

<b>Date:</b>	16 <sup>th</sup> March 2015
<b>Classification:</b>	General Release
<b>Title:</b>	Progress and 'go live' implications of the Care Act Programme Implementation
<b>Report of:</b>	Liz Bruce, Executive Director, Tri-borough Adult Social Care
<b>Wards Involved:</b>	All
<b>Policy Context:</b>	All local authorities are expected to deliver the Care Act reforms
<b>Financial Summary:</b>	There are financial implications as a direct result of implementing the Care Act
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## 1. EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to update the Health and Wellbeing Board about the 'go live' implications to prepare for the requirements of the Care Act 2014. The majority of provision comes into force in April 2015. Governance arrangements to implement the Care Act reforms have been in place since April 2014.
- 1.2. The changes required as a result of the Care Act will need to be fully embedded as part of an ongoing change management approach.

## 2. Key Matters for the Board

- 2.1. The Committee is asked to consider the information in this report.

## 3. Background

- 3.1. A report was submitted to the Health and Wellbeing Board in January 2015 outlining progress and steps to comply with the legislation. A request for a further update in March was agreed at the meeting.

- 3.2. The Care Act applies to adult care and support in England, and all local authorities are expected to take necessary steps to prepare for the reforms.
- 3.3. Governance arrangements to implement the Care Act reforms have been in place since April 2014. This work is overseen by Liz Bruce, Executive Director for Adult Social Care and Health, as Senior Responsible Officer.
- 3.4. Workstreams are in place to implement the deliverables in Phase 1 and Phase 2, in alignment with the agreed schedule. Workstream leads regularly report progress to the Care Act Implementation Board, chaired by Liz Bruce. Board members hosted a challenge session in November 2014 to test the delivery approach and rationale for all workstream activities. Risks are regularly monitored by the programme and major risks logged on the corporate risk register. The key deliverables and 'go live' implications for the programme are highlighted in the paragraphs below.
- 3.5. Eligibility and the new National Minimum Threshold – work is underway to roll out the National Minimum Eligibility Threshold. Officers have completed a desktop review of existing FACS eligible service users. The aim is to provide local impact analysis in relation to understanding the new threshold.
- 3.6. All service users in receipt of personal budget (this includes a review of the appropriateness of the current Resource Allocation System, or RAS) – personal budgets are already part of the offer to service users with eligible needs in all three boroughs. Work is underway to review the existing resource allocation systems and optimise them in each of the boroughs.

Longer term, the aim is to adopt a new tool that improves the accuracy of indicative budget allocations. A number of RAS tools are being developed by software companies including FACE RAS, which appears to be in demand, to help local authorities address this in the near future.

The process for managing personal budgets has been outlined in a new set of Adult Social Care (ASC) standard operating procedures, which all ASC staff will adopt from April onwards. Our objective is to put in place a person-centred framework for setting personal budgets, linked to focussed outcomes for the service user, and greater transparency.

- 3.7. The complaints process – we have updated our standard operating procedures to align the complaints process to Care Act requirements; this will be adopted by all ASC staff from April onwards. All local authorities are being consulted by the Department of Health about Part 2 draft guidance on the appeals process, in relation to eligibility decisions taken by a local authority. This process is due to be implemented on 1<sup>st</sup> April 2016.
- 3.8. Assessment processes in line with Care Act requirements (this includes Carers Assessments, assessment of self-funders, and prevention duty) – we have built a revised assessment and support planning process into standard operating procedures, to be implemented in Framework-i. The process is included in our

recently launched Care Act training programme, which ASC staff are now attending. This includes a new Carer's assessment process, piloted in December 2014.

A Carers Offer will be available from April, offering a range of support, from low-level, universally available support, through to carer's personal budgets for care and support based on eligibility. The purpose of the Carers Offer is to enable ASC staff to provide carers with detailed information about how they can manage their wellbeing effectively. The aim is to reduce overall costs to local authorities through a preventative model for carers, so they can continue their caring role whilst maintaining health and wellbeing.

