

MUNICIPAL YEAR 2014/2015 REPORT NO. 161

MEETING TITLE AND DATE:
CABINET – 11 February 2015

REPORT OF: Ray James, Director
of Health Housing and Adult Social
Care

Contact officer and telephone number:

Keezia Obi, Head of Service – Care and Support

E mail: Keezia.obi@enfield.gov.uk Tel: 020 8379-5010

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| Agenda – Part: 1 | Item: 9 |
| Subject: The Care Act 2014 | |
| Wards: All Key Decision No: 3995 | |
| Cabinet Member consulted: Cllr Don McGowan - Cabinet Member for Health and Adult Social Care | |

1. EXECUTIVE SUMMARY

1.1 Local implementation of the Care Act 2014 is well underway and the first set of reforms come into force in April. This report is a summary of progress on the local implementation of the Act categorised by key requirements and workstream areas. It also identifies key areas of risks to implementation deliverables for April 2015 including mitigating actions.

Care and support affects a large number of people and three-quarters of people aged 65 will need care and support in their later years. At local level there are 53 care homes that cater for older people and of the approximate 1600 people in residential care, 46% are state funded. Of the 5000 people receiving care at home, 80% are state funded. 64% of recipients of social care services in Enfield are older people.

Recent research undertaken by the council's corporate research team has identified that in total it is projected that there are approximately 1130 self funders in borough in residential and domiciliary care, of which 827 are not known to us and may approach the council for assessment under the new legislation.

Since last reporting to Cabinet the final regulations and guidance for part 1 of the Act have been published. Part 1 deals with the reforms due in April: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf

1.2 Dept. of Health consultation on the funding reforms which come into force in April 2016 is expected in February.

1.3 Summary of the main changes set out in the Act:

- a. The principle of wellbeing is the core of the new Act: shaping care and support around what matters to people and what they want to achieve.
- b. The right to choice is embedded, through care plans and personal budgets.
- c. Carers will be on the same footing as those they care for, with extended rights to assessment and support.

- d. The requirement for the local authority, police, NHS and others to have a process for safeguarding adults from abuse or neglect becomes law.
- e. There will be a single, national threshold for eligibility to care and support.
- f. There is a new focus on preventing and delaying people's care needs.
- g. People will be supported with information, advice and advocacy to help them access care when they need it and to plan for their future needs.
- h. There will be continuity of care when people move between areas.
- i. The local authority has new guidance on how it should shape the market and commission services focused on outcomes and promoting wellbeing.
- j. There are new protections to make sure no-one goes without care if their provider fails, regardless of who pays for their care.

1.4 The requirements for the delivery of the Care Act are consistent with the operating principles for Enfield 2017 which enable the council to meet the requirements in the Care and Support Statutory guidance of promoting wellbeing preventing and reducing need, the provision of effective information and advice and managing the market:

- Do it once – and in one place
- Only do the things that make sense for us to do so (e.g. we won't take on things that we are not specialist in)
- Automate and self-serve nearly all transactional activity
- Consolidate teams and create smaller, more focussed centres of excellence
- Enable work to be delivered with fewer resources
- Empower our customers to help them resolve their own requests and thus managing demand more effectively
- Continue to partner with other organisations and agencies to help deliver better services at a reduced cost
- Maximise income where it is cost effective to do so

2. **RECOMMENDATIONS - Cabinet is asked to note:**

2.1 The progress made to implement the Care Act in Enfield and the key risks associated with implementation and the mitigating actions.

2.2 That the financial modelling to understand the impact of the Care Act continues at both local, regional and national level including through ADASS and London Councils, as advised at July Cabinet and October Council meetings. This will include ensuring a robust response to the government consultation on the funding reforms due in February. As previously reported, when the Government introduced the Care Bill it advised that any new burdens on local government would be funded. Until clear funding allocations are made available, there is a risk that this cost is not fully funded, but, at present it is not possible to form an opinion.

2.3 This major change is taking place within Enfield 2017 and this has provided a positive framework for Care Act implementation, in particular changes to the Gateway Services and assessment hub.

