

**Central
Bedfordshire
Council
Priory House
Monks Walk
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Shefford SG17 5TQ**



**TO EACH MEMBER OF THE
SOCIAL CARE, HEALTH & HOUSING OVERVIEW & SCRUTINY COMMITTEE**

12 November 2014

Dear Councillor

**SOCIAL CARE, HEALTH & HOUSING OVERVIEW & SCRUTINY COMMITTEE - Monday
17 November 2014**

Further to the Agenda and papers for the above meeting, previously circulated, please find attached the following report which was marked to follow on the Agenda:-

10. Care Act Report 2014

To consider and comment on the Care Act report.

Should you have any queries regarding the above please contact the Overview and Scrutiny Team on Tel: 0300 300 4196.

Yours sincerely

**Paula Everitt
Scrutiny Policy Adviser**

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Meeting: Social Care, Health and Housing Overview and Scrutiny Committee
Date: 17 November 2014
Subject: Care Act 2014 – Update Report
Report of: Cllr Mrs Carole Hegley, Executive Member for Social Care, Health and Housing

Summary: The Care Act which introduces major reforms to the legal framework and funding system for adult social care received Royal Assent on 14 May 2014. Implementation of new legislation will commence in April 2015.

This report sets out the requirements of the Care Act, highlighting the key changes from existing legislation and the step being taken in the Council to implement the Act.

Advising Officer: Julie Ogley, Director of Social Care, Health and Housing
Contact Officer: Patricia Coker, Head of Partnerships and Performance
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

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| <ol style="list-style-type: none">1. The Care Act 2014 has implications for effective delivery of the Council's statutory functions and more specifically will contribute to the priority to Promote health and wellbeing and protecting the vulnerable. |
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Financial

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| <ol style="list-style-type: none">2. The Care Act 2014 will have important financial implications for the Council and Adult Social Care Services. From April 2015 the Council will need to consider the financial implications of further resources required to manage the additional cost of discharging the new duties for assessment and support of carers and the provision of information. In addition there will be a universal requirement for local authorities to offer people the option of deferring payment towards the cost of their care services. |
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Planning and modelling work on the financial implications of the policy and practice change is ongoing both locally and nationally. To support implementation of the Care Act, the government has made an allocation of £125,000 available for 2014/15, with further indicative sums being highlighted in the 2015/16 grant settlement from Central Government (£1.0m) and as part of the Better Care Fund pooled fund arrangements (£0.6m). However, indicative costs of the changes calculated to date potentially outweighs this indicative level of funding. It is therefore challenging to quantify the full impact of the changes on the Councils budget. Nationally Councils are being advised that implementation is affordable within the funding made available.

Legal:

3. The Care Act 2014 consolidates and enhances the existing law in respect of care and support for adults and their carers. Appendix A sets out a summary of the duties and responsibilities contained within the Act. The Act is very complex and wide reaching. The provisions within the Act need to be implemented in a relatively short period of time, with the main care and support elements being implemented in April 2015 and the financial elements being implemented in April 2016.

On 23rd October 2014, the Government published its new guidance and regulations following an extensive consultation. The Act, regulations and guidance need to be carefully considered and a robust gap analysis undertaken to identify the current practices within the Local Authority, changes to practice required as a result of the Act and the steps the Local Authority needs to take to alter its practice if necessary,

It is vital that Central Bedfordshire Council implements the Care Act 2014 at the relevant time otherwise there is a risk of challenge through the complaints procedure, by way of judicial review or other judicial process.

Risk Management:

4. The Care Act 2014 has been identified in the Corporate Risk Log and its implications will be monitored and managed as part of the Care Act 2014 Implementation Programme.

Staffing (including Trades Unions):

5. The Care Act presents significant challenges to the workforce both in terms of capacity and adopting new ways of working. Meeting the new duties requires staff to understand and prepare for the legislative reforms with universal access to information, advice and guidance; promotion of wellbeing; the new framework for assessment and eligibility; and to deliver integrated models of care and support.

Equalities/Human Rights:

6. Equality impact assessment of the Care Act 2014 has been undertaken by Government. Changes from the Act will have important implications for those in need of care and support. Equality Impact Assessments will be undertaken as required by the Programme Delivery Group to ensure that people with protected characteristics are not adversely affected by the changes.

Public Health

7. The Care Act 2014 makes provision for local authorities to improve people's wellbeing and sets out new statutory principles for the promotion of wellbeing and prevention which includes physical, mental and emotion wellbeing.

Community Safety:

8. Not Applicable.

Sustainability:

9. Not Applicable.

Procurement:

10. The Care Act 2014 sets out some key principles for shaping the market for care and support and for how care and support is commissioned. A Market Position Statement will be published as part of the implementation process.

