

HEALTH AND WELLBEING BOARD

09 DECEMBER 2014

Title:	The Care Act 2014: Implementation Update		
Report of the Corporate Director of Adult and Community Services			
Open Report	For Decision		
Wards Affected: ALL	Key Decision: NO		
Report Author: Anne Bristow, Corporate Director, Adult and Community Services	Contact Details: Tel: 020 8227 2300 E-mail: anne.bristow@lbbd.gov.uk		
Sponsor: Anne Bristow, Corporate Director, Adult and Community Services			
Summary: This report updates the Board on the local implementation of the Care Act 2014. In particular this report seeks to: <ul style="list-style-type: none">• Outline the robust structure of the local implementation programme and the remit for each workstream within it• Highlight key tasks and in particular those that have an impact or require input from statutory partners• Bring to the Board's attention, and to the attention of the NHS Trust governing bodies, forthcoming decisions required by the H&WBB (and Cabinet) to ensure timely implementation of the programme.• Brief the H&WBB on current issues affecting the implementation programme and provide the latest information on financial modelling and budget pressures arising from meeting the requirements of the Care Act• Share details of the national communications plans and the status of local plans to communicate with residents and target key stakeholders A presentation at the meeting will supplement this report.			
Recommendation(s) The Health and Wellbeing Board is recommended to agree: <ul style="list-style-type: none">(i) That the CCG and NHS Trusts report back to the H&WBB for the organisation, at the February meeting. This will be supported by the Council-led Care Act Programme Team. The reports should outline the actions that must be taken by the CCG and Trusts to be Care Act compliant from 01 April 2015.			
Reason(s) Implementation of the Care Act contributes to the vision and priorities of the Council to			

enable social responsibility. Person centred, person-led adult social care assessments and services will put people in control about how their care and support needs are met. Duties on wellbeing and prevention will support people to remain healthy and achieve personalised outcomes. The Care Act also strengthens integration between health and social care requiring both the Council and NHS developments throughout 2015/16 and beyond. For example, changes to assessment will need to result in joined up and seamless experiences for service users and carers.

1. Introduction

- 1.1. On 29 July 2014 the H&WBB received a report that outlined the provisions of the Care Act and shared the implications and impact for the Council (and partners) of meeting new duties. The report was presented during the consultation on the draft statutory guidance.
- 1.2. Since the July report, the consultation, to which the H&WBB responded, has concluded and the final statutory guidance and regulations that accompany the primary legislation have been published. While the final guidance has not substantially changed the requirements, emphasis has been added on key areas. It is especially important that the delivery of adult social care functions closely follows the tasks and processes prescribed in the statutory guidance. Activities within the programme are therefore prioritised with compliance in mind.
- 1.3. Officers supporting the programme have undertaken some analysis of important chapters of the guidance to ensure that our implementation plans are robust and address each of the 'must do' requirements of the Act.
- 1.4. The handout at Appendix 1 is designed to illustrate to Board members what has changed in terms of professional practice, systems and processes, adult social care policy, and legal responsibilities as a result of the Care Act.
- 1.5. The Board should be aware that part one of the Care Act 2014 comes into force on 1 April 2015 so there are five months in which to deliver the main working elements of the programme, though full development will need to continue well into 2015/16, both for the Council and for partners.

2. Overview of the implementation programme

- 2.1. In response to the volume and detail of the statutory guidance the local programme was developed rapidly according to the structure and themes of the guidance. The diagram below shows the working and delivery structure of the programme which has been operating since September 2014.



- 2.2. To deliver the reforms and ensure that the borough is fully compliant with part one of the primary legislation by 01 April 2015 additional resource and capacity has been put into the programme; both in terms of supporting the programme centrally and supporting departments to deliver the programme while ensuring current work is maintained.
- 2.3. The Care Act Programme Board and its workstreams have ramped up activity and are now meeting fortnightly to review progress and check activity. As reported to the H&WBB in July financial pressures and the timescale to deliver the reforms are significant risks to the programme. While this has not changed, confidence has grown that the programme, in its new format, can mitigate these risks and deliver on time and within the current Adult & Community Services budget envelope.
- 2.4. More information about the risk management arrangements and financial issues are at paragraphs 5.1 and 9.4 respectively.

