
Health and Social Care Scrutiny Board (5)

19 November 2014

Director Approving Submission of the report:

Executive Director – People

Ward(s) affected:

Title:

Overview of the Care Act 2014 and Coventry's preparations for when this becomes legislation

Is this a key decision?

No

Executive Summary:

The Care Act 2014 received Royal Assent on 14 May 2014 and will replace many pieces of existing legislation. From 1 April 2015, Local Authorities Adult Social Care services will be required to work to this new legal framework. The majority of the new legislation comes into effect from this date, although arrangements in respect of the Care Cap (which limits the lifetime costs an individual has to pay for their care) will not be introduced until April 2016.

The Care Act overhauls the existing legal framework for adult social care, but in reality whilst it does create some new duties and responsibilities, it largely codifies existing best practice and places it on a statutory footing. The key themes underpinning the Care Act are well-being, prevention and integration.

The Care Act recognises local authorities' broader care and support role in their wider local community through provisions which focus on the more universal, population-level activities. The emphasis of the Care Act is on enabling people to be as independent as possible in the management of their own care and support needs and recognises that the provision of information and advice is essential to support that function. Importantly for the first time the Care Act places carers on an equal legal footing to the people they care for.

The Care Act places a duty on local authorities to carry out their care and support responsibilities with the aim of joining up services with those provided by health partners. There is also a requirement for local authorities and their "relevant partners" to co-operate with one another in exercising care and support functions. The Better Care Programme signals a national shift to

more integrated work with health to support people to remain in their own homes for as long as possible and reduce admissions to hospital and residential care.

The Care Act also introduces a clear legal framework for how local authorities and other parts of the health and care system should protect adults at risk of abuse or neglect.

The final Regulations and Guidance for the changes being introduced on 1 April 2015 were published on 23 October 2014. National modelling of the expected new burdens on local authorities have already been amended several times this year, and final allocations at a local authority level will not be available until December 2014. The biggest potential impact on demand will be driven by self-funders and carers, and it is not known how many additional people will present themselves as from 1 April 2015 or how this number will change over time. Processes and practices must be reviewed to ensure that they are compliant with the new legislation, and recognising the risks around unknown additional demand.

The aim of the new charging regulations and guidance is to broadly re-create the current provisions in order to provide continuity for local authorities in 2015/16 ahead of the funding reforms that are due to come in to effect from April 2016 and which include the cap on care costs. A national consultation on this will take place between December 2014 - February 2015. In addition, the regulations include some changes to charging from 2015 in line with the new duties.

Coventry is continuing to undertake a range of work to ensure readiness to implement the legislation and assess the potential impacts. This report highlights the progress achieved to date and identifies key policy areas where decisions will need to be made.

Recommendations:

Health and Social Care Scrutiny Board (5) are requested to:

1. Note and comment on the work in progress and plans in place to ensure the effective implementation of the Care Act 2014.

List of Appendices included:

None

Background papers:

None

Other useful documents

None

Has it been or will it be considered by Scrutiny?

Yes - 19 November 2014

Has it been or will it be considered by any other Council Committee, Advisory Panel/other body?

No

Will this report go to Council?

No

Report title:

Overview of the Care Act 2014 and Coventry's preparations for when this becomes legislation

1. Context

- 1.1 The Care Act 2014 received Royal Assent on 14 May 2014. From 1 April 2015 Local Authorities Adult Social Care services will be required to work to this new legal framework. The Guidance and Regulations were issued on 23 October 2014.
- 1.2 The Care Act replaces (in whole or in part) a number of pieces of legislation, including the National Assistance Act (1948), Chronically Sick and Disabled Persons Act (1970), NHS and Community Care Act (1990) and Carers (recognition and services) Act (1995) and Carers and Disabled Children Act (2000). The Care Act impacts upon the duties and functions of the local authority and in particular adult social care services. Processes and practices must be reviewed to ensure that they are compliant with the new legislation and are able to deliver the changes required.
- 1.3 The majority of the new legislation comes into effect on this date, although the major funding reforms such as the Care Cap (which limits the lifetime costs an individual has to pay for their care) will not be introduced until April 2016.
- 1.4 The Care Act introduces a **new statutory duty to promote individual well-being** and this underpins the provision of care and support, and focuses on supporting individuals to achieve their outcomes.
- 1.5 The Care Act requires local authorities to take steps, where appropriate, including providing and arranging for services which are intended to prevent, reduce or delay needs for care and support for all local people including adults and carers. This focuses on encouraging and supporting people to maintain/regain their independence for as long as possible.
- 1.6 The Care Act recognises local authorities' broader care and support role in their wider local community through provisions which focus on the more universal, population-level activities, and which are aimed at a wider group of people, rather than based on individual needs.
- 1.7 There is a **new duty on market shaping** to promote the diversity and quality of local services, so that there are a range of high quality providers in all areas allowing people to make the best choice to satisfy their own needs and preferences.
- 1.8 There is a duty on local authorities to carry out their care and support responsibilities with the aim of joining up services with those provided by health partners. The Better Care Fund signals a national shift to more integrated work with health to support people to remain in their own homes for as long as possible and reduce admissions to hospital and residential care. There is also a requirement for local authorities and their "relevant partners" to co-operate with one another in exercising care and support functions.
- 1.9 There is a **new duty to provide information and advice** to help people understand how the care and support system works, what services are available locally, and how to access the services they need now and might do in the future, and how to access independent financial advice.
- 1.10 There is a **new national eligibility criteria** to provide clarity and consistency on what constitutes 'eligible' needs and how decisions are made about support. There will be national eligibility criteria for both adults and carers. Local authorities will no longer be able

