

HEALTH AND WELLBEING BOARD: 12 MARCH 2015

REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES

THE CARE ACT 2014

PROGRESS REPORT ON IMPLEMENTATION

Purpose of Report

- 1 To update the Board on the Council's progress to date on readiness for the implementation of the Care Act Phase 1 on 1 April 2015.
- 2 To highlight areas of risk or concern for the Council and to explain the mitigating actions planned or taken to manage the risks.
- 3 To give the Board an overview of the work planned to embed the changes for 2015 and to plan for Phase 2 of the Act due to be implemented in April 2016.

Policy Framework and Previous Decisions

- 4 The Care Act 2014 represents the biggest review of adult social care policy and practice in the last 60 years.
- 5 The Care Act will:
 - Consolidate existing legislation into one legal framework;
 - Bring existing good practice on to a statutory footing, eg safeguarding, Personal Budgets and Direct Payments;
 - Introduce some new responsibilities, eg social care provision in custodial settings.
- 6 **The Act is built around people** and the existing good practice principles of choice and control, embedding these right through care plans and personal budgets. It puts well-being at the heart of every decision that is made and creates a new focus on preventing and delaying needs for care and support. Under the Act carers will have the same rights to assessment and services as those for whom they care.
- 7 **The Act aims to make care and support clearer and fairer** by introducing a single national eligibility threshold and through this ensuring continuity of care when people move between areas. The Council will be required to provide universal access to advice and information services and to provide advocacy services for those who have difficulty engaging in the process of assessment and support planning. The universal Deferred Payments Scheme (from April 2015) and the cap on care costs (from April 2016) are aimed at ensuring that people do not need to sell their home to pay for their care in their lifetime. Further requirements

of the Council are aimed at ensuring that no one goes without care should their provider fail.

Background

- 8 The Council established a programme to deliver the Care Act requirements and work has progressed well. The Council will be compliant with the legislation from 1st April 2015. New processes and key products will ensure robust compliance and deliver added value and quality for adults with care and support needs, their carers and staff within the organisation. The Cabinet Lead Member for Adult Social Care and Support Member have been regularly updated and actively involved. See Appendix A for a summary of key work stream progress to date.
- 9 The Council has been well represented at National and Regional Care Act Events. In February the Council took part in the third national Care Act stocktake. The Council's position remains confident that all the necessary arrangements will be in place to ensure Care Act compliance from April 2015.
- 10 A programme of work has been established within the department to analyse the draft regulations and guidance for the 2016 parts of the Act, assess their impact and to co-ordinate feedback to the Department of Health.

Consultation/Patient and Public Involvement

- 11 The Department of Health has now released the draft guidance for the changes from April 2016. A consultation on the guidance, to which the Council is contributing, is underway. An East Midlands consultation event was held on 26th February with the Department of Health. There was a good representation from Leicestershire with delegates including Council officers, the Cabinet Lead Member for Adult Social Care and Support Member as well as representatives from provider organisations.
- 12 Good use has been made of the "Making it Real – Think Local Act Personal" tool for marking the Council's progress towards personalised support. For example, this has been used to co-produce the carers' assessment tools and processes. Working jointly with carers in this way has been very successful in producing good outcomes.

Resource Implications

- 12 Key to understanding the impact of the Act has been the need to model the numbers of assessments that the Council will need to undertake in the future. This is anticipated to increase from April 2015 as carers' rights to assessment, support planning and the provision of a Personal Budget become law. For 2015/16 it is currently projected that an additional 2,758 carers will come forward for an assessment, bringing the total number supported by the authority to 5,554 carers. These numbers are projected to increase at a stepped rate in later years with a total of 8,388 carers presenting in 2016/17, which plateaux to 9,883 carers presenting from 2017/18 onwards. This more than trebles the number of carers currently presenting for assessment.

- 13 A further increase in activity is expected from October 2015 onwards as self-funders present to the Council for a needs assessment to underpin their right to a Care Account (Phase 2 of the Care Act from April 2016). It is currently projected that an additional 1,858 self-funders will come forward for an assessment increasing the total number of assessments to 14,247 from October 2015 onwards. This represents an increase of 15%. Various models for calculating the costs have been released both through the region and nationally. These models have been applied to the local population figures to assist in the modelling of the resources required to support Care Act delivery in Leicestershire.
- 14 The Department of Health has made a commitment to fund the additional costs to local authorities for the implementation of the Care Act. For 2015/16 the funding allocations to cover the additional costs arising from the Care Act amount to £5.63m for Leicestershire. This is to be made up of £1.38m Better Care Fund (BCF) revenue; £0.71m Department of Health grant; £3.03m formula funding grant and £0.51m BCF capital grant.
- 15 A summary of the overall funding requirement against the Care Act funding allocation (budget) is provided in the table below.

