

**Health Scrutiny Committee**  
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**Progress on implementing the Care Act**

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**Context**

- The Act passed into law in May 2014.
- Final regulations and statutory guidance (part one) were published in late October 2014.
- Corporate risks related to how the second part of the Act affects the wider adult social care system are being developed.
- Part 2 of the Act, concerned with funding reform, is to be implemented by April 2016
- Final guidance for part 2 of the Act is expected to be published in October 2015
- The Care Act Programme Board is in place, with programme leads in key areas. This is overseeing further work around compliance with part 1 of the Act and projects of delivery that will ensure the Council is compliant with funding reform legislation (part 2).

**Summary**

The Care Act sets out general responsibilities of local authorities, describing their broader care and support role towards integration with health provision and the local community. It emphasises a preventive approach including providing information to those needing care and duties to consider physical, mental and emotional wellbeing. The Care Act is being phased in, in two parts: part one duties needed to be implemented by April 2015 and part two (funding reform) to be implemented by April 2016.

**1. General Duties and Universal Provision**

**Wellbeing:** The Act requires that wellbeing is embedded into all aspects of the Council's adult social care systems. Wellbeing must be promoted and the Council must actively seek improvements when carrying out care and support functions in respect of a person – this includes from provision of information and advice to reviewing a care and support plan.

**Prevention:** The Act requires the Council to ensure the provision or arrangement of services, facilities or resources to help prevent, delay or reduce the development of needs for care and support. This can include 'universal' services such as promoting healthier lifestyles.

## **Implementation:**

- a) The wellbeing principle and preventive approaches were built into training, contracts and practice. Significant progress was made by April 2015, but there is a continuing development, with an emphasis on a partnership approach.
- b) Work has been done to refine the re-ablement process to maximise the independence of citizens.
- c) Assessment and support planning forms have been redesigned to enable practitioners to demonstrate that they have considered the wider wellbeing of the individual in assessing for need and co-producing packages of care. This includes encouraging and supporting practitioners to demonstrate that they are seeking locality based preventative solutions to citizens' needs in a support plan.
- d) Mandatory cultural change workshops are planned for the current financial year to embed the concept of considering the wider wellbeing of citizens with frontline practitioners.
- e) A piece of work is underway with partners to look at how we can upskill and give the confidence to all practitioners in the City, including health, social care and volunteers, to address wellbeing issues in citizens homes. This work is intended to encourage practitioners to consider the wider wellbeing of a household, not just to address the specific issue for the specific citizen for whom they are attending.

**Information and Advice:** There is a duty to provide a comprehensive information and advice service, so that people know what type and range of care and support is available, how to access it and where they can find independent financial advice.

**Implementation:** This workstream has been one of the more challenging workstreams to implement as there are many cross-cutting and interdependent issues. Consideration is also being given to the relationship of information and advice on adult social care and that of health and children's social care, with a longer term aim to develop jointly. Key developments include:

- a) Factsheets have been developed and published on the Adult Services web pages including information on areas such as carers advice, power of attorney etc.
- b) As part of a strategic commission review on financial vulnerability, specialist services for debt management, welfare benefits, housing etc. are being commissioned via a new pathway. Services are on track to be in place by autumn of 2015. This will include citywide provision, neighbourhood provision, housing provision, a service for the deaf community and a service for refugee and asylum seekers. An improvement in the quality and effectiveness of these services is anticipated.
- c) Initial commissioning analysis work for a directory of services in the City to replace Choose my Support is underway. This is being done in partnership with Health and will include learning and joint development with the Bulwell Self Help Pilot.
- d) A multi-agency project team has been established with key colleagues from a range of partners. This is with a view to pulling together information and advice in the City under one strategy to cover adults, children's, health and social care. The intention is to support both citizens and staff to access information and advice and to pick up and make available local intelligence about preventative locality services that would not usually be captured formally. This work is in preliminary stages and work is underway to scope the project and engage with users and staff.

