

# HEALTH AND WELLBEING BOARD

08 SEPTEMBER 2015

<b>Title:</b>	<b>The Care Act 2014: Cap on care costs deferred until 2020</b>		
<b>Report of the Corporate Director of Adult and Community Services</b>			
<b>Open Report</b>	<b>For information</b>		
<b>Wards Affected: NONE</b>	<b>Key Decision: NO</b>		
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<b>Sponsors:</b> Anne Bristow, Strategic Director of Service Development and Integration			
<b>Summary:</b> On 17 July the Government responded to a letter from the Local Government Association (LGA) calling for a delay in the implementation of the cap on care costs system. The changes were due to come into force in April next year (2016), but in the light of concerns expressed by the LGA and many other stakeholders about the timetable for implementation and pressures on adult social care, the Government has decided to delay implementation of the cap on care costs system until 2020. This report sets out the detail of the announcement, the reasons for delaying phase two of the Care Act, and what this means for the local implementation programme.			
<b>Recommendation(s)</b> The Health and Wellbeing Board is recommended to: (i) Note the delay to implementation of phase two of the Care Act (ii) Note the implications for the local Care Act implementation programme			

## 1. Introduction

- 1.1. On 17 July 2015, in response to concerns raised by the Local Government Association (LGA), the Department of Health announced that implementation of phase two of the Care Act is delayed.
- 1.2. In his [letter](#), Alistair Burt MP, Minister of State for Community and Social Care, confirmed that the cap on care costs will be deferred until April 2020 and the appeals system will be considered as part of the Government's spending review in Autumn 2015.

## 2. Confirmation of parts of the Care Act that are deferred

- 2.1. Since announcing the deferment further information has been released. It has been confirmed that all elements of phase 2 implementation have been deferred until 2020. This includes:
  - the cap on care costs, including the proposed nil-cap for under 25s
  - care accounts to manage progress towards the cap
  - the principle of people paying their daily living costs (£230 per week)
  - first party top-ups
  - extension to the means test thresholds

## 3. Status of appeals

- 3.1. The Government will make a further announcement on the new appeals system following the Spending Review in the Autumn. The Chancellor has set out the timetable for the Spending Review which will be published on 25 November. The timetable for appeals implementation will be confirmed after this date. In the meantime, those using care and support will continue to be able to make use of the existing complaints system and ultimately, the Local Government Ombudsman.
- 3.2. Planned work to implement appeals is therefore held pending further announcements from Government.

## 4. Reasons for the delay

- 4.1. The deferment of phase two implementation is due to the combination of several factors:

- **Funding pressures on local authorities and adult social care budgets**

The focus of the LGA concerns was the crisis of adult social care funding. Local authority budgets have been shrinking year-on-year in response to government austerity measures. The pressure on budgets is exacerbated by rising demand for services and new duties being placed on local authorities. It is expected that notionally the social care funding gap will be at least £4.3bn by 2020.

These funding issues were reflected in a National Audit Office report which highlighted that both phases of the Care Act were underfunded putting extraordinary pressure on local authorities to meet new duties. For Barking and Dagenham we estimated that the pressures would have been as much as £2.5 million by 2022/23.

– **Readiness of local authorities to implement changes**

While local authorities were confident they could deliver the phase two changes by April 2016 it was recognised that the timescales and work required was very challenging given the new IT solutions that would have been required. The delay means that local authorities can consolidate phase one of the Care Act.

– **New pension rules**

The Government believe that the new pension flexibilities introduced from 1<sup>st</sup> April 2015 will have consequences on the way people use capital and income. Given that the impact of this is not yet fully understood, the delay gives the Government opportunity to study this.

– **Lack of engagement from the insurance industry**

When the cap on care costs was being planned for it was expected that the private insurance industry would enter the market with products that would help people to pay for the costs of care and reduce the impact of care costs later in life. This did not materialise. The Department of Health is looking to re-engage with the insurance industry before the cap is introduced in 2020.

