Title: Implementing the Care Act 2014

Report of the Cabinet Member for Adult Social Care and Health

Open

Wards Affected: ALL

Key Decision: NO

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Summary
The purpose of this report is to give elected Members assurance that the implementation programme remains on track to deliver the key requirements of the Care Act 2014.

The report describes the implementation programme and flags key risks to delivery. The report also explains the current position and the areas of focus and activity as we approach the critical milestone of 01 April 2015, the date by which the majority of the Care Act must be in operation. Changes due in April 2016 and issues arising are also outlined for Members.

A short presentation will be delivered at the meeting to highlight the key issues of this report.

Recommendation(s)
The Health and Adult Services Select Committee (HASSC) is asked to:

(i) Scrutinise the implementation programme to deliver the Care Act 2014 to assure itself that the Council will be compliant with key requirements from 01 April 2015.

(ii) Carefully consider the challenges that this extensive policy, practice and system change demands of adult social care services, particularly the risk of unquantified demands for services and subsequent pressure on workforce and resources.

Reason(s)
The Care Act 2014 imposes significant legislative change on the Council and requires major changes to both policy and service delivery.

Many of these changes will directly increase demand from residents who may require information, advice, preventive services, assessment and direct payments for services. Many who, hitherto, did not approach adult social care will make demands on Council resources.
1. The implementation programme

1.1. Given the significant scale and scope of the Care Act 2014 the Council has established a cross-directorate Care Act Programme Board chaired by the Corporate Director of Adult and Community Services to oversee implementation. The Programme Board has representation from across Council services (including Finance, Legal, Revenues & Benefits, Children’s Services and Housing) where Care Act 2014 duties will have an impact. The implementation programme is being supported by a small team of dedicated officers.

1.2. The programme is divided into six workstreams each of which is led by a senior manager who is responsible and accountable for delivering the key activities to implement the Act. To give the HASSC a sense of the breadth and scale of the programme the key implementation tasks are set out in summarised high-level programme plan included at Appendix 1.

2. Accountability of the programme

2.1. The implementation programme is accountable to the stakeholders below:

- The Cabinet Member for Adult Social Care and Health
- The Cabinet, where the Care Act impacts on other portfolios or executive decision-making is required
- The Health and Wellbeing Board (H&WBB) as the local leader of the health and social care system
- Corporate Management Team (CMT), where there are cross-cutting or corporate impacts
- HASSC, as the relevant body of the Council’s overview and scrutiny function

2.2. The Care Act Programme Board reports as appropriate to these groups where decisions must be taken or issues resolved beyond the remit of the Programme Board. Frequent reporting of progress and reporting when there are key issues ensures accountability at all levels. Examples of this reporting are listed in the background papers to this report (see section 9).

2.3. The implementation programme is also required to give external assurance at a regional level through the quarterly ADASS stocktake. The purpose of this exercise is for local authorities to outline their progress on key areas of delivery and identify areas where authorities might benefit from additional regional support. In February 2015 the Care Act Programme Team submitted its third stocktake response which was completed by Anne Bristow (Corporate Director of Adult and Community Services) and Cllr M Worby (Cabinet Member for Adult Social Care and Health).

2.4. The HASSC is an important part of the system of accountability and the purpose of this report is to give assurance that programme governance is robust and that implementation is moving forward and keeping to national milestones for delivery.

2.5. The HASSC may wish to review the forward plans of the Cabinet and H&WBB and consider whether pre-decision scrutiny or policy development input from Members on Care Act related matters would be appropriate. Officers will be happy to provide future reports and briefings about the Care Act and the implementation programme upon request of the HASSC.
3. **Risks and challenges**

3.1. The Act is of considerable scale and scope and there are major risks and challenges which must be managed and overcome in order to implement the programme.

- **Timescales**

  The timetable for delivering the Care Act is highly pressured. The majority of the changes must be implemented by 01 April 2015. However, the statutory guidance and regulations which give local authorities implementation instructions were only finalised in October 2014. This has left a very short timescale for implementing the most complex package of reforms in over twenty years.

- **Finance**

  The Care Act 2014 requires significant changes to adult social care functions and has implications for other Council services. Some grant funding from the Department of Health has been allocated to meet the costs, and the local Better Care Fund has an allocation which is to be used for Care Act implementation. However, the total funding will almost certainly not be sufficient to meet the costs we have identified through our financial mapping and modelling. There is no entirely satisfactory model for calculating new demand. While as much work as possible has been completed there are inherent risks regarding demand that it is impossible to fully quantify.

  This puts pressure on Adult and Community Services’ base budgets as there are areas of unfunded spend moving into 2015/16. In 2016/17 and future years we expect pressure on budgets to be greater as responsibilities towards self-funders and increased demand for services as a result of 2015 changes begin to ramp up. Currently we estimate this pressure to be at least £4 million in 2016/17 and ongoing.

- **New and potentially unsustainable demand**

  The Care Act introduces new duties and extends others, most importantly giving new rights and entitlements to unpaid carers. It is therefore likely that once the Care Act changes are embedded and knowledge and awareness grows among residents there will be additional demand for services.

  A live example of this comes from a small third sector organisation working with people with disabilities. In just one week, they have reported a nine-fold increase in demand as a direct result of the national advertising and leaflet campaign which is significantly raising expectations.

  At this point it in time it is very difficult to determine the nature and level of this extra demand but we expect the pressure points are:

  - Demand from current carers, given their new right to demand assessment and consequent services as required by the Act.
  - Increased demand for prevention and wellbeing services/interventions, and
  - From April 2016, demand for services from self-funders notably managing care accounts, detailed financial information and options and supporting systems to manage the cap on care costs.
• **Legal challenge**

The Care Act creates a single legal framework for adult social care. This is a landmark and welcome step but, in the process, sixty years of legislation is repealed or revoked. This means that from 01 April 2015 all existing established case law is open to re-interpretation under the Care Act. This exposes the Council to the possibility of legal challenge as individuals or groups and their representatives seek clarification or interpretation of the new requirements of the Act.

• **IT development**

We are working closely with our existing IT suppliers to implement changes and upgrades to meet Care Act requirements. In the main we are satisfied that our IT suppliers are working towards delivering the necessary upgrades by 01 April 2015 and work is progressing in most areas. However there will be limited time to test new systems before they can be rolled out for use by staff. Any further delays in developing IT solutions are likely to have a knock-on effect on our ability to train staff and introduce new systems into a live environment. Contingency plans have been developed in case systems are not fully operational by 01 April 2015.

• **Readiness of partner organisations**

There is concern that NHS organisations have not given sufficient steer or guidance from NHS England on the implications of the Care Act for them.

The Council’s implementation team has offered support to partner agencies and the H&WBB has sought assurance from partner bodies about system readiness by means of a report to its 10 February meeting. This activity aside, the HASSC may wish to receive direct assurance from NHS partners of their readiness for and compliance with the Care Act.

• **Funding reforms and appeals (2016)**

Further to the considerable work that is taking place to deliver the April 2015 changes, the implementation programme is looking ahead to April 2016 when the remainder of part one of the Care Act is to be implemented. These changes are significant and far-reaching and will require programme work throughout 2015. The 2016 changes can be summarised into three important areas (see also section 5 of this report):

- **Cap on care costs** - The cap will place a £72,000 limit on the costs of care that people will face to meet their eligible care and support needs. When a person reaches the cap the local authority will pay a contribution towards the person’s care fees to cover the cost of care to meet their needs.

- **Extended means test** - Under current rules, if a person has less than £23,250 in assets they will receive means tested help and they will contribute only what they can afford from their income if their assets are below £14,250. Under the new system, people in a care home with less than £118,000 in assets will qualify for means-tested local authority help with their care costs and they will contribute only what they can afford from their income if their assets are below £17,000.
Appeals - Section 72 of the Care Act will introduce a system of appeals to challenge decisions taken by local authorities in respect of a person's care and support across nine separate dimensions of each person's situation.

3.2. Overall we are confident that with significant focus and effort we will deliver the parts of the implementation programme that will make us compliant with the law from 01 April 2015. Inevitably the process of fully embedding implementation and transformation will continue well beyond April 2015. This is the position of the majority of local authorities.

4. Implementation priorities

4.1. As we enter the final month before the 01 April 2015 milestone the implementation programme is concentrating on delivering key ‘must do’ requirements to ensure compliance and frontline operational readiness. The implementation activities are as follows:

- Implementing revised procedures for front line and support staff
- Engaging, developing and equipping the workforce

4.2. To maintain focus on what must be delivered the Care Act Programme Team has developed a log of products and outputs that are required by 01 April 2015. This tool is being reviewed and updated weekly by the Programme Team and is guiding workstream activity between now and April.

5. The challenges of April 2016

5.1. The consultation on the funding reforms and appeals system is underway and closes on 30 March 2015. Local authorities are invited to give their comments about the draft regulations and guidance. A response from the Council to this consultation is being prepared by the Cabinet Member for Adult Social Care and Health.

5.2. Arising from the April 2016 changes we will need to have in place:

- New charging arrangements to reflect the extended means test and the introduction of the cap on care costs
- Care accounts and independent personal budgets for all clients who contribute towards the costs for their care (which now includes self-funders)
- Local processes and procedures for responding to appeals. Given the wide scope of the appeals system this could be a big area

5.3. Now that we have detail in the form of draft statutory guidance and regulations we are beginning to make plans to implement the next set of very significant requirements demanded by the Act.

6. Financial Implications

Financial implications are set out in the report to Cabinet on 16 February 2015, attached as an appendix.

Prepared by Roger Hampson, Group Manager, Finance
7. **Legal implications**

Legal implications are set out in the report to Cabinet on 16 February 2015, attached as an appendix.

Prepared by Dawn Pelle, Adult Care Lawyer

8. **Risk management**

8.1. Risks to the implementation programme are well documented in the body of the report. Risks are managed through the Care Act Programme Board through the Programme Risk Log which is reviewed periodically. Care Act 2014 implementation also features on the Corporate Risk Register to ensure oversight of risk and escalation of issues if needed.

**Background papers used in preparing this report**

- Care Act Statutory Guidance
- Care Act Programme Board documentation
- Care Act 2014: Preparedness of NHS organisations (H&WBB, February 2015)
- Care Act 2014: National and local communications (H&WBB, February 2015)
- Care Act 2014: Implementation update (H&WBB, December 2014)
- The Care Act 2014 (H&WBB, July 2014)
- The Care Bill: Adult Social Care Funding (H&WBB, December 2013)
- The Care Bill (H&WBB, November 2013)

**List of appendices**

- Appendix 1: Summarised Care Act Implementation Programme
- Appendix 2: The Care Act 2014 (Cabinet report, 16 February 2015)
- Appendix 3: Care Act 2014 briefing (appendix to Cabinet report, 16 February 2015)