- 3.9. Demand and Financial Modelling - the Care Act is expected to result in a significant increase in the requirement for assessments for carers and self-funders with needs for care and support. Work has been undertaken to predict the level of demand, and interim workforce capacity will be put in place to respond to increased demand from April 2015 onwards. The demand levels are shared below.
- 3.9.1. Self Funders - The estimated number of self funders could represent (up to) an additional 15-20% of customers, when compared to the number of customers supported by the local authority. Self funders will need to be assessed to access the financial protection offered by the Care Cap. This demand will be staged, however, as Care Cap is not due to come into effect until April 2016. To manage demand the three local authorities plan to assess 25% of self funders in quarters three and four of 2015/16, with the remaining self funders assessed in 2016/17. Once assessed self funders will need to be reviewed annually.
- 3.9.2. Carers - Modelling suggests there is likely to be 110% increase in carers to be assessed in the City of Westminster.
- 3.10. Implementation of new safeguarding duties – the London Association of Directors of Adult Social Services (ADASS) is developing a Care Act compliant set of protocols for safeguarding that will be rolled out to all London local authorities by April 2015. In addition, the standard operating procedures have been amended to ensure Care Act compliance, and these will be adopted by ASC staff from April onwards.
- 3.11. Market shaping responsibilities embedded – a Market Position Statement has been drafted to support market shaping through engagement with local providers and the public. The market position statement is designed to help to inform commissioning of new, innovative services for local residents. A draft provider failure protocol is also under development. This will inform decisions about how to support the transfer and continuity of care for service users in the event the incumbent provider is unable to support them, due to business failure or a major dip in the quality of care provision.

- 3.12. Managing transition from children and young people services to adults services – work is underway to build the Education, Health and Care transition pathway and protocol, which has been embedded in our standard operating procedures. Staff in the Learning Disability and transitions teams will receive training prior to adopting the new way of working from April onwards. This will ensure a more holistic approach is adopted that supports young people requiring an “adults” assessment prior to their 18th birthday.
- 3.13. Information and advice provision (across operations and commissioned services) and provision of preventative services – the workstream activity to deliver compliance includes development of all information and advice formats, including the People First website and leaflets. An audit checklist of the full range of information and advice required has been completed. The next stage, to refresh the content for each topic area, is well underway. The work on information and advice also links closely with new duties to promote prevention, and a mapping exercise is underway to document the existing prevention offer. This work will continue beyond April, to ensure that all information and advice is continually refreshed and up to date as newer services come on-stream; for example, new advocacy contracts or preventative services.
- 3.14. Advocacy Support Services – a procurement process is underway to develop the service so that the three local authorities can routinely offer independent advocacy support to anyone who requests it, as part of the assessment and support planning process. The new advocacy support services will be established by July 2015. In the meantime, through ongoing dialogue with the existing providers, commissioners have confirmed that the current provision will be Care Act compliant by April 2015.
- 3.15. Fees, Charging, and Deferred Payment Agreements - The funding reform workstream has developed a new model that will provide a more consistent approach to deferred payment agreements across all three boroughs, including adoption of appropriate interest charge rates. Details will be presented in the annual fees and charging Cabinet Member reports for decision in February / March.
- 3.16. Workforce trained and developed to meet the new operational requirements – a workforce development programme has been prepared using a mix of internal and external resources. This follows engagement with staff and managers about the workforce implications of the Care Act reforms, and completion of a training needs analysis. Care Act awareness sessions have already been rolled out to ASC staff and to other departments across the local authority, externally to health partners including the Clinical Commissioning Groups (CCG's), and to the voluntary and private sector. The workforce training programme was launched at the end of January 2015 and is now well underway. Training will be extended to other key departments including Housing, the Mental Health Trusts, GP's and Health. Work is underway to review the training offer to external providers and information and advice providers will receive training in early March.

- 3.17. Communications - successful 'show and tell' events have been held in all three boroughs to promote the work of the programme and encourage stakeholders to engage in the implementation. A communications plan has been developed to co-ordinate key messages to all stakeholders, and a regular update is published in the monthly Triangles newsletter to ASC staff. The communications plan is aligned with the Public Health England Campaign to share information with the general public about the Care Act. Local communications are underway from February onwards to ensure residents are fully aware of the reforms. The People First and corporate websites have been amended to include relevant information.