3. Implementation tasks

- 3.1. Each workstream within the programme has clearly defined tasks to deliver. To give the H&WBB a sense of the breadth and scale of the programme the key implementation tasks for the six workstreams are summarised overleaf. A high-level Programme Plan is included at Appendix 2 for further illustration.

Assessment & Eligibility

Re-designing assessment and care and support planning processes with emphasis on ensuring each individual's full involvement in decisions about their care and support

Ensuring compliance of care management processes/practice with guidance and market regulations

Upgrading case management and other IT systems

Ensuring that carers needs are assessed and met

Ensuring that duties around independent advocacy are implemented

Information & Advice

Strategic planning and delivery of a statutory information and advice service for wellbeing, preventative support, social care and financial matters.

Workforce

Devising a two-tier training programme for affected staff that covers Care Act knowledge/awareness and specialist training on systems/processes.

Safeguarding

Developing the Safeguarding Adults Board to be a statutory entity

Meeting duties to raise enquiries and conduct reviews

Developing local procedures (while supporting revised Pan-London protocols)

Ensuring Board members are held to account and ensure that they embed safeguarding decisions in their respective organisations.

Commissioning

Preparing for new market shaping and market management role

Developing a commissioning strategy that ensures wellbeing, prevention and personalisation

Commission independent advocacy

Work with partners to achieve much greater partnership and integration

Charging & Financial Assessment

Revising the Fairer Charging Policy to be Care Act compliant

Modelling future demand on services and costs

Changing process for giving financial assessments

Preparing for universal deferred payments and full funding reforms (by April 2016) including the impact of care accounts.

4. Recent programme activity

The H&WBB is asked to note the high priority activities that have been undertaken by the programme thus far which are highlighted below.

4.1. Workforce Training Plan

An initial workforce training plan has been developed to meet the training needs of all staff (including those from partner organisations) affected by the Care Act. The programme of training will be delivered in two phases. The first phase will focus on developing the knowledge and understanding of the Care Act based on modules

produced by Skills for Care which are being adapted to be borough specific. The second phase will deliver bespoke training to targeted staff on new approaches, procedures and systems that will be used to deliver Care Act compliant adult social care services. Plans for the second phase of the Training Plan are in development and are dependent on the outcomes of work to re-design the assessment and care management services.

(See also paragraph 10.2 concerning staffing issues)

4.2. Charging policy proposals

The Fairer Charging Policy has been reviewed to test compliance with the charging arrangements set out in the final statutory guidance. In light of this review the current charging policy will be revised before April 2015 to bring it up to compliance. The charging policy will be further revised in preparation for the funding reforms that come into force in April 2016. These changes will focus on new financial thresholds, implementing the Dilnot cap and other charges for self-funders.

4.3. Adult social care process re-design

Three practical workshops with participation from a cross-section of adult social care staff have taken place to review the borough's current case-based assessment services with what is required by the Care Act. These workshops are informing the design of assessment and care management and taking account of processes needed to ensure services to carers and self-funders coming into the care and support system. This activity is driven by the need to comply with statutory guidance, technical annexes and regulations, which for this part of the Care Act are very thorough and detailed.

The workshops have provided an opportunity for staff to identify IT systems requirements to deliver new services. These are being captured as part of related work to upgrade case management systems to support the Care Act.

5. Programme activity in the next period

The next five months of implementation are crucial. The Board is asked to refer to the Programme Plan at Appendix 2 for a full picture of scheduled activity between now and April 2015.

5.1. Financial modelling

Financial modelling on a national level has been paused until January 2015 while the Department of Health develop a revised model based on the Lincolnshire approach. However, LBBB Finance is working on local modelling using local data. Previous modelling has been focussed on estimating the costs of additional assessments. Future modelling exercises will look at the wider costs of the programme and attempt to model ongoing costs more accurately.

(See also paragraph 9.4 for more information about financial issues)

5.2. Deferred Payments

The Programme has carried out an analysis on our current deferred payment scheme. This has identified several areas of non-compliance and development areas in our application of deferred payments. To comply with the Care Act LBBB Finance and Legal Services are drawing up a new deferred payment agreement with tight

legal terms and conditions. Wrap around information and advice, and new procedures for entering into and monitoring deferred payments are also being developed.

