

### **Response of Barking & Dagenham Health and Wellbeing Board to consultation on the Statutory Guidance and Regulations to support implementation of the Care Act 2014.**

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#### **1. General observations**

- 1.1 The Borough welcomes the reform of adult social care legislation as well as the reform of funding systems for individuals in receipt of social care. We continue to support the broad thrust of the new legislation.
- 1.2 Since receipt of the Statutory Guidance and Regulations, in common with other affected organisations, we have been working through the detail and have begun to explore the implications, stepping up our own implementation programme to meet the challenging timescale.
- 1.3 We continue to work collaboratively with other parts of the sector and, in particular, with the Association of Directors of Adult Social Services, the Local Government Association and London Councils. Whilst submitting our own separate brief response, we have also contributed to their collective submissions and would wish to confirm this Barking and Dagenham's support for them.

#### **2. Observations on the timescales for implementation**

- 2.1 With draft guidance currently out for consultation, and due for formal publication in October, this gives less than six months, and barely more than 9 months if we act on draft guidance, to implement one of the most substantial reforms of adult social care in a generation. We will no doubt get the basics of the systems and processes required in place by 1 April 2015. However, particularly in the case of new processes for assessment, financial assessment, deferred payment, information and advice provision and advocacy, it is almost inevitable that across the country the 'go live' date will see systems in place that are not in their full and final form, and continue to evolve as system issues are worked through and resolved.
- 2.2 Like many Councils, our processes are dependent on IT, with detailed workflow arrangements to ensure our social workers time is used as efficiently as possible, service users receive a consistent level of service, and we can keep track of spend and performance in real time. It is unrealistic to expect these "back-office" systems, on which we are heavily reliant, will be in place and tested by April 2015.
- 2.3 Whilst this may be acceptable in 'strategic' terms, for our service users they will be recipients of significantly different approaches to the co-ordination of their care, and there is therefore a risk that confidence in the new system is undermined by this rushed approach to planning its introduction. Councils, and their strategic partners,

have reduced business administration support in response to wider Government reductions in expenditure: our responsive capacity is therefore markedly reduced and a longer lead-in time would have recognised this change in capacity, and given greater confidence that our service users would have a positive experience of the transition.

### 3. Resourcing

- 3.1 In many areas, the requirements of the Statutory Guidance and Regulations are likely to increase the cost pressures on social care, including the implications of the revised eligibility criteria which are still being scoped in detail. We note that the Public Accounts Committee's 2 July report on Adult Social Care in England has highlighted many of these issues, as well as the implementation timescales, and we share their concern. A number of models have been developed to predict costs for implementing the Care Act, all forecasting some millions of pounds for Barking & Dagenham, where a savings programme for the next three years already runs into some tens of millions of pounds. Limited additional unring-fenced sums provided by Government to offset increased costs appear to be well short of the likely burden.
- 3.2 In addition, the Statutory Guidance comes out at the same time that we are assimilating the emerging guidance on the Better Care Fund, which appears to shift the emphasis away from protection of social care services towards the acute sector.

### 4. Other specific matters

- 4.1 **Digital take-up:** the Guidance is very strongly worded in its requirement that information should be provided in many forms, according to service user preference as well as need. Whilst, of course, we would always seek to ensure that reasonable adjustments are made, these sections of the Guidance seem incompatible with the Government's Digital Strategy. We would suggest that they be revisited in the light of this Strategy, bearing in mind Francis Maude's words when launching it:

*"Until now government has been slow to realise the benefits of the digital age. In the future our services will be fit for the 21st Century – agile, flexible and digital by default."* [GDS Press Release, 10/12/13]

- 4.2 **Wider workforce:** in some areas we would question whether the Statutory Guidance takes a wide-enough view of the workforce implications of the changes. Two particular areas are worthy of mention. Firstly, the advocacy changes appear to assume the existence of a more extensive workforce of trained advocates than are in fact in place, and these provisions may prove difficult to implement if there is not the training in place, and a suitable cohort of independent advocacy workers who can meet the new demand. Secondly, there are ramifications for the NHS in how social care will work differently which would appear to require a national programme of NHS skills development, on which we have yet to see any details.
- 4.3 **Public decision support tools:** whilst we understand that they are in development, we are yet to see details of the care cost calculator and similar tools for the public to use to understand the impact of the changes and their rights and

liabilities under the Act. Development of these, or release of some provisional algorithms, would appear to be a matter of urgency.

- 4.4 **Safeguarding:** we would suggest that the human rights emphasis of the safeguarding section of the Statutory Guidance needs to be revisited to ensure that local authorities' duties of care are also given due weight when considering whether to intervene with vulnerable people at risk, either through their own actions or the actions of others. Whilst we understand the rationale for the removal of Section 47 powers, it is our view that there needs to be appropriate enabling legislation to support professionals' intervention in these circumstances, and as currently phrased, the safeguarding provisions are not sufficiently specific on these points. In practice the local authority Adult Social Services is the lead in these situations, yet has no formal powers to intervene.

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