

NORTH YORKSHIRE COUNTY COUNCIL**CARE AND INDEPENDENCE OVERVIEW AND SCRUTINY COMMITTEE**

3 July 2014

THE CARE ACT**1.0 Purpose of the Report**

- 1.1 To report to the Committee on the implications of the Care Act and preparations for implementation.

2.0 Background

- 2.1 The Care Bill received Royal Assent on 14 May and has now been passed into law as the Care Act 2014. The Act introduces major reforms to the legal framework for adult social care, to the funding system and to the duties of local authorities and rights of those in need of social care. The potential impact on local authorities' finances and working practices is enormous.
- 2.2 Much of the legislation that has underpinned social care in England, going back to the National Assistance Act 1948, will be repealed when the Care Act goes onto the statute book in 2015. It consolidates more than a dozen different laws into a single modern framework for care and support and enshrines the principle of individual wellbeing as the driving force behind it.
- 2.3 The Department of Health (DH) launched a consultation on 6th June on draft regulations and guidance for Part 1 of the 2014 Care Act that will come into effect in April 2015. This is the majority of the Act, with the exception of the financial reforms. It seeks views on how local authorities should deliver the care and support reforms in the 2014 Care Act, and should be read alongside the draft regulations and guidance. These have been developed by the DH working with expert groups, including users of care and support, local authority staff, voluntary sector organisations, social workers, and national bodies.
- 2.4 The consultation runs until Friday 15th August 2014. A further consultation on the financial reforms that come into effect from April 2016 - which include the cap on care costs - will take place this autumn. Copies of the documents can be found here: <https://www.gov.uk/government/consultations/updating-our-care-and-support-system-draft-regulations-and-guidance>

3.0 Main provisions of the Care Act

- 3.1 The Act introduces a broader care and support role for local authorities towards the local community, giving a new duty to authorities to promote physical, mental and emotional wellbeing in all decisions regarding an individual's care needs. The Act places more emphasis than ever before on prevention, to help reduce or delay someone developing care and support needs. This means moving to a system that focuses on people's strengths and capabilities, and supports them to live independently for as long as possible. Work to implement the requirements will be carried out through projects within the HAS 2020 Transformation Programme.

- 3.2 There is a new duty to establish and maintain an information and advice service. This must cover the needs of all our population, not just those who are in receipt of care or support funded by us, and needs to be tailored information for specific groups – a website alone will not fulfil the duty. In particular, independent financial advice is seen as being a key aspect, given the funding reforms from April 2016. Work is underway to review our existing information and advice services as part of a wider corporate strategic review of customer pathways.
- 3.3 It introduces a new duty for the Local Authority to facilitate a vibrant, diverse and sustainable market for high quality care and support for the benefit of the whole population, regardless of how services are funded. Our commissioning and procurement practices will need to take account of these market shaping duties, and workforce development and remuneration will also need to be considered. It clarifies the Local Authority's responsibilities for meeting the needs of individuals if a care provider goes out of business. Discussions have begun with the providers' trade organisation, the Independent Care Group, and further sessions will be held over the summer to consider the implications in more detail.
- 3.4 The Act enshrines the right of carers in England to receive support from their local Council and introduces a duty to meet carers' eligible needs for support. This gives them the same legal rights as the people for whom they care. There are a large number of "hidden" carers in North Yorkshire, and we will need to work with carers organisations to identify them and consider what support will be needed.
- 3.5 Under the new legislation there is a new duty to promote integration and a duty to co-operate. Local authorities will be required to carry out their care and support functions with the aim of integrating services with those provided by the NHS and any other health-related service (such as housing). It prescribes several integration duties on local authorities, NHS England and the CCGs. These are at three levels – Strategic, Individual Service and combining and aligning processes. There are new provisions to ensure NHS and LA's work together more effectively to plan the safe discharge of NHS hospital patients and to set out the consequences of a failure to provide or enact a satisfactory plan. Throughout the Act there are very clear and frequent indications that housing needs to play a significant part in all aspects of assessment, care planning, support provision and prevention.
- 3.6 It maps out the process of assessments, charging, establishing entitlements, care planning and the provision of care and support, emphasising a whole family approach and taking more account of what people can do for themselves and what support they can get from their local community.
- 3.7 The Act puts safeguarding on a statutory footing for the first time, outlining the responsibilities of local authorities and other partners in relation to safeguarding adults, including a new requirement to establish Safeguarding Adults Boards in every area. Work has begun with the Independent Chair of the Safeguarding Board to identify the implications for North Yorkshire.