5.3. Prevention Strategy

To meet Care Act duties relating to prevention the statutory guidance requires the Council to develop a prevention strategy on behalf of the borough. In keeping with the Council's corporate priority of encouraging social responsibility the Programme Board has agreed a framework which builds preventative support around the individual with an emphasis on self-help and access to universal service provision. The layers around the individual include health and social care services provided by the Council and the NHS, and interventions and assets provided by the voluntary and community sector. The Prevention Strategy will need to have a clear read across and alignment with the Health and Wellbeing Strategy which may require changes to its focus.

5.4. Information & Advice Strategy

Under the Care Act the Council is required to establish and maintain an information and advice service for its local population on all matters relating to adult social care – this also covers wellbeing, preventative support, safeguarding, and financial information. To meet this duty the Council must develop a strategy for improving the information and advice offer locally. The Strategy, which is currently being developed, will be presented to the H&WBB for agreement in March 2015. To deliver the Strategy statutory partners will need to update their and be up-to-date with what information and advice is provided elsewhere and how this can be accessed by residents.

5.5. Developing safeguarding and the role of the Safeguarding Adults Board

Further to a business planning day event that took place on 23 October 2014, the safeguarding workstream is now well advanced on detailed work to ensure that the SAB (its members and governance) are developing to meet the Care Act requirements to operate as a statutory board. Proposals will be presented to the SAB on 18 December for agreement and further work.

(See also safeguarding implications, paragraph 10.1)

5.6. Carers' Strategy

The Board received an overview of the approach to the Carers' Strategy and future commissioning at its meeting on 9 September 2014. In the interim, officers from across the Council and CCG have met (on 17 November) to further review the strategy and commissioning model that emerges from Carers UK's work for the Borough. As the implications of the Care Act are further understood, there is a need to undertake further work to get us to a compliant and fully shared approach for carers' support, which is well-aligned with the development of our response to information and advice, prevention and other related duties. It was intended to bring a more final strategy to the meeting on 9 December, but this will now be scheduled for the new year, when this work has been completed. In the interim, the extension of the contract for Carers of Barking & Dagenham is being confirmed with them to ensure that support remains available from 01 April 2015.

6. Decision-making timetable

- 6.1. Delivering the Care Act requires some executive decisions that go beyond the decision-making powers of the Programme Board. The list of decisions required by the H&WBB and Cabinet to take the programme forward are listed below and, where the H&WBB is concerned, scheduled on the Forward Plan.

Nature of decision	Decision maker and date
<p>Carers Strategy</p> <p>The Carers Strategy is strongly inter-connected to the Care Act. The Act introduces new responsibilities to assess and support carers. This Strategy will be the mechanism for co-ordinating our offer and developing the market of services for this vital group.</p>	<p>H&WBB, February 2015</p>
<p>Updates to JSNA</p> <p>The statutory guidance has several references about the content and use of the JSNA. The Board will be asked to agree a suite of amendments bringing the JSNA up to compliance.</p>	<p>H&WBB, February 2015</p>
<p>Revised Charging Policy</p> <p>Elected Members will be consulted on a suite of amendments to the Charging Policy to bring it up to compliance with the Care Act charging arrangements. These include but are not limited to:</p> <ul style="list-style-type: none"> • Enabling the ability to charge people in custody • Applying tariff income • Making provision to charge self-funders above the upper financial limit • Reviewing all discretionary charges • Reviewing areas of income disregard. 	<p>Subject to consultation with elected members. To be implemented from 01 April 2015</p>
<p>Extension of advocacy contract and process for retendering</p> <p>The Care Act expands the duties on local authorities with regard to arranging independent advocacy for service users and carers. In response to this it is necessary to review our current arrangements with voiceability and make plans to ensure adequate provision of independent advocacy locally.</p>	<p>H&WBB, February 2015</p>
<p>Prevention Strategy</p>	<p>H&WBB, March 2015</p>

Nature of decision	Decision maker and date
<p>As described above the borough will need to have in place a strategy for preventing, reducing or delaying a person's need for care and support. This Strategy will be developed in the context of the refresh of the Health and Wellbeing Strategy and presented to the Board for agreement.</p>	
<p>Health & Wellbeing Strategy refresh</p> <p>Further to the above the Care Act will have other impacts on the Health and Wellbeing Strategy. In particular the refreshed H&WB strategy will need to uphold the wellbeing principle and consider the definition of wellbeing as described in the legislation. Also the refreshed strategy may need to have greater regard for carers and the interface with the carers' strategy.</p>	H&WBB, March 2015
<p>Commissioning Strategy</p> <p>The statutory guidance on market shaping introduces new requirements that promote choice and control (personalisation), wellbeing, higher quality standards for services, and improved competency levels for commissioning. The guidance recommends that authorities develop strategies to demonstrate how the commissioning function aligns with legal duties, corporate plans, local needs analysis, and market intelligence in order to deliver outcomes for the individual and collectively.</p>	H&WBB, March 2015
<p>Deferred Payment Agreement</p> <p>Deferred Payments for residential care must now be offered universally where a person meets the criteria. This will mean that the Cabinet will need to agree the terms and conditions of a legally binding deferred payment scheme. As part of administering this scheme the Council will apply administration and interest charges so that the scheme is cost neutral to run.</p>	Cabinet (in consultation with the H&WBB), March 2015
<p>Information and Advice Strategy</p> <p>See paragraph 5.4 above.</p>	H&WBB, March 2015

6.2. The Board should note that scrutiny of the implementation programme through the Health and Adult Services Select Committee is planned for 20 January 2015.

7. Engagement with H&WBB partners

7.1. It is important to emphasise that the Care Act does not only place duties on the local authority. The Act has impacts for statutory partners which need to be considered

and dealt with through the local implementation programme. The programme has started to engage with each of the H&WBB member organisations on what the Care Act means for them and the best approach to taking forward certain activities. Because there will be major change to policies and practice it is important that the programme engages at a strategic and operational level, and it communicates at all levels during transition to the post-Care Act world.

7.2. Senior Officers from the implementation programme are meeting with executive officers from the local NHS organisations in December. The purpose of these meetings is to:

- identify actions needed of partners to be compliant with the Care Act (the Act does not only have implications for local authorities)
- discuss training and development needs
- plan engagement activities and make plans for communicating with priority staff
- share developments relating to the implementation programme
- set out where practice or processes will need to be developed from 1 April 2015

7.3. A bespoke briefing with the Healthwatch Board on how the Care Act impacts on their work will take place on 2 December 2014. Healthwatch has a key role to play in helping the Council to deliver its information and advice duties and in realising the ambition of the Care Act to empower people in decisions about their care and support.

8. Gearing up for a communications campaign

8.1. The Department of Health is working with Public Health England on national public awareness campaign about care and support reforms. The campaign will be delivered in two phases.

8.2. Phase one will communicate messages to those with existing care needs and their carers on national minimum eligibility threshold, deferred payment agreements, and carers' entitlements. Phase 1 will run from January 2015 through to April 2015 and beyond. This will be followed up by another tranche of communications in the lead up to April 2016; these will focus on the funding reforms raising awareness about the Dilnot cap and new financial thresholds.

8.3. Phase two of the national communications campaign will attempt to change societal behaviours and encourage people in middle age to plan for their future care needs as part of wider financial planning for later life. This will align with the emergence of new financial instruments that will be available to support the use of care accounts.

8.4. The Council is planning a local communications campaign to align with the national approach using a mix of materials, including the toolkit from Public Health England, to engage with existing service users on changes to their services and with residents who may have care needs about how they can access care and support locally. The local communications will especially target carers as we know there are many carers in the borough who have not been assessed, or have in place no support packages.

8.5. The use of statutory partners' communications channels will be vital for extending the reach of such messages. Briefings on the approach to communications and the plan will be shared with partners in advance of the campaign launching in January 2015.

9. Mandatory Implications

9.1. Joint Strategic Needs Assessment

A report outlining the changes that required in order that the JSNA is fully Care Act compliant is scheduled to be presented to the Board at its meeting on 10 February 2014. Further to the structural changes it will be necessary to ensure that the JSNA is enhanced to give a more comprehensive profile of self-funder and carer populations as this will provide important intelligence for planning for the funding reforms in 2016/17, and underpin our response to meeting the needs of local carers – which in total number approximately 16,200.

9.2. Health and Wellbeing Strategy

The new duties on wellbeing and prevention will need to be reflected in the refresh of the Health and wellbeing Strategy. The Board might want to consider the new responsibilities towards carers when setting priorities and how to deliver on wider aspects of wellbeing such as housing, education and employment, and emotional and mental wellbeing.