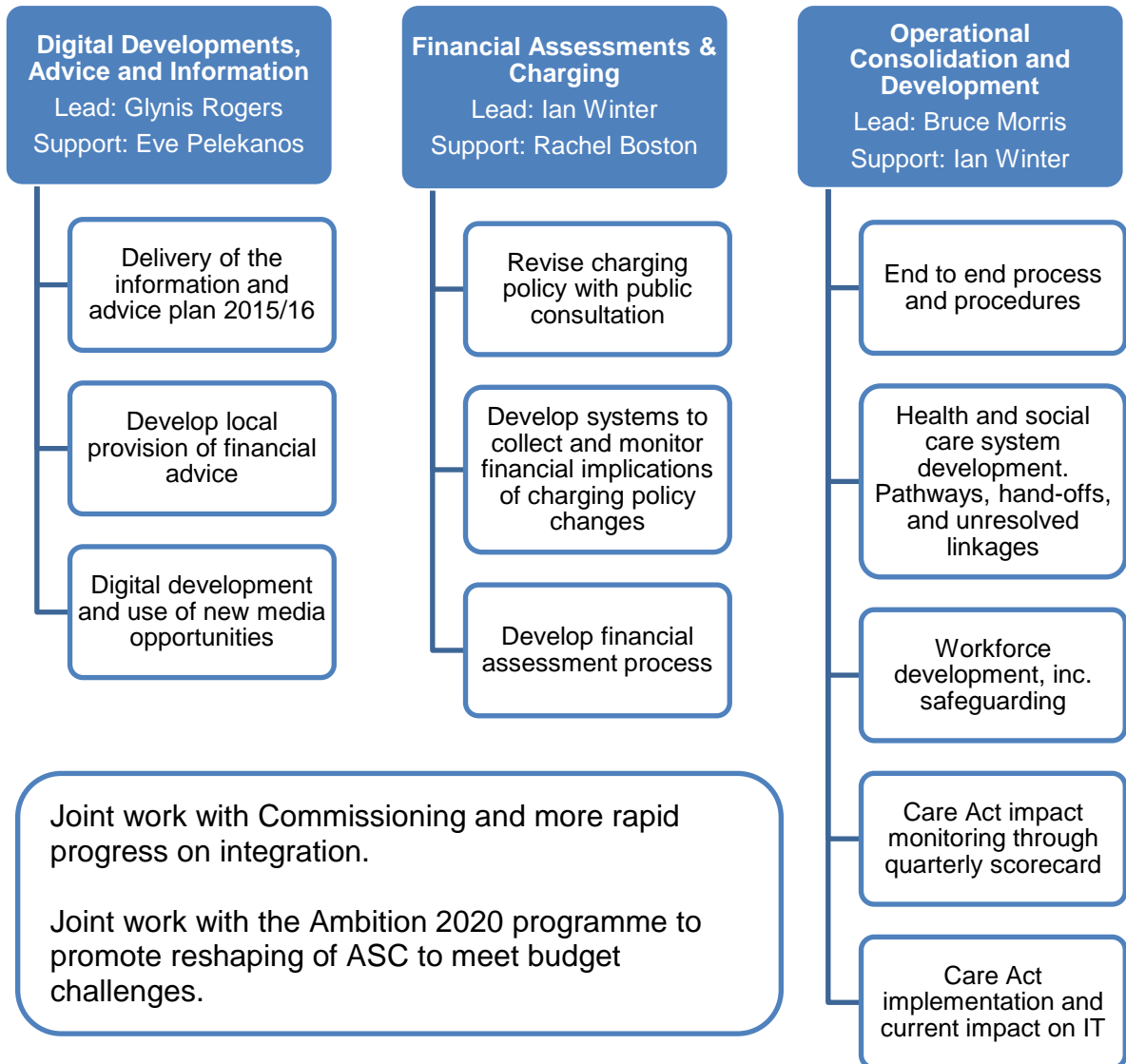
– **Introduction of national living wage**

The Chancellors announcement that there will be a compulsory national living wage of £7.20 an hour, rising to £9 by 2020 has a huge impact on the cost of delivering care. Cost pressure for necessary care will now rise year-on-year. In Barking and Dagenham early modelling work indicates that this could add £3.3 million to care costs by 2019/20.

## **5. Impact on the local Care Act implementation programme**

- 5.1. The local Care Act implementation programme was working to deliver the cap on care costs and appeals system so that they would be operational from 01 April 2016. The announcement of the deferment of phase two implementation has changed the deadlines for delivery and means it has been necessary to revise local plans.
- 5.2. As such we have been advised by the national programme office that the below implementation activities are no longer required:
  - Communications about the April 2016 changes
  - Revised or new information and advice about the funding reforms
  - Development and implementation of care accounts and related financial systems/processes
  - Changes to the deferred payments policy and agreement
  - Early assessment of known self-funders
- 5.3. A new programme structure and arrangements have been agreed and put into action by the Care Act Programme Board. Implementation activity will now have a greater focus and emphasis on embedding and consolidating the parts of the Care Act that became operational on 01 April 2015, building on the work of the programme in the previous year.