**Marketing oversight and provider failure:** The market oversight and managing provider failure role is a joint obligation with Care Quality Commission (CQC) and the Council. CQC will maintain an oversight of the stability of large national providers and will notify providers and Councils, which providers fall under the CQC monitoring regime.

**Implementation:** A programme of work has been implemented and further development work is underway. This includes four strands of provider support, including:

- Financial sustainability
  - Quality of care
  - Planning for failure
  - Infrastructure support
- a) A provider failure protocol has been developed and is in place which takes into account Care Act requirements. The purpose of the document is to minimise the risk of failure of a key provider in the City.
  - b) Market development colleagues have established a relationship with CQC and their market oversight regime, to ensure timely and appropriate exchange of information relating to providers operating in the City. This includes attendance at team meetings and sharing information following inspections.
  - c) Commissioners will maintain a dialogue and market intelligence role with key providers.
  - d) A regional provider workshop is taking place in July 2015. This will include discussion around workforce, provider confidence to invest, quality assurance and supporting providers in difficulty.
  - e) An Early Intervention strategy is to be piloted to identify and support struggling providers in the City.

## **2. First Contact and Identifying Needs**

**Assessment:** All individuals are entitled to receive an assessment of eligibility for care and support and, if relevant, a care plan based on needs. Individuals can ask the Council to arrange care irrelevant of whether or not the individual or the Council is responsible for funding care. Assessments must be outcome focused, strength based and holistic. There is a requirement to ensure independent advocacy is provided when needed.

**Carers:** The Council has a duty to complete Carers Assessments and meet carers' eligible needs. Carers can be eligible for support in two ways firstly to help them continue with their caring role and secondly their caring role is having a significant impact on their wellbeing and is having an adverse effect on their life. Assessments can be undertaken jointly with the citizen being cared for.

**Implementation:**

- a) Eligibility for care must now be identified using the new national framework. Local interpretation of the guidance however indicates that this is similar to the 'high moderate' level, previously used by the Council. Policies, forms and processes have been being reviewed and updated to reflect the requirements of the Care Act.
- b) We meet the needs of carers who are caring for citizens who are eligible either by providing a joint assessment for the carer, with the cared for or providing a separate

assessment for the carer. The Carers Federation has been commissioned to provide separate assessments for carers. This ensures policies and processes reflect the duties of the Care Act. A Carers Advice and Contingency Plan has also been developed. This is to meet requirements under the 'reduce, prevent, delay' agenda for carers. An audit of the Council's work in relation to carers and compliance with the Care Act in this regard is currently being undertaken.

- c) There are new responsibilities in the Care Act for adult social care to ensure that young carers are not undertaking inappropriate caring roles. The Council, in partnership with Action for Young Carers (Carers Federation), is developing a policy in this regard. This is currently in draft form. Data at May 2015 shows that 7 young carers have had their caring responsibilities removed in line with Care Act requirements.
- d) A separate workstream for Independent Advocacy was established which reviewed contracts and practices. Pohwer, a third sector organisation, has been commissioned in the City to provide independent advocacy, in line with Care Act requirements.
- e) Workshops have taken place with managers on care and support planning and eligibility. Communication and training are underway with practitioners, outlining key Care Act information and operational requirements.
- f) An audit of practitioner usage of the new eligibility criteria will be undertaken in August 2015. The result of this is expected in September 2015. It will include looking at whether practitioners are applying the new criteria in a robust manner and an investigation into whether new criteria has changed the level of care provided against a citizen's level of need.

### **3. Charging and Financial Assessment**

Timeline: April 2015

**Charging:** Some small amendments were required and options regarding charging policies, such as financial assessments for couples, self-funders, hospital discharge, carers and prisoners.

**Deferred payments:** People will not have to sell their home to pay for residential care whilst they are still alive.

#### **Implementation:**

- a) Minor charging policy amendments have been implemented. Further work is to be carried out to implement the extended means test procedures, although work on this area cannot be properly scoped until details are published in the final iteration of the guidance.
- b) A process to defer payments for residential care to allow a citizen retain ownership of their home, whilst they are alive, is now in place. Good practice processes have been informed by The National Association of Financial Assessment Officers (NAFAO) toolkit to develop information and policies for deferred payments. There has however been little local citizen interest deferring payments.
- c) Using an LGA self-assessment tool, we have determined that our charging policies and procedures are compliant with the Care Act.

#### **4. Person Centred Care and Support Planning**

**Care and support planning/personal budgets:** The Act places a duty on the Council to provide a care and support plan. The individual must be involved in the development of their plan and it must be periodically reviewed. Citizens and carers can have a joint care and support plan.

**Direct payments:** Using the information from the personal budget, the person has a legal entitlement to request a direct payment. The local authority must provide a direct payment to someone who meets the conditions in the Act and regulations.

**Transition:** The Act says that if a child, young carer or an adult caring for a child (a “child’s carer”) is likely to have needs when they, or the child they care for, turns 18, the local authority must assess them if it considers there is “significant benefit” to the individual in doing so. This is regardless of whether the child or individual currently receives any services.

##### **Implementation:**

- a) The Council currently provides care and support plans and direct payments. Relevant policies, forms and processes have been reviewed to ensure compliance. A cultural change programme of mandatory training has been and continues to be rolled out to practitioners.
- b) Detailed information is now available for citizens in areas such as direct payments and care and support planning. A Care and Support Policy has also been published that details the breadth of the Council response to the Care Act.
- c) Transition processes have been checked for compliance. The City has a Transitions Team, which facilitates a clear process between children and adult social work teams. A wider strategy is in development.

#### **5. Integration and Partnership Working**

**Integration:** The Act requires greater integration and co-operation between the NHS, care and support, and the wider determinants of health such as housing.

**Implementation:** The Council is already on this journey through the work of the Health and Wellbeing Board and the partnership work with Nottingham City Clinical Commissioning Group.

#### **6. Adult Safeguarding**

The Care Act creates a legal framework requiring the Council to have a Safeguarding Adults Board with local partners, with public plans, annual reporting and clear processes for investigating suspected abuse or neglect.

##### **Implementation:**

- a) The Act requires a person-centred approach, based on outcomes and current practice and operational processes are being reviewed and adapted. A training

strategy is being developed to ensure the principles of making safeguarding personal are embedded in practice. The Safeguarding Care Act Working Group is monitoring progress.

- b) A similar process is being undertaken with the Board, which also includes working with County colleagues due to cross-boundary nature of some the issues that arise. The Board has established a Task and Finish Group to progress this.

## **7. Moving between areas: inter local authority and cross-border issues**

The Act outlines a process to be followed so that Councils know when someone wants to move areas, and what must happen to make sure that their needs are met when they arrive in the new area and that care remains continuous. There are changes to ordinary residence. Responsibilities of the placing authority widen to include supported living and shared lives schemes.

### **Implementation:**

- a) Current policy, practice and operational processes have been considered and checked against the guidance to ensure compliance.
- b) ADASS has developed a regional cross border protocol to secure broad agreement on how different local authorities deal with the issue of carers living in different local authority areas to the person for whom they care. Briefly, it sets out that the responsibility would remain that of the authority in which the person being cared for is resident. That is unless the carer or cared for expresses a strong desire for this not to be the case. Consideration is being given as to whether officers will recommend that the City Council adopts this protocol.

## **8. Prisons**

The Act establishes that the local authority in which a prison, approved premises or bail accommodation is based will be responsible for assessing and meeting the care and support needs of the prisoners residing there.