9.3. Integration/Better Care Fund

The BCF plan provides an allocation of £513k towards cost burdens upon the Council in meeting the requirements of the Care Act. Whilst there is agreement to the costs it is equally recognised that resources within the BCF need to be deployed in order to secure and optimise benefits against both national delivery targets, including reductions in emergency admissions and local metrics. Arrangements are now in place through the Joint Executive Management Group through which the movement of resources can be managed.

9.4. Financial Implications

Implications completed by: Roger Hampson, Group Manager, Finance

A number of reports have been presented to the Health and Wellbeing Board over the last year on the potential funding implications of the Care Act, and the funding streams likely to be available to fund additional costs. There are two principal sources of new funding for additional costs that may arise in 2015/16. Firstly, a New Burdens Grant which will be a specific grant payable to the local authority from government; further details about allocations to individual local authorities are expected to be announced after the Chancellor's Autumn Statement on 3 December 2014. A verbal report will be made to the Board if the detailed allocations of new specific grants are available.

The second principle source of funding are funds of £513k to be transferred to the local authority from the CCG for funding of various aspects of the Care Act as part of the Better Care Fund plan agreed for 2015/16.

Work is progressing through the Care Act workstreams to collate potential bids for additional services arising from the Care Act. These will be presented to the Board at its March 2015 meeting to agree the detailed allocation of these resources within the funding available.

As discussed in paragraph 5.1, further work is also underway to model additional costs arising from April 2016 in respect of the Care Act. It is possible that the Chancellor's Autumn Statement may provide some additional information on how these costs will be funded at national level from 2016/17, and an indication of the resources likely to be distributed to individual local authorities.

9.5. Legal Implications

Implications completed by: Dawn Pelle, Adult Care Lawyer

Given the ambiguities within the statute there is an expectation that there will be legal challenges. In order to avoid this LBB has to ensure that all aspects of service provision are Care Act 2014 compliant. It is key that staff understand the wellbeing principles and the principle as to prevent/reduce/delay during assessment. Staff must be aware of the statutory processes to be followed when undertaking tasks under the Care Act 2014, for example; confirming issues in writing, and consultation with the adult, carer and others nominated persons. There should be a clear understanding on the issues as to ordinary residence and possibly cross-border placements (given that cross-border placements will not occur regularly).

9.6. Risk Management

The scale, complexity and pace of the Care Act implementation present considerable risk to the Council, and to a lesser extent partners. Risks and mitigating actions have oversight at all levels and are monitored systematically and with regularity. The Care Act implementation programme has its own risk log to capture and manage risks. The identified risks are also being monitored on the ACS departmental risk register and the delivery of the Care Act is flagged on the corporate risk register.

The risks related to the programme centre around inadequate funding for implementation, the short time period in which to adapt to major reform and the challenges this brings for systems and workforce development.

10. Non-mandatory Implications

10.1. Safeguarding

The Care Act introduces new safeguarding duties which have been explained to the H&WBB in previous reports. Work has been carried out with the SAB through its business planning to plan the delivery of the tasks related to adult safeguarding.

Officers within the Programme are working on developing new governance arrangements for the SAB and the processes, procedures and practice changes that will ensure the borough is Care Act compliant from 1 April 2015.

10.2. Staffing issues

As reported on 29 July 2014, the Care Act has significant implications for the Council's workforce in terms of training and development. A Workforce Development Plan has been produced and will be implemented in January 2015.

The Board should note that the Workforce Training Plan addresses the training needs for the entire Council workforce (not just adult social care staff) as well as affected staff from partner agencies.

Now that the programme has entered the implementation phase work has begun with adult social care staff, and those in integrated teams, to develop Care Act compliant processes. It will become clear over the coming weeks whether staffing structures or models of service delivery will need to be re-shaped in order to meet the requirements of the Care Act. This will become apparent once the end to end adult social care process review is completed and if a decision is taken that has implications for staff then consultation will take place in accordance with corporate guidelines.

Staffing issues will also need to be considered in light of other budget decisions as part of the Council's financial settlement decisions.

11. Background Papers Used in Preparation of the Report:

- Care Act Statutory Guidance (<https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation>)

12. List of appendices

- Appendix 1: Policy and practice changes
- Appendix 2: High level Programme Plan