#### **4. CONSULTATION**

- 4.1. On 4th February, the Department of Health (DoH) launched a consultation on the guidance and legislation in relation to the cap on costs for self-funders and the associated appeals process which come into force April 2016. The consultation will run until 30th March 2015. Subject matter experts within the Care Act implementation programme have been tasked with the systematic examination of the draft guidance and regulations to inform the Council's feedback response to the consultation, and to help identify any new risks. Staff will also be invited to feed comments and responses to the consultation questions directly to the programme manager; this will form part of our overall consultation response.
- 4.2. Following the consultation, the DoH intends to publish the final documents in September 2015; this will give local authorities seven months to finalise arrangements to comply with the cap on costs and appeals requirements of the Care Act.

#### **5. LEGAL IMPLICATIONS**

- 5.1. The Care Act 2014 comes into force in two stages, with most provisions coming into force on 1st April 2015. Funding reform provisions come into force on 1st April 2016.
- 5.2. Guidance and Regulations were finalised and published relatively recently, on 23rd October 2014. All local authorities are facing significant challenges in preparing to implement the most significant changes to community care provision in the last 60 years. However, although the Care Act 2014 includes new provisions, the majority of the requirements consolidate good practice, which is already part of the ASC operating framework.
- 5.3. The main areas of significant change are outlined in this paper.
- 5.4. Legal Services is carrying out a review of the extensive final version of Part 1 of the Guidance and Regulations as compared to the Tri-Borough response to the national consultation process carried out in summer 2014. Draft ASC standard operating procedures which include a set of policies will be reviewed in light of that exercise.

- 5.5. All local authorities face a degree of uncertainty regarding the potential for legal challenges when the bulk of the provisions of the Act come into force on 1st April 2015. We anticipate a period of national uncertainty until the courts begin to provide case law guidance. All three boroughs continue to prepare so that they are best placed to respond to any such challenges.

## **6. FINANCIAL AND RESOURCES IMPLICATIONS**

- 6.1. Analysis and modelling continues to be undertaken locally in order to estimate the financial impact of implementing the Care Act. The latest estimates for the City of Westminster, covering the next five years, are attached as appendix 1. Modelling the impact of the Care Act is challenging due to the large number of variables and 'unknowns', particularly in relation to the number of self funders and carers that will present themselves to the authority. Hence these estimates will still need to be treated with a degree of caution but are a good indication of the likely scale of the impact. The main financial implications will stem from the cap on care costs, changes to the means tested support thresholds, increased number of assessment and reviews likely to be required, and the infrastructure needed to support the changes.
- 6.2. The total estimated costs are £2.4m in 15/16 and £13m over the next five years. The main cost impact in the early years is in relation to assessment and reviews (both self funders and carers) and carers' packages and other costs. It is estimated that it will cost £1.9m to £2.1m a year to carry out these functions. The care cap is also likely to have a significant financial impact, again in the region of £1.1m a year. This will be in the latter years, however, as costs to be set against the cap only begin in 2016/17 and only impact on the authority once the client reaches the cap. Any relevant cost impact from the national eligibility criteria will be built into the estimates following the results of the desk top review of existing eligible service users.
- 6.3. In December, Government funding for the Care Act in 2015-16 was announced. The City of Westminster will receive £1.0m. The grant has three components:
- a) early assessments,
  - b) deferred Payments, and
  - c) carers and care act implementation

In total Westminster City Council will have £1.7m (including £750k from the Better Care Fund) of funding in 2015/16 to meet the Care Act implementation costs. Future years funding is unknown at this time.

## **7.0 RISK MANAGEMENT**

- 7.1 A lack of clarity about the true cost of Care Act implementation to support additional demands from self funders and carers may impact on Adult Social Care operations across the three boroughs. The Funding Reform workstream will

continue to develop financial modelling to inform agreement of future funding arrangements with the Department of Health for 2016/17 to address the impact of the Care Act.

- 7.2 The Care Act places significant duties on local authorities to work in a more co-ordinated way to meet the wellbeing needs of people. Other council departments including Housing and external organisations including Health (i.e. CCG's and Mental Health Trusts) are therefore involved in developing collaborative and integrated working to respond to these duties, e.g. the Community Independence Service and the Customer Journey programme. This change management work will continue beyond April 2015 to fully embed improved ways of working with partner organisations.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact:**

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#### **APPENDICES:**

**Appendix 1** – Latest Projected Costs and Funding for Care Act Implementation – Westminster City Council

#### **BACKGROUND PAPERS:**

None: