

## 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.