RECOMMENDATION(S):

The Committee is asked to:-

1. Consider the new and extended duties for local authorities from the Care Act 2014.
2. Consider the steps being taken to implement the requirements of the Care Act 2014 in Central Bedfordshire.

Background information

11. The Care Act 2014 which introduces major reforms to the legal framework and funding system for adult social care received Royal Assent on 14 May 2014.
12. It represents the most significant reform of care and support in more than 60 years, putting people and their carers in control of their care and support. Central to the Act is the concept of wellbeing. Councils will now have a duty to consider the physical, mental and emotional wellbeing of the individual needing care and a new duty to provide preventative services to maintain people's health.
13. The Act takes forward the recommendations from the Dilnot Commission and puts forward a new system which will cap the amount people have to spend on the care they need irrespective of their savings or assets. A new national minimum eligibility threshold is introduced to establish who needs care.
14. Part One of the Act is focused on Care and Support, Part Two relates broadly to Care Standards and Part Three establishes Health Education England (HEE) as the body responsible for local healthcare workforce training and planning.
15. **Appendix A** sets out the key duties and responsibilities of the Care Act.

16. Following enactment of the Act, a national consultation on the draft regulations and statutory guidance for those elements of the Act which will commence from April 2015 was undertaken and the final Care and Support Statutory Guidance has been published. A second consultation covering provisions in the Act which will come into force in April 2016 is ongoing.

Key Requirements Timescale

The Care Act 2014 is implemented in phases and the impact on Councils are shown below:

17. • **From April 2015** New duties on prevention and wellbeing
- New duties on the provision of information and advice (including advice on paying for care)
 - New duty on market shaping
 - National minimum threshold for eligibility – (proposed to be set at substantial)
 - New duties regarding assessments including assessments for carers and self funders
 - Statutory requirement in relation to personal budgets and care and support plans
 - Statutory requirement to offer deferred payment agreements
 - Introduction of a new charging framework
 - New statutory Safeguarding Adults Board

From April 2016

- An extended means test
- A capped charging system
- Introduction of Care Accounts

Local Progress towards implementation

18. Since Summer 2013, officers within Social Care, Health and Housing monitored the progress of the Care Bill through parliament and began a clause by clause analysis of the Care Bill to understand the changes and prepare for its implementation.
19. The Council has made good progress with the prevention agenda in promoting access to and funding preventative services. Much of the work has involved partnerships with voluntary and community groups in areas such as the Ageing Well Programme; Good Neighbour and Village Care Schemes; and information on Paying for Care.
20. The Council's eligibility criteria is set at moderate. This underpins the approach to prevention and early intervention and will be ahead of the national criteria, which is expected to be set at a level equivalent to the current 'Substantial'. Consequently, the statutory criteria should not have significant impact on the Council. Changes in the way that the eligibility criteria are applied and the regulations will determine who is eligible for support and will require training for the staff.

Emerging Issue and local implications of the Care Act

21. With the assumption that the Council currently supports around 40 -50% of social care customers in Central Bedfordshire, the duties of the Care Act will likely result in a significant increase in number of people requesting an assessment of their care needs and financial status .Key challenges will be the implementation of the new funding reforms which will bring in large numbers of 'new' people (self funders) to the social care system, and will have significant financial implications. Initial modelling around the likely increased demands on assessments demonstrates the following:
- **Social Care Assessments and Reviews** - It is forecast that as a result of the Act, the number of assessments and reviews will increase in 2015/16 by 989. This would require an additional 28 full time equivalent social workers. The additional cost of this has been estimated to be in the region of £0.6m.
 - **Financial Assessments** - It is also estimated that additional number of financial assessments will be required at an additional cost of £0.1m.
 - **Carers** - The Act sets out a duty to support informal carers. Carers in Bedfordshire currently support over 3,000 carers. Of these 1,500 are known to the Council through assessment and other support. However, the 2011 Census indicates that over 25,800 people classed themselves as carers. Using a financial modelling tool, the Council has estimated that an additional 4,000 carers could require assessment which would result in additional assessment costs of £0.3m with associated packages costs at a level of £3.8m.
 - **Safeguarding Reviews** - The Council receives 1,300 alerts and 475 referrals per annum, with approximately 80% of the alerts for people already known to Social Care. Whilst there is no explicit part of the Act that is likely to result in an increase in safeguarding activity, the likelihood increases as more people with a social care needs become known to the Council. There are also potential staffing implications in relation to the Deprivation of Liberty Safeguards.
22. It is clear that successful implementation of the additional requirements of the Care Act, requires a concerted Council wide approach.
23. The implication of at least doubling the number of full time equivalents staff required within Adult Social Care to deliver the requirements of the Act will not be possible given current recruitment issues with approximately 17% of qualified social worker posts being covered currently by locums.
24. Alternative avenues would need to be explored to deliver the requirements of the Act, if the Council is to cope with the demand. Any such alternatives would have a significant impact on overheads and Corporate Services.

