approvals process.
- 3.4 The Care Bill takes forward the Government's commitments to reform social care legislation, to drive up the quality of care following the findings of the Francis Inquiry, and to establish Health Education England (HEE) and the Health Research Authority (HRA) as non-departmental public bodies (NDPBs).

Care and support

- 3.5 The Bill delivers the commitments in the Government's white paper *Caring for our future: reforming care and support* (July 2012), which sets out the vision for a modern system that promotes people's well-being by enabling them to prevent and postpone the need for care and support and to pursue education, employment and other opportunities to realise their potential. The Bill takes forward the recommendations of the Law Commission to consolidate existing care and support law into a single, unified, modern statute. It refocuses the law around the person not the service, strengthens rights for carers to access support, and introduces a new adult safeguarding framework.
- 3.6 This Bill also puts in legislation the changes recommended by the Commission on the Funding of Care and Support to introduce a cap on the costs that people will have to pay for care in their lifetime.

Care standards

- 3.7 This Bill delivers a number of elements in the Government's response' to the findings of the Francis Inquiry, which identified failures across the health and care system that must never happen again.

Public consultation and pre-legislative scrutiny

- 3.8 Almost all of the provisions in Parts 1 and 3 of the Bill have been subject to a detailed process of public consultation, engagement and pre-legislative scrutiny between July 2012 and March 2013.
- 3.9 The Government held a public consultation from July to October 2012.

Following consultation, a Joint Committee of Parliament was established to conduct pre- legislative scrutiny on the Draft Care and Support Bill. Over three months, the Joint Committee received further written evidence and held 10 oral sessions with a range of stakeholders. The Joint Committee's work concluded on 7 March, and their final report was published on 19 March setting out 107 recommendations (Appendix 1).

The Government's case for change

- 3.10 Care and support is something that everyone will experience at some point in their lives, whether they need it themselves, know a family member or friend who does, or provide care themselves.
- 3.11 Today's care and support system often fails to live up to the expectations of those who rely on it. Whilst many do have good experiences, the system can often be confusing, disempowering and not flexible enough to fit around individuals' lives. Moreover, the care and support system faces some major additional challenges. Demographic changes mean that we can expect 1.4 million more people to need care and support in the next 20 years.
- 3.12 In this context, the Government's White Paper, *Caring for our future: reforming care and support* (July 2012), set out a long-term programme to reform care and support. At the centre of the White Paper is a vision for a modern system that promotes people's well-being by enabling them to prevent and postpone the need for care and support, and puts them in control of their lives so that they can pursue opportunities, including education and employment, to realise their potential.
- 3.13 The Care Bill is a significant step in delivering that vision.
- 3.14 There is a consensus that the current care and support system offers little financial protection for the cost of care. The report by the Commission on the Funding of Care and Support, as well as *Caring for our Future: progress report on funding reform*, set out in detail the difficulties the current system creates for people.
- 3.15 The Commission found that because care needs are unpredictable, individuals and families do not know what care costs they might face in the future. A quarter of people may need to spend very little, but one in ten people will have more serious care needs, and will face care costs in excess of £100,000. Those who pay the most and face unlimited costs are likely to be those with long-term chronic disabilities such as dementia, which means that they need care and support for a long period.
- 3.16 This Bill will put into legislation the changes proposed by the Commission to reform the funding system for care and support. It introduces a cap on the care costs which people will incur in their lifetime.

Caring for Our Future Consultation

- 3.17 *Caring for our future: Consultation on reforming what and how people pay for their care and support* sets out the specific areas on which the Government is seeking views. There are many complex issues that need to be discussed around these reforms, like how the introduction of a cap on care costs should work, how the cap will affect people of different ages and how people will be able to access the extended financial support.
- 3.18 In February 2013, the Government announced they would reform the funding of care and support to ensure:

- Everyone receives the care they need and more support goes to those in greatest need
- We end the unfairness of, and fear caused by, unlimited care costs
- People will be protected from having to sell their home in their lifetime to pay for care.

3.19 A fear of high costs can delay people getting the care they need. This leads to more people seeking and organising care in crisis situations risking higher care costs, due to their worsened condition. The reforms will make it clearer how much people might have to pay to meet their eligible needs, helping them feel more in control of their finances and find it easier to plan. People no longer risk losing everything they have worked and saved for during their lives.

What Southend are doing

3.20 A project team with a mix of professionals to study and respond to the Consultation on behalf of the council has been set up. In this consultation there are 40 calls for evidence and 11 consultation questions to be answered. The project team will produce a response to the consultation. In addition to this, the group will continue to work together to implement any changes, training, systems etc that will be needed over the next couple of years. There will be funding coming from Government to assist in implementing some of the changes. Further updates will be made available as the work progresses. Recent discussions with Essex County Council suggest that given the scale of the changes proposed a joint approach across Essex would be beneficial.

4. Other Options

N/A

5. Reasons for Recommendations

This is a significant change in legislation governing Adult Social Care.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

Effective implementation of this legislation will enable the Council to deliver excellent Adult Social Care Services.

6.2 Financial Implications

There will be significant financial implications but additional funding is going to be allocated but it is unlikely to cover the full cost of implementation.

6.3 Legal Implications

N/A

6.4 People Implications

In the future more staff will be recruited with the government funding to manage the additional work that needs to happen, this needs to be completed in a timely fashion so that we deliver outcomes on time.

6.5 Property Implications

N/A

6.6 Consultation
Southend Borough Council will be participating and responding to the Department of Health Consultation which ends on the 25th October 2013

6.7 Equalities and Diversity Implications
N/A

6.8 Risk Assessment
N/A

6.9 Value for Money

6.10 Community Safety Implications
N/A

6.11 Environmental Impact
N/A

7. Background Papers
None

8. Appendices

8.1 The Care Bill explained including a response to consultation and pre- legislative scrutiny on the draft Care and Support Bill – May 2103

8.2 Caring for our Future – Consultation on reforming what and how people pay for their care and support. - July 2013