- 5.4. The revised Care Act implementation programme will give capacity and release resources to support adult social care transformation more generally. Going forward the programme will play a more prominent role in supporting integration between adult social care and health, and help adult social care to find cost savings to help the Council meet the £72 million budget gap which must be bridged by 2020.
- 5.5. To fulfil this revised remit the programme will work closely with the Ambition 2020 programme and strengthen connections with other corporate programmes (Better Care Fund, Digital by Design, SEND).
- 5.6. The new programme structure is summarised in the diagram below:



- 5.7. To ensure corporate strategic alignment and accountability for delivery, the workstreams above will report to a group of senior officers on a monthly basis; the group will be chaired by Anne Bristow in her new role as Strategic Director of Service Development and Integration. The Care Act Programme Team will continue to support and drive forward activity.

## **6. Mandatory implications**

### **6.1. Joint Strategic Needs Assessment**

The deferment of the cap on care costs until 2020 takes away the immediate need to gather intelligence about the borough's population of self-funders in both residential care and community-based settings. Demand for services and cost pressures expected from the introduction of the cap on care costs in terms of additional assessments and maintaining care accounts are relieved for the time being. That said we will need to use the intervening years between now and 2020 to understand the profile and circumstances of self-funders in order to ensure that financial modelling and service planning for future years is based on credible and accurate assumptions.

### **6.2. Health and Wellbeing Strategy**

No implications.

### **6.3. Integration**

Following on from implementation work in 2014/15, the programme will support the local integration agenda through the following pieces of work:

- Support BCF scheme delivery
  - implement the local prevention framework and 'commissioning for prevention' approach (agreed by H&WBB, May 2015)
  - implement Carers Strategy
- Develop a local approach to S117 (mental health aftercare)
- Review adult social care processes and procedures including crossovers with health
- Support Adult Social Care Commissioning to develop its market shaping role
- Work with the local SEND programme to strengthen local transitions processes and procedures

### **6.4. Financial Implications**

(Comments completed by Rachel Boston, Care Bill Finance Specialist)

Barking and Dagenham had predicted that the cost of phase two of the Care Act would be as much as £2.5million by 2022/23. The deferment of implementing the cap on care costs will move these cost pressures to future years. Whilst there is no longer the need to consider the financial pressure the cap on care costs introduces from April 2016 it does not remove the current and future cost pressures expected within adult social care between 2016 and 2020.

The LGA raised concerns that it is expected nationally the social care funding gap will be at least £4.3bn by 2020. Barking and Dagenham are currently assessing the financial impact of the Government's announcement to increase the national living wage from April 2016; providers have started to submit indicative price increases for their care and support services for next year.

The Government provided local authorities with the Care Act Implementation Grant in 2015/16, Barking and Dagenham received a grant of £773k. The grant has been

committed to meet both one-off and ongoing cost incurred through the introduction of phase 1 of the Care Act. Until the Government's spending review in the Autumn 2015, it is unclear if the grant will continue in its current format at the same, be reduced, or redirected within local government funding to support adult social care pressures.

## 6.5. Legal implications

(Comments completed by Chris Pickering, Principal Solicitor)

The Government has said that they are firmly committed to implementing the cap on care costs system so it must be emphasised that this is a deferment and not a cancellation of implementing phase 2 of the Care Act.

Local authorities have been advised that in autumn 2015, as scheduled, the Department of Health will respond to the consultation on draft regulations and guidance to implement the cap on care costs and policy proposals for a new appeals system.

With the response we expect the Care and Support Statutory Guidance to be re-issued with new chapters on the cap on care costs, independent personal budgets and care accounts. There will also be series of consequential amendments to existing chapters of the guidance where there is an impact related to the funding reforms (e.g. financial assessments, charging, personal budgets).<sup>1</sup> The final statutory guidance, once published, will provide a blueprint for implementing the funding reforms for April 2020.

The situation with appeals is more complicated because we know less about the system and how it will operate. Also the consultation on appeals was more open so it is more likely that there will be changes to the policy proposals following the responses of stakeholders. The timetable for implementing the appeals system will be confirmed after the Government's spending review in November 2015.

## 7. Background Papers Used in Preparation of the Report:

- [Cap on care costs delay FAQs for local authorities \(LGA, 30 July 2015\)](#)
- [Letter from Rt Hon Alistair Burt MP to Cllr Izzi Seccombe \(Department of Health, 17 July 2015\)](#)
- [Care and Support Statutory Guidance \(Department of Health, October 2014\)](#)
- [Consultation on draft regulations and guidance to implement the cap on care costs and policy proposals for a new appeals system for care and support \(Department of Health, February 2015\)](#)

## 8. List of appendices

None.

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<sup>1</sup> A full outline of the likely consequential amendments to the Care and Support Statutory guidance can be found in Chapter 13 of the consultation document).<sup>1</sup>