	2015/16
	£000
Carers Assessments	425
Carers Support Fund	770
Infrastructure & Other Carers Provision	297
Advocacy	480
Safeguarding	143
Prisons	146
Self-funder Assessments	1,234
Social Care Protection	612
Care Act Implementation	1,518
TOTAL REQUIREMENT	5,626
TOTAL BUDGET	5,626
VARIANCE	0

- 16 Based on current projections it is expected that any additional cost of implementation in 2015/16 can be absorbed within the overall funding allocation.
- 17 The modelling work has indicated that an additional 61 staff will be required from April 2015 to address the anticipated additional demand for assessments and to meet some of the other new responsibilities. Staff members are being recruited incrementally on temporary contracts for one year until both levels of demand and the Council's funding allocation for 2016 and beyond is known. These staff will be funded from the Care Act allocation. Although the posts created will be additional to the existing staff establishment they will be filled, in part, by the extension to the contracts of existing temporary staff. The staffing requirement breaks down as follows:

Staff role	Number required
Carers Assessors	16
Self-funder Assessors	28
Safeguarding Officers (Health oversight)	2
Prisons Assessors	1
Advice and Information Officer	1
Support staff	3
Management	4
Financial Assessors	6

Risks

- 18 A risk register has been established for the programme. Key risks have been identified and mitigating actions aligned to them. The main risks identified for 2015 onwards are:
- a) The number of carers coming forward for an assessment is higher than **anticipated**. The financial modelling has been based on an average of three separate methodologies as advised by the impact assessment (national census data approach, impact assessment data approach and carers allowance data approach). Sensitivity analysis has been undertaken to assess the financial implications arising from a change in the uptake assumptions.
 - b) **Some of the changes to tools and processes will not be available on the new Integrated Adult System (IAS)**. In order to be assured of compliance manual work round positions are being put in place in some areas. Work continues on the preparation of the documentation on the system and the fully integrated electronic versions of tools and processes will be in place in the summer when the next upgrade on the system is due. In the meantime existing processes will be adopted to ensure work can continue.
 - c) **Staffing capacity may be insufficient to undertake the additional duties**. The number of staff required has been modelled using the tools made available by Department of Health. Concerns have been raised nationally and within the region that these may not be accurate. Work currently taking place within the business to understand better the capacity of the existing workforce will be used to inform this process for the staff required in 2016 and beyond.
 - d) **The culture change required to implement the spirit of the Act will not happen**. The training and development programme started in 2014/15 and running through 2015/16 is addressing both factual and cultural changes. Care Act Champion volunteers have been recruited from locality teams and have had additional training and support to ensure that key messages are embedded back in the work place amongst colleagues. A programme of activity throughout 2015 is planned to embed these changes.
 - e) **The actual cost of social care funding reform is greater than anticipated**. Using the tools released through the Department of Health, returns have been submitted as part of the social care impact assessment 2015/16. Work continues to source missing data and existing assumptions continue to be refined as information becomes available. Sensitivity analysis has been

undertaken to assess the financial implications arising from a change in the uptake assumptions

19 The main risks identified for 2016 onwards are:

- a) **The number of self-funders coming forward to register for a care account is higher than anticipated.** A survey was undertaken amongst providers in order to determine the number of potential self-funders and sensitivity analysis has been undertaken to assess the financial implications arising from a change in the uptake assumptions.
- b) **Delays to the issuing of the draft regulations and guidance for 2016 could impact on the Council being able to deliver the necessary changes in a timely way.** Although the issuing of these documents has been delayed by the Department of Health, the consultation period end date of 30 March 2015 has not been put back.
- c) **The final guidance (2016) may not be available in a timely way.** Final guidance is promised by October 2015. Changes in the final guidance may require further work not currently scoped and could potentially delay implementation in 2016. The same approach as was taken for assessing the impact of the draft guidance for Phase 1 is being adopted in Phase 2 to ensure that any changes made to the final guidance can be addressed. Work will be re-prioritised where necessary across the programme to ensure compliance with the legislation. Any requirements for additional resources to ensure compliance will be escalated through the Programme Board.
- d) **Funding for 2016 and beyond may be insufficient to meet requirements.** Some initial scoping of funding requirements for 2016/17 and beyond has taken place using the models provided however final allocations have not been announced. Once the draft regulations and guidance have been assessed and the implications are understood further work on the requirements for 2016 onwards can take place. The final guidance and information about funding allocations, anticipated in the summer, will inform this process.

Timetable for Decisions

- 20 Implementation of the Care Act is in two phases. Phase 1 in April 2015 followed by Phase 2 the following April.
- 21 A progress report was presented to the Adults and Communities Overview and Scrutiny Committee on the 3 March 2015 and a further update on progress will be made to the Integration Executive on 31 March 2015.

Background Papers

Care Act Regulations and Guidance (2015)

<https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation>

Care Act Draft Regulations and Guidance (2016)

<https://www.gov.uk/government/consultations/care-act-2014-cap-on-care-costs-and-appeals>

Department of Health factsheets

<https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets>

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Appendices

- A Summary of key work stream progress
- B Equalities and Human Rights Impact Assessment screening report (*Please note that Appendix 1 referred to is not attached, but is available upon request*).

Relevant Impact Assessments

Equality and Human Rights Implications

- 22 An Equalities and Human Rights Impact Assessment screening of the Care Act Programme has been completed and is attached as Appendix B.
- 23 The following key areas have been identified for individual screening exercises and will be completed as part of the programme for the work streams:
 - Social Care assessments in prisons, approved premises and bail accommodation;
 - Market Position Statement;
 - Strategy for managing provider failure;
 - Safeguarding;
 - Information and Advice (to incorporate Independent Financial Advice);
 - Eligibility.

Partnership Working and Associated Issues

- 24 The Care Act requires the Council to integrate with health and to work in an aligned way with partners. The work of the Care Act Programme has been aligned to other projects within the department addressing these issues to ensure coverage and to avoid duplication. There has been particular focus on ensuring that there is synergy between the programme and the Health alignment work taking place within Adults and Communities.

Risk Assessment

- 25 A risk register has been developed for the programme and is linked into the departmental and corporate registers.