- 3.8 It supports the transition for young people between children's and adult care by giving local authorities powers to assess the needs and entitlements of children, young carers and parent carers. Discussions are taking place with colleagues within Children and Young People's services to review current practice and identify where changes to policy or practice are needed.
- 3.9 A national minimum eligibility threshold will be introduced. This is set at a level similar to that of the current "substantial" under the Fair Access to Services criteria at which we currently operate. We will need to identify any differences between the new threshold and the current level, in particular, the implications for people who need prompting to do some tasks eg people with dementia or autism, as they may not meet eligibility criteria, and the fact that it does not include the ability to manage money or financial affairs.
- 3.10 Linked to the national eligibility criteria are new duties to enable people to move between local authorities without interruption to their care (this is known as 'portability' of care). While the principle of the portability of care established by the Act is welcomed, it is unclear how it will be implemented. Even if the eligibility threshold is going to be national, decision-making about entitlement will still depend on local interpretation and, on what services are available to someone moving to a new local authority area. We will need to revise our procedures for when someone moves into the area, and introduce a process for sharing data with other authorities.
- 3.11 The Care Act also reforms the way that care is paid for, with the introduction of a cap on care costs from April 2016. This is in response to the recommendations of the Dilnot Commission, and will be set at £72,000 for people over pensionable age – the maximum amount that anyone will have to pay for their care costs. The level for people under 65 has not yet been determined by Government. Young people who already have care needs when they turn 18 will now receive free adult care and support when they reach that age. This will result in a loss of income for the County Council.
- 3.12 From April 2016 there will be an increase in the threshold at which people are eligible for support from local authorities, from the current £23,250 to £118,000. Given the large numbers of self-funders in North Yorkshire, this has considerable financial implications for us.
- 3.13 The Act provides a new legal entitlement to a personal care budget for eligible individuals, including "Independent Personal Budgets" for people who fund their own support, but who have eligible needs that will count towards meeting the Care Cap. All people with eligible social care needs, regardless of how their care is funded, will be entitled to a Care Account, which will be a record of their progress towards meeting the Care Cap. This will need to be updated annually. We will need to work with our IT supplier to ensure that there are robust systems in place to support the changes.
- 3.14 There is a new legal duty for local authorities to enter into 'deferred payment agreements'. This is where people who have non capital assets of less than £23,250 will not have to sell their home during their lifetime to pay for care. We

currently have a Deferred payment scheme, but will need to review it against the requirements of the new Regulations.

4.0 Implications

- 4.1 A number of implications of specific aspects of the Act have already been outlined in the report. As North Yorkshire has a very high number of self-funders and carers and people over 65, there are significant workload and resource implications for the County Council, with a high financial risk if the Government allocation is not sufficient.
- 4.2 We are part of regional and national groups modelling the potential costs arising from increased demand for assessments, and with implementing the Care Cap and the increased financial threshold. We are one of 20 authorities working with the Association of Directors of Social Services (ADASS) on a model developed by Surrey County Council, with the eventual aim that all authorities undertake a national modelling exercise. Initial indications are that the costs are significantly higher than the Department of Health estimates, and this work is being fed into a review of its impact assessments, which will be revised in the Autumn.
- 4.3 The Government has indicated that implementation monies will be made available in 2015/16 as part of the new burdens funding and through the Better Care Fund. Indicative allocations for North Yorkshire are £4.813million. As previously mentioned, initial modelling has indicated that this will be insufficient to meet the additional demand, particularly around the new duties for carers.
- 4.4 There are obvious implications for our workforce, as they will need to adapt and work differently with healthcare, housing and other sectors, and recognise which legislation will remain intact throughout the reform, and exist alongside the new Act. A programme of general awareness and targeted training will be put in place once the Regulations and Guidance are finalised in October.

5.0 Preparation for Implementation

- 5.1 We have adopted a Programme Management approach to planning for the implementation of the Act. Work will be overseen by a Steering Group chaired by myself, with senior colleagues from within the Council and Health.
- 5.2 The Government has allocated £125,000 to each authority for 2014/15 to assist with implementation costs. This has been used to fund additional project management and data analysis capacity.
- 5.3 A number of Task and Finish Groups will meet during the consultation period to identify the implications of the Regulations and Guidance on our current policy and practice, and develop our responses to the Consultation. Consultation has also been arranged with partners including NHS and Housing colleagues, the Safeguarding Adults Board, and with providers.
- 5.4 Once the implications have been identified, project groups will take forward the necessary work prior to implementation in April 2015. This will include raising the awareness and understanding of people who use support, carers and partners with whom we work.

6.0 Recommendation

- 6.1 The Care and Independence Overview and Scrutiny Committee is recommended to note and comment on the information in this report.

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Background reports	None
Annexes	None