3. BACKGROUND

3.1 The first major reforms under the Care Act will be implemented in April 2015. This report focuses on the key requirements set out under these reforms. In the following year the funding reforms will be implemented and this report also provides an update on work taking place to prepare for this, recognising that the majority of the requirements and changes will be delivered within the Enfield 2017 programme.

3.2 We are making considerable progress in a number of areas and confidence in meeting the key requirements is good. However, there are a number of areas that during the next three months will require considerable staff investment alongside evidence that we will meet key milestones.

3.3 The key requirements of the Act to be implemented in April 2015 are:

- Duties on prevention and wellbeing
- Duties on information and advice
- Duty on market shaping
- National minimum threshold for eligibility
- Assessments, including carers assessments
- Personal budgets and care and support plans
- New charging framework
- Safeguarding Adults – on a statutory footing
- Universal deferred payment agreements

April 2016:

- Extended means test
- Capped charging system
- Care Accounts

3.4 Since last reporting to Cabinet, a comprehensive local response to the draft regulations was submitted, the process for which included public consultation events. Colleagues in the department also inputted into the London-wide response. Link to the Council's response:

http://www.enfield.gov.uk/info/1000000845/the_care_act_2014/3126/the_care_act_2014

3.3 Critical to the success of implementation is our knowledge and understanding of the Care Act Regulations and Guidance. The guidance is comprehensive at 500+ pages and the Care Act Board is tasked with ensuring we interpret it and correctly translate into policy and practice. This includes inputting into the London Care Act Lawyers group who are considering 'hot topics', such as charging and eligibility. This regional work will help to inform decisions in due course here at Enfield.

4.0 Governance arrangements

4.1 Implementation of the Act continues to be overseen by the Care Act Board. Since last reporting to DMT, a reference group of local people has been set up and Safeguarding Adults is now a key work stream area, whilst also contributing to the Operational Change Management work stream. Membership of the Care Act Board includes representation from both Enfield 2017 and Human Resources, as ultimately, implementation of the Care Act is an inherent part of the former.

4.2 The governance structure will continue to evolve to meet the changing requirements of Enfield 2017, so that, for example, work on information provision, workforce development, finance and IT/BI progresses as part of Enfield 2017 plans.

4.3 Ensuring that it is implemented within the Enfield 2017 strategic transformation programme is an essential and important factor concerning the delivery of the Care Act. This is being managed in a number of ways including Enfield 2017 team representation on the Care Act Board, reporting to Strategic Transformation Board (STB) and regular engagement and discussion on key deliverables to ensure we meet both statutory requirements and deliver on the wider strategic transformation.

4.4 Progress has been made against key areas of governance as follows:

- Programme Structure & Governance set-up
- Programme Plan in place, monitored & updated
- Risk & issue management in place
- User involvement in service design
- Undertake equality impact assessments
- DAS leadership and policy sign-off
- Regular stocktakes & self-assessments

5.0 Summary progress of key requirements

Duties on prevention and wellbeing - the duties on prevention and wellbeing are being addressed in a number of ways. Current activity includes reviewing existing provision and undertaking a gap analysis, such as what is provided via the voluntary and community sector and through public health initiatives. Regular briefings to HHASC are taking place which sets out the framework for wellbeing and prevention and reducing or delaying need, as set out in guidance. This will need to be extended to ensure that all staff involved in the provision of advice and information to customers are fully aware of their new responsibilities. The national communications campaign which is due shortly will support the local messages being given about the wellbeing principles. Further work needs to take place to embed prevention in council policy and our commissioning arrangements.

Duties on information and advice (including advice on paying for care) - a comprehensive gap analysis has been produced which includes signposting and access to independent financial advice. Current provision is of a good variety, but the Care Act Board needs to ensure that the final offer is comprehensive, universal, accessible and proportionate. Next steps are the preparation & implementation of a local Information and advice strategy, including what the final model will look like, for example, council led, delivered by the Voluntary and Community Sector and Citizens' Advice, local people or a combination, and how via the Enfield 2017 Customer Gateway it will be delivered.

Duty on market shaping -good progress is being made in a number of key areas including the market failure and provider exit strategy and the refresh of a market position statement.

National minimum threshold for eligibility and assessments (including carers assessments) -progress is being made in a number of key areas including reviewing our assessment processes ensuring it focuses on prevention and wellbeing, and how we to meet increased demand for carers assessments. This, and related activities will need to be built into the Customer Gateway and Assessment Hub.

Personal budgets and care and support plans – good progress is being made to ensure the care and support planning process is Care Act compliance and reviewed in line with the customer pathway and assessments.

New charging framework and universal deferred payments - good progress is being made in this area including the estimates of likely increase in number of requests for deferred payments and putting in place back office support in place to manage increased number of deferred payments

Safeguarding Adults - the Care Act will place safeguarding adults on a statutory footing. Enfield has an established Safeguarding Adults Board with representation by all statutory and key partners; this is a well-attended and a safeguarding adults strategy is in place which is now under review with regard to making safeguarding personal. It has a clear preventative agenda. With regard to carrying out safeguarding reviews, the current policy will be updated by end of February, and the police has developed an information sharing protocol with the NHS to support local work. Work is also underway to work towards achieving the gold standard for Making Safeguarding Personal.

Information Technology (IT) requirement - good progress is being made to ensure out IT systems support the new duties, including mapping business requirements and gap analysis, and work is underway with systems providers.

Workforce Capacity and development - a workforce development plan has been produced and being delivered including 40+ briefings to staff across HHASC, external social care providers and to the Council's finance division. A range of focussed events and courses have been organised and an e-learning module about the Care Act has been developed.

Communications - a communications plan is in place and a range of tools have just been published by Public Health England to support local communications. A reference group of local people is in place and members have begun commenting on key Care Act requirements, for example deferred payments.

6.0 Finance - financial modelling and paying for the reforms

6.1 Very good progress has been made in this key area, as follows:

- Modelling the potential financial impact – is at an advanced stage
- Completion of a variety of financial modelling tools
- Development of a local financial model
- Assumptions being tested
- Charging policy consultation due
- Working estimate of total number of self-funders
- Working estimate of number of self-funders who will present themselves

6.2 In the last four months we have completed the financial modelling tools made available through London Councils, ADASS and the DoH. These tools model the financial impact of the care cap (Dilnot), assessing all self funders, increased carers assessments and carers services. Following an analysis of the results regionally, the robustness of the tools has been challenged. In light of this, we have undertaken modelling locally, applying local intelligence, national trend data and results from research undertaken by LBE.

6.3 We have had challenge sessions, internal and external, to validate the assumptions. Externally, finance leads from Islington and Haringey have reviewed the financial model and have validated the figures and assumptions made. Current steps include testing the assumptions with Ernst Young.

- 6.4 **Self Funders estimates** - In August 2014 the council's corporate research team undertook research of self funders in Enfield. The research was undertaken utilising surveys and actively engaging with residential and domiciliary care providers in Enfield. During a similar period the Institute of Public Care (IPC) has undertaken self funder research for LSCP. IPC estimated numbers of self funders based on a combination of provider survey responses, CQC data, national data from ELSA (English Longitudinal Study of Aging) and Attendance Allowance stats.

Following an analysis of the IPC data and methodologies we have concluded that the Enfield research was more comprehensive therefore we are basing our estimates on internal methodologies.

7.0 THE FINANCIAL IMPACT OF IMPLEMENTING THE CARE ACT

- 7.1 The Government has made available an allocation to support local authorities in implementing the Care Act reforms, as follows:

| Year: | 2014/15 | | | 2015/16 | | |
|---|----------------|----------|----------------|------------------|----------------|------------------|
| | Revenue | Capital | Total | Revenue | Capital | Total |
| Details/ Summary | £ | £ | £ | £ | £ | £ |
| Care Bill Implementation Grant 2014/15 | 125,000 | 0 | 125,000 | | | 0 |
| Care Bill implementation funding in the Better Care Fund (£135m nationally) | | | | 725,000 | 270,000 | 995,000 |
| Social Care New Burdens | | | | 1,422,260 | | 1,422,260 |
| | | | | | | |
| | 125,000 | 0 | 125,000 | 2,147,260 | 270,000 | 2,417,260 |

- 7.2 This above breaks down the allocations of Adult Social Care new burdens funding and the Better Care Fund element to cover implementation of the Care Act. The Social Care New Burdens funding is indicative but intended to cover Early Assessments, Deferred Payment Agreements and Carers and Care Act implementation.
- 7.3 The wider reforms costs such as the increase in assessments, new rights for carers, developing the market, and the new business processes and costs relating to IT and finance systems e.g. for care accounts to calculate progression towards reaching the cap, may have a financial impact.
- 7.4 The cap on the costs people will have to pay for their care and the increase of the capital thresholds is likely to be the most significant cost pressure resulting from the Act. It is expected that this will take effect in 2018/19, 3 years being the time expected for people to reach the cap.
- 7.5 Last July London Councils published their analysis of the potential financial impact of the reforms, and this indicated that the funding allocations to cover the cost of implementation will fall far short of the expected costs. It also identified that people living in London will reach the cap earlier than other parts of the country, adding to the

financial burden. The report, Care and Support Reform: Cost implications for London¹, states:

“The government has announced that from April 2016 a cap will be introduced limiting the amount of money people will have to pay towards their care. This cap will be set at £72,000. The government will also raise the means testing threshold at which people are eligible for support from local authorities, from the current £23,250 to £118,000. London Councils has analysed the cost implications of these reforms, illustrating the additional cost pressures that can be expected by London boroughs.

Cost pressures in London

London Councils’ analysis has found that the potential total additional cost pressure that local authorities could be faced with by 2019/20 as a result of introducing the cap and raising the threshold AND the on-going social care cost pressures is approximately £1.3 billion. Approximately £877² million of this will be as a direct result of implementing the capped cost model for care and raising the eligibility threshold over the first four years.

National cost pressures

The government’s estimates of providing £1 billion per year to fund the funding reforms nationally is inadequate. London Councils’ analysis has found that the reforms nationally over four years will cost in the region of £6 billion – on average £1.5 billion per year (cost pressures will be heavily weighted in the first and fourth year of implementation).”

8.0 ALTERNATIVE OPTIONS CONSIDERED

8.1 It is a statutory requirement to implement the Care Act, so no alternative options have been considered in the drafting of this report.

9.0 REASONS FOR RECOMMENDATIONS

9.1 It is a statutory duty for local authorities to implement the Care Act. It is essential that Cabinet is aware of the reforms and the implications for the Council.

10.0 COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

10.1 Financial Implications

As stated above, the Care Act requirements are to be introduced by April 2015. The table under paragraph 16.1 above shows the grant allocations of £125k in 2014/15. Each Local authority has been awarded this allocation to “provide additional support to local Authorities for them to build change management capacity to implement the requirements of the Care Bill” (DoH circular ref: LASSL (DH)(2014)1)

A further £2.4m of grant funding has been allocated in 2015/16, of which revenue funding has been identified from the Better Care Fund (£725k), Social Care New Burdens (£1.422m) and capital funding of £270k (DoH circular ref: LASSL (DH)(2014)2).

The full cost of implementation is unlikely to be felt until 2018/19 and the department will continue to model and monitor the likely costs in intervening years, as the council will now need to provide funding support to “self-funders” (those who currently meet the full cost of their care services) once they reach the £72k cap and may collect less income from clients that currently contribute towards their care costs.

¹ Care and Support Reform: Cost implications for London <http://bit.ly/1a7ubwm>

² It is important to note that at the time of the financial modelling not all data was available regarding the working age thresholds of the cap.

10.2 Legal Implications – Most of the provisions of the Care Act 2014 ('the Act') will come into force in April 2015.

The Act is a major reform, intended to consolidate piecemeal Community Care legislation developed over 60 years into a single statute. It introduces a range of specific statutory duties the Council must comply with and some powers.

The Act is supported by Regulations and the Care and Support (C&S' *Guidance*', which were published in October 2014 in their revised form, following consultation. Further draft Regulations are to be published in relation to the funding provisions.

The general principles of the Act and the powers and duties of local authorities are as set out above in the body of the report. However, the Act's provisions for a cap on care costs, care accounts and personal budgets will not come into force until April 2016.

The proposals set out in this report fall within the powers and duties set out in the Act.

10.3 Property Implications – none identified.

10.4 KEY RISKS:–

Financial – as noted, further research is being undertaken to quantify future years financial risk or opportunity to the council. Any financial risk to the Council will be managed via regular updates to DMT, CMB and Cabinet presenting the full impact of the reforms, which will be revised periodically to include latest intelligence.

People – in particular workforce capacity and staff readiness, including the availability of key staff to implement the changes from April 2015 e.g. applying new eligibility framework, prevention and the wellbeing focus. This is being mitigated by ensuring appropriate levels of staff are in place and learning and development is provided to ensure the council meets its statutory requirements. This includes the additional demand for assessments and new carers assessments from April 2015, which will predominantly be delivered via Gateway Services and the Assessment Hub, building on the work already undertaken.

IT requirements – the procurement of the required IT solutions e.g. the wellbeing assessment tool (askSARA) and defining the enhancement of future business requirements for the current self-serve assessment tools (Quickheart). These are business critical areas for Care Act implementation and colleagues in HHASC, Corporate IT and Enfield 2017 are managing this to ensure Care Act deliverables are met and a longer-term IT strategy developed to meet these requirements as part of Enfield 2017.

10.5 IMPACT ON COUNCIL PRIORITIES – the Care Act will have a positive impact on the council priorities and local community. New assessment arrangements and eligibility criteria will help to provide fairer access to services, including how it is funded. It will encourage active citizenship by strengthening our Personalisation arrangements and supporting people to be independent and improvements to our information and advice services will impact on the provision of high quality, affordable and accessible services for all.

ENFIELD 2017 – as noted in the recommendations, the Care Act legislation is being introduced at the same time that the council's transformation programme is being delivered. The overarching principles are very much aligned and it has been extremely important that we manage this interface. Enfield 2017 representation on the Care Act

Board has been both essential and helpful, in particular in addressing any potential risk to delivery and in maximising opportunities to enhance both change programmes.

10.6 EQUALITIES IMPACT IMPLICATIONS (EIA) – a full impact assessment has been undertaken and, as Enfield 2017 models are developed, these will be repeated.

10.7 BUSINESS CONTINUITY –

The implementation of the Care Act will not result in any significant change to the customer pathway for Adult Social Care or the staffing structure, , as these will be addressed by the Enfield 2017 programme, so the current business continuity plans will remain in place and be reviewed and updated as required as part of the delivery of that programme.

However there is detailed guidance relating to ‘Managing provider failure and other service interruptions’ and in order to comply with this, a strategic commissioning plan is being developed in order to deliver the duties in Act and ensure effective provision of care and support for the future services. This will be a joint piece of work with Safeguarding and will be informed by the CQC guidelines.

10.8 PERFORMANCE MANAGEMENT IMPLICATIONS - the implementation of the Care Act will contribute to the achievements of the council and Enfield 2017. New duties within the Care Act 2014 will require the Council and its statutory partners to work in partnership to develop processes, systems, measures and tools to evaluate delivery against the new duties and on the wider impact of these duties on the local population.

10.9 HEALTH AND SAFETY IMPLICATIONS – none identified.

10.10 HR IMPLICATIONS - Consideration will need to be given to the most appropriate method of recruiting to the additional resources that will be created to support the implementation of the Care Act. The Council’s Recruitment and Selection Policy and procedures will need to be complied with. It will also be necessary to submit job role profiles for job evaluation by HR in order to establish the grades of posts where these do not already exist within the current structure or are not created as part of Enfield 2017.

10.11 PUBLIC HEALTH IMPLICATIONS - the PH implications of the Care Act are significant and LBE will need to take account of new and emerging best practice in order to understand and identify what may be regarded as a service that prevents need. The Act places a great emphasis on the provision of advice and information which can be useful but this should not detract from that these on their own may not always be sufficient to change health behaviour and reduce prevalence of long-term conditions or even the most effective means of changing behaviour.

Background Papers – none.