25. In addition, implementing the information system changes and upgrades required by the Care Act will be complex. Key priority areas for the Council ensuring that information and technology systems are able to support the new duties for example for client records and for managing online assessments.
26. Managing the potential increase in demand for Care and Support Plans due to requirements to assess Carers and Self Funders. Ensuring self-funders come forward for assessment in good time

Implementing the Care Act 2014 – Programme Management approach

27. A whole Council approach to implementing the Care Act has been adopted and a Programme Board chaired by the Chief Executive has been established to oversee this. A dedicated programme team has been established to coordinate the implementation of the Care Act alongside other transformational programmes, within the context of the Better Care Fund and the wider integration agenda towards 2018.
28. A National and Regional implementation support through ADASS, has been set up with allocation of £265,131 for East of England to ensure successful delivery of the care and support reforms. This also has the additional benefit of creating capacity to support closely-related activity for the Better Care Fund. Central Bedfordshire is represented on all of the regional workstreams.
29. Work has begun within the Council to scope and develop workstream plans. A Care Act Programme Board has been established to take forward the implementation with the following workstreams:
 1. Promoting Individual Wellbeing (Prevention, Housing & Public Health) and Information, Advice and Advocacy.
 2. Assessment & Eligibility and Care Planning & Personalisation
 3. Paying and Charging for Care
 4. Quality & Safety and Care Markets.
30. To support implementation of the Care Act in the Central Bedfordshire, the government has allocated £125,000 for 2014/15, with further indicative sums being highlighted in the 2015/16 grant settlement from Central Government (£1.0m) and as part of the Better Care Fund pooled fund arrangements (£0.6m).

National and Regional Participation

31. Both regional and national support has been produced for Care Act Implementation. A Regional Care Act event for local authority officers and members was held on 7 July 2014.
32. Regional Networks have been established and are expected to share knowledge, expertise and best practice around the region. They will help to identify common risks and issues as well as act as a conduit between the region and the national team.

33. The Council participated in the national financial modelling of the implications of the changes to the charging framework using both the Surrey Model and more recently in a cost modelling exercise using the Lincolnshire Model.
33. The Council has completed two national stocktake which have highlighted the requirement for:
- a change programme approach to deliver the reforms
 - Effective leadership and sponsorship
 - Prioritisation of resources
 - Partnership working
 - Engagement and involvement of service users
34. The Council participated in piloting a Workforce Capacity Planning tool developed by Skills for Care to support the implementation of workforce reform in the context of the Care Act. The tool was used to gather information about the current workforce and future needs and focused on the development of a Health and Social Care multidisciplinary 'team' within Chiltern Vale and the Luton and Dunstable -'Demonstrator Project'.
35. The Council is also participating in a baseline research with a consortium of councils to provide detailed analysis of the care market and self funders. It will provide greater understanding of the likely cost impact of the Care Act, the financial risks associated with it as well as help to shape the local care markets.

Conclusion and Next Steps

36. The Care Act 2014 introduces significant change and has important implications for the Council. The challenges are fully recognised and are being addressed through the Care Act Programme Board and the Social Care, Health and Housing's wider transformation agenda.
37. The Funding and resource implications are significant and are being mapped alongside national estimates and modelling.

Appendices: Appendix A – Summary of Duties and Responsibilities

Background papers and their location: (open to public inspection)
http://www.legislation.gov.uk/ukpga/2014/23/pdfs/ukpga_20140023_en.pdf

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Appendix A

Summary of Duties and Responsibilities Care Act 2014

The Care Act 2014 sets out key proposals for the transformation of adult social care and how it is funded. It impacts on the duties and functions of the Council as a whole. Consequently, processes, practices and resources will need to be reviewed to ensure the Council is able to deliver the changes required and to meet its statutory duties.

Part One of the Act is focused on Care and Support and describes a broader role of local authorities in providing universal care and support to everyone, with the aim of reducing needs.

Part Two relates broadly to Care Standards, implementing, the Government's response to the Mid Staffordshire Inquiry (Francis Report). A duty of candour which requires registered providers of health and social care to be open with patients and service users about serious failings in care is introduced. The Act also establishes the Care Quality Commission (CQC) as an independent commission with a star rating system for Foundation Trusts and Care Home Providers. CQC powers also cover the adult social care services that the Council provides.

Part Three establishes Health Education England (HEE) as the body responsible for local healthcare workforce training and planning. It introduces the Care Certificate for health care assistants and social care support workers.

The duties and responsibilities are as follows:

- **New responsibilities for local authorities in supporting and caring for adults**

Local authorities will be required to provide comprehensive information and advice on all care and support services in their local area, how the services work, and how to access them. They will also be required to produce market position statements

- **Core entitlements to public care and support**

The Act will create a single consistent route for establishing entitlement to public care, and a national eligibility threshold for the statutory needs assessment, although the details are not yet specified. For the first time carers will also be entitled to support on a similar basis to those that they care for. The legal duty for an adult's "eligible needs" to be met by the local authority will be subject to their financial circumstances and capacity to organise care. There will be more flexibility to design personalised packages of care.

- **Personalising care and support planning**

Personal budgets will be recognised in law for the first time, and direct payments must be given if the service user requests them, and meets requirements set out in the Act. Local authorities must provide a care and support plan, or support plan in the case of a carer, which will be reviewed and updated.

- **Charging and financial settlements**

The Act consolidates rules on charging for care and support, and opens the option of deferred payment to all homeowners with assets below a certain threshold. Local authorities will be able to charge interest on these deferred payments.

- **Care and support funding reforms**

It is likely that from April 2016 the Act could put a cap on the lifetime care costs, which is expected to be £72,000 for adults over 65, £0 for those under 18 although the working age cap has not yet been set. The upper capital limit, above which an individual has to pay the full cost of their residential/nursing care until they reach the £72,000 cap could be raised from £23,250 to £118,000 in assets, including savings and property. Payments made before 1 April 2016 will not count towards the cap, and both council and individual contributions will count towards the cap.

Not included in the cap are certain extras such as the additional cost choosing a more expensive care option or employing gardeners or cleaners, and individuals will remain responsible for a contribution towards general living costs covering room and board, equivalent to £12,000 p.a. by 2016/17.

- **Protecting adults from abuse and neglect**

The Act creates a legal framework for adult safeguarding, including making Safeguarding Adults Boards (SABs) statutory and specifying minimum membership (LA, NHS and police), and functions such as shared safeguarding plans. Local authorities will be required to make enquiries when they think that a vulnerable resident may be at risk, whether or not they are providing the care. The Act does not give local authorities power of entry. Boards will also be responsible for Safeguarding Adult Reviews, and organisations will have a duty to share information requested by the SAB.

- **The law for carers**

The Act brings together legislation on all carers, apart from young carers (under 18) and adults caring for disabled children, who will continue to be supported through children's legislation and services. Carers rights are brought more into line with those of the people who they care for, and they no longer need to be providing "a substantial amount of care on a regular basis" to qualify for an assessment. A joint assessment of the needs of a carer and the person that they care for can be undertaken if both agree. Carers should receive a personal budget from the local authority and have the right to request a direct payment.

- **Continuity of care when moving between areas**

When a service user wants to move areas local authorities need to share copies of care and support plans, and a "care account" and "independent personal budget" if applicable, as well as the carer's support documentation if they are also moving. Any different needs identified by the new authority must be explained in writing. The new authority must continue the same level of care until they carry out their own assessment.

- **Market oversight and provider failure**

Local authorities will be legally responsible for continuing care when a provider fails, even when that care is privately funded. The Care Quality Commission is given authority to request information from any provider may be in danger, which it will share with relevant local authorities. It can also insist that a provider develop sustainability plans, and where necessary arrange an independent business review.

- **Transition for children to adult care and support services**

Young people and carers of children will be given the right to request an assessment before turning 18 to help them to plan for the care that they will need. The Care Act also explicitly states links to the Children and Families Act as both Bills advocate the need for cooperation within and between local authorities to ensure that professionals are discussing issues, that the right information and advice is available and that assessments can be carried out jointly.

- **Single failure regime**

The single failure regime for NHS Trusts and Foundation Trusts will give regulators clearer roles in tackling failure. CQC will assess providers through peer-led inspections and ratings led by the Chief Inspector of Hospitals. CQC will be given power to issue a warning notice to NHS Trusts and Foundation Trusts, which will allow Monitor additional powers of intervention. The Care Act also amends the special administration process.

- **Health and social care ratings, and false and misleading information**

The Francis Report showed that serious problems with quality of care were not picked up quickly enough and that false or misleading information allowed poor care to continue. In response the development of ratings will become the sole responsibility of CQC with no role for Ministers in agreeing the ratings method, and it will become a criminal offence to provide false or misleading information.

- **Health Education England and the Health Research Authority**

The Care Act 2014 turns Health Education England and the Health Research Authority from Special Health Authorities into Non Departmental Public Bodies, with clearly defined duties and powers set out in the Act. The Health Research Authority will also be able to cover social care research as well as health research.

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