to set their eligibility criteria in accordance with the Fair Access to Care Services needs bandings - Critical, Substantial, Moderate or Low. There was concern that the new criteria had been set at effectively a 'moderate' level. After consultation however, it has been clarified that the new eligibility criteria will be consistent with the current critical and substantial level.

- 1.11 There is a **single right to an assessment for adults, and one for carers**, based on the need for care and support. One of the key aims of the new statute is to remove anomalies and differences resulting from the type of care or setting, and provide a single route through which consistent entitlements to care and support can be established. As carers will have the same rights to an assessment as service users, it is expected that the number of people requiring a carer's assessment and those provided with support will increase.
- 1.12 The Care Act sets out what must happen after the conclusion of an assessment. This includes the process of care and support planning to determine how needs should be met, the requirement for on-going review of care and support plans. The Act states that individuals should have more control and be as involved as possible in the process of support planning. Where a person has 'substantial difficulty' being involved in the assessment and care support planning process and there is no-one appropriate able to support them, local authorities will need to provide Independent Advocacy Support. Social care staff will be required to be much more creative and innovative in working alongside people to support them to achieve their goals.
- 1.13 This process also includes **the requirement for a personal budget**, captured in legislation for the first time for both adults needing care and carers, to help people understand the costs of meeting their needs and what public funding is available to help them. The Care Act also introduces a continuity of care requirement so that people moving to other parts of the country can receive the same level of service until an assessment is carried out.
- 1.14 The Care Act is designed to simplify rules regarding charging and financial assessment, so people understand any contributions they have to make to the cost of their support.
- 1.15 There are some changes to 'Ordinary Residence', primarily extending the current rules regarding residential/nursing placements to supported living/shared lives accommodation, in certain circumstances. In essence, this means that individuals placed in these settings will in certain circumstances remain the responsibility of the arranging/placing authority.
- 1.16 The Care Act also requires that there are active plans made for young people to move into adulthood and that their assessments are undertaken before they reach the age of 18.
- 1.17 The Care Act sets out a **statutory framework for adult safeguarding**, which stipulates responsibilities of local authorities, and their partner organisations, to protect adults at risk of abuse or neglect. Local authorities are required to carry out enquiries into suspected cases of abuse or neglect and establish Safeguarding Adults Boards in their area. The role of these Boards will be to develop shared strategies for safeguarding and report to their local communities on their progress.
- 1.18 The Care Act **introduces a consistent 'deferred payment' scheme**, subject to certain criteria, which allows people to defer paying their care costs via a charge on their property until after they die. Part of the changes includes the ability for local authorities to charge interest as well as a fee for the administration costs of running the scheme.
- 1.19 From April 2016, the Care Act **introduces a cap to the costs incurred by individuals on their care and support**. This means a local authority would not be able to charge a person for meeting their eligible care needs after £72,000 of eligible costs have been incurred.

These care costs are separated from accommodation/living costs. The Care Act also introduces a care account where all individuals, whether funded by the Council or not, will be able to track the cost of their care to date and their progress towards the cap. In preparation for the introduction of the care cap, anyone with eligible needs and contributing towards their care has a right to be assessed to determine eligibility and contribution to care account.

- 1.20 There is a programme of three stocktakes (Department of Health, Local Government Association and Association of Directors of Adult Social Services) to develop a picture of progress across the country and to provide information to facilitate local strategic discussions, map progress and identify support needs and opportunities for shared learning.