### **Implementation:**

- a) Links have been made to colleagues in HMP Nottingham and those responsible for approved premises and bail accommodation.
- b) NHS England already provide healthcare assessments for when prisoners arrive and the preferred process is that they also undertake a light touch social care needs assessment. Any needs identified will be referred to the Council, who will undertake a full assessment – colleagues who will oversee this have been identified. Initial contract discussions have commenced.
- c) Work is underway at a regional level to understand if assumptions about pressures and resource allocation were sound. HMP Nottingham is a remand prison. As such it was anticipated that demand for social care would be low, due to the transient nature of the prisoners. It has transpired however that Nottingham, along with other areas that have remand prisons, have a higher need for social care provision. This may be due to a robust assessment process being in place for prisons of this nature. Further work is to be undertaken.

## **Care Act Part 2**

### **1. Cap on care costs**

The cap sets a limit how much people pay towards their care costs, with the Council paying the full cost thereafter. Draft guidance suggests that this limit will be £72,000, although details are subject to the final guidance being published in October.

**Implementation:** A project and project delivery group has been instituted to deliver the various aspects of meeting the Council's new duties, from April 2016, in relation to the cap on care costs. This includes:

- a) Identifying numbers of self-funders in the City in receipt of social care services. This is with a view to modelling the cost to the Council of implementing the cap on care costs and understanding the potential impact on assessment teams of new requirements.
- b) Designing IT solutions and processes that will enable setting up and monitoring care accounts to monitor citizens' progress towards the cap on care costs and provide statements of progress for citizens, in line with Care Act requirements.
- c) Development of local policy setting out new statutory arrangements. Where final statutory guidelines do not set out what local authorities *must* do in a given situation, local policy will be developed.

### **2. Appeals**

**Implementation:** Draft Care Act part 2 guidance suggests the possibility of a requirement to implement a social care appeals process, separate to a council's complaints process. Draft consultation guidance is however very light on the details of this and as such, work will not commence on this area until there is more clarity provided in final published guidance, expected in October 2015.

### **3. Working age Adults Cap**

**Implementation:** Care Act draft guidance talks about a lower cap on the amount that working age adults will have to pay towards their care costs. There are a number of options put forward in the draft guidance and it is expected that more clarity will be provided in the final guidance, due to be published in October. Work on this area will commence following publication.

### **4. Extended Means Test**

**Implementation:** Care Act part 2 includes an extension to the current means test which means that some citizens will be charged less for their care. Details of this will be included in the final iteration of the part 2 guidelines, expected in October.

## **Overall implementation:**

- A piece of work is underway to complete a voluntary self-assessment of the City's compliance with part 1 of the Care Act.
- A programme manager has been appointed to lead a suite of projects to ensure Care Act part 2 compliance by April 2016.
- A Programme Board meets monthly and has a lead representative for each of the key areas of part 2 of the Care Act.
- The consultation guidance for part 2 of the Care Act has been published but it is light on detail in some areas, for example where the care cap will be set and at what age for working age adults with care needs. It is anticipated that the final guidance will be published in October 2015. The Programme Board has identified significant risk around the short timescale to implement new procedures and processes between October 2015 and April 2016. Lobbying of government is taking place to recommend a delay in the timescales for implementation. The Care Act programme manager attends regional meetings, hosted by ADASS, to keep abreast of national developments.
- The ability to track care spending through citizen care accounts will be included in the new Liquid Logic system as part of Project Evolution. This may not be ready for full implementation by April 2016. There is a programme of work underway however to scope how current IT systems (CONTROCC) would be able to fulfil the Council's statutory duties in this respect by April 2016. Officers are confident that an interim solution is in hand.
- A risk workshop for part 2 of the Care Act is scheduled for July 2015. This will be in order to fully map the risks involved in funding reform. These will be logged in Covalant, monitored and reported to the Care Act Programme Board.
- Association of Directors of Adult Social Services (ADASS), the Local Government Association (LGA) and Department of Health are working together to support Councils and a network of groups are meeting regionally to support each other through implementation.
- A project group has been set up to consider contracting and market implications of care Act part 2.
- ADASS undertook a 4<sup>th</sup> stocktake in May, which helps provide a national picture of implementation progress.