2. Preparation undertaken in Coventry to date

- 2.1 The City Council's People Directorate established a Care Act Implementation Board, which is responsible for overseeing and co-ordinating the implementation of the new legislation in accordance with required timescales. This Board provides strategic direction to the range of work required to implement the legislation successfully; assesses which services in the Council may be affected by the changes; analyses the potential impact that the changes will have and manages any associated risks.
- 2.2 Within Coventry, arrangements for adult safeguarding have already been in place for a number of years. As part of Coventry's implementation following the publication of the Regulations and Guidance, the adult safeguarding processes are being reviewed to ensure they are Care Act compliant.
- 2.3 Five key workstreams were established to plan and implement the changes required in the following areas:

- **Charging/Paying for Care**

Financial modelling has been carried out to start to understand the financial impact for 2015/16, which has contributed to changes in proposed financial allocations nationally.

Following publication the regulations and guidance on 23 October 2014, work is underway to revise the existing charging policy to maximise income and ensure Care Act compliance.

In Coventry, a type of deferred payments scheme is already available and will need to be refreshed to ensure it is fully Care Act compliant.

- **Care Markets**

Coventry published its first Market Position Statement in April 2014 which signals to the market the type and quality of services required in the context of the Care Act. Subsequently, a range of workshop events have been held on a number of service areas to continue the dialogue with the market and inform future commissioning of services.

A further piece of work has commenced to refresh the Multi-Agency Carers Strategy and action plan.

This workstream will address the issue of independent advocacy support.

- **Assessment and Eligibility, Personalisation and Support Planning**

This workstream is reviewing existing processes and practices to ensure that they are compliant with the new legislation, re-invigorating their emphasis where necessary to reflect the new duties. The unknown nature of the additional demand from self-funders and carers means this workstream is also ensuring effective and efficient systems are in place for managing change.

Examples of key work in this area, include a workforce development plan; improvements to transition arrangements via the All Age Disability service; work on the Customer Journey and improvements to the initial contact stage and the introduction of a new Resource Allocation System.

In addition, a programme of legal training has been delivered to over 200 staff.

- **Information, Advice and Prevention**

This workstream is reviewing current resources available to support information and advice including the websites, community resource directories and brokerage. This also includes ensuring the availability of independent financial advice available locally.

Work is underway to understand why and how people access Adult Social Care. This activity is seeking to improve methods of direct and indirect communications with residents to ensure people have access to relevant and timely information and advice. This will include improved use of the web based services.

In addition, the work is identifying ways in which improved links with partner agencies can be created so consistent and accurate information is available regardless of where the information is accessed.

- **Information Technology**

Work is progressing with existing software providers to ensure that systems will be Care Act compliant, and concepts such as online self-assessments are being explored to enable residents to take more control whilst reducing the demand on staff time by filtering non-eligible referrals.

Mobile working is also being reviewed to enable staff to spend more time with service users.

3. Managing the potential implications

- 3.1 The final Regulations and Guidance were published on 23 October 2014. National modelling of the expected new burdens on local authorities has already been amended several times this year, and final allocations at a local authority level will not be available until December 2014.
- 3.2 Work continues in assessing the implications arising from the Care Act, and also examining how this can be managed in Coventry both in terms of increased demand and within available resources. Key issues identified are ensuring implementation plans are in place, the impact of increased carers' assessments and self-funders, estimated costs of implementation, readiness of IT systems and workforce preparedness.

- 3.3 Case records and demographic data has been examined and a number of national models have been developed (Surrey, London, Birmingham and Lincolnshire) to identify the potential implications regarding the number of self-funders and carers who may be in contact with the Council following implementation, and what this might mean in terms of additional staffing and costs.
- 3.4 **Self-funders** – With effect from 1 April 2015 existing self-funders will be able to ask the Council to arrange their care on their behalf (the authority can make a charge for arranging care). Additionally, in preparation for the Care Account, the Council will need to assess any self-funder who presents in order to commence a care account from 1 April 2016.
- 3.5 In Coventry, it is estimated that there are approximately 1,400 self-funders receiving care services who may wish to make contact with the Council to start a Care Account.
- 3.6 This could mean an additional 1,400 assessments would be required, alongside reviews of existing service users. Based on existing practices, a further 12 social work staff may be required and alongside the costs of undertaking further financial assessments, this could result in an additional cost to the Council of £800k.
- 3.7 **Carers** - With effect from 1 April 2015, all carers who have an appearance of need for support have a right to an assessment, advice and information and the provision of services, if eligible. The number of carers that might approach the Council following the introduction of these changes is more difficult to predict. It is known that there are 32,101 people who identified themselves as carers in Coventry and the number providing 20 or more hours of unpaid care per week is 12,645 (ONS Census 2011). It is also known that there are 4,050 carers in Coventry in receipt of carers' allowance (Department for Work and Pensions). In 2013/14, the Council supported 2,040 carers.
- 3.8 Current estimates predict potentially 2,600 additional carers may seek support and require an assessment. Based on existing practices and the current proportion of assessments carried out by social work staff (rather than specific carers workers), 3 additional staff would be required in addition to the potential staff required to carry out assessments on self-funders, at an additional cost of £100k. However, if the majority of these new carers are not linked to an existing service user a further 13 FTE staff could be required to undertake these assessments making an additional cost of £400k. In addition, these carers may require services costing an estimated £650k.
- 3.9 **Care Account** - Some initial work, based on current records, has identified that the estimate for length of stay in residential/nursing care for an older person is 2.1 years and 6.5 years for a person aged 18-64. The current estimate for length of service in the community for an older person is 2.7 years and 6.4 years for a person aged 18-64.
- 3.10 Given current estimated costs for care and the proportion spent on hotel/living costs, it is considered that on average that an older person in residential care would take around 6 years to reach the care cap.

4. Potential policy implications

- 4.1 The Care Act signals significant organisational changes to how care and support services are designed and delivered. This will include changes to frontline practice. There are two key areas, carers and charging, where there are likely to be strategy and policy implications.
- 4.2 **Carers** – Currently a range of services are provided to meet carers' needs. The Act requires a change of ethos with the introduction of a national eligibility criteria for carers.

The way in which the Council supports carers will need to meet the new requirements. There are currently no charges made for services that are provided to carers and the future support offered will need to ensure that specific needs can be met in an equitable and affordable way.

- 4.3 **Charging** - The income currently collected by the Council is below comparators and the existing charging policy is being reviewed to maximise income. The Council currently arranges services for a small number of self-funders. The Care Act enables self-funders who the Council would not normally support to ask the Council to arrange their care and commence a Care Account. The review is also considering charging opportunities indicated in the Care Act, such as administration costs for arranging care for self-funders and charging for carer services.

5. Options considered and recommended proposal

- 5.1 Health and Social Care Scrutiny Board (5) are requested to note and comment on the work in progress and plans in place to ensure the effective implementation of the Care Act 2014.

6. Timetable for implementing this decision

- 6.1 The new duties will come into force from April 2015, with the exception of the extended means test, capped charging system and Care Accounts that are due to be introduced in April 2016.

7. Comments from Executive Director, Resources

7.1 Financial implications

Significant uncertainty remains surrounding the likely financial impact of the Care Act. £470m is being made available nationally to meet the new financial burden in 2015/16. The original costs assumed in the impact assessment have been revised on a number of occasions and the final allocations at a local authority level will not be known until December 2014.

It is expected Coventry will receive between £2.5m and £2.8m of this new burden funding for 2015/16 with no assurance of additional funding beyond. With the uncertainty surrounding carers and self-funders, it is difficult to predict with any accuracy whether this will be sufficient.

Now that the regulations have been finalised and Coventry's approach to the changes are further developed, further modelling will be completed.

7.2 Legal implications

The Care Act received Royal Assent on 14 May 2014 and reforms the law relating to care and support for adults and support for carers. The Act is supported by Regulations (which although in final format are in some instances, yet to be finally approved) and Guidance and is, largely due to come into force on 1 April 2015. The City Council needs to be in a position to be fully compliant with large elements of the Act with effect from that date.

The major funding reforms, such as the cap on care costs are not due to be introduced until April 2016 and will be subject to a further consultation process as outlined above. Final Guidance and Regulations are not therefore available at this stage.

8. Other implications

8.1 How will this contribute to achievement of the Council's key objectives/ corporate priorities (corporate plan/scorecard)/organisational blueprint/Local Area Agreement (or Coventry Sustainable Community Strategy)?

The Council Plan sets out the city's vision and priorities for Coventry. The priorities include objectives to improve the health and well-being of local residents by helping people to maintain their independence and supporting them when they need help.

8.2 How is risk being managed?

Risk will be managed through the Care Act Implementation Board.

8.3 What is the impact on the organisation?

8.4 Equalities/EIA

A national equality impact assessment has been completed. Equality and consultation analysis will be completed for key areas of policy change.

8.5 Implications for (or impact on) the environment

None

8.6 Implications for partner organisations?

The implementation the Care Act will have implications across health partners and the voluntary sector for example health and well-being duties and linkages with the Better Care Programme.

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