

**Report of:** Corporate Director of Housing and Adult Social Services

<b>Meeting of:</b>	<b>Date</b>	<b>Agenda item</b>	<b>Ward(s)</b>
Health and Wellbeing Board	12 March 2014	<b>B4</b>	All

<b>Delete as appropriate</b>	Exempt	Non-exempt
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## **SUBJECT: CARE BILL UPDATE: LOCAL IMPLICATIONS**

### **1. Synopsis**

- 1.1 The Care Bill, currently going through Parliament, will lead to significant changes in the way adult social care services are delivered.
- 1.2 The report summarises the key content of the Care Bill and its implications for adult social care in Islington. It provides a high level summary of the financial implications, and the work programme to ensure effective implementation in the borough.

### **2. Recommendations**

- 2.1 To note the key changes to adult social care that the Care Bill will implement.
- 2.2 To note the high level financial implications and work programme for implementation in Islington.

### **3. Background**

- 3.1 The main intentions of the Care Bill in relation to adult social care are:
  - To modernise and rationalise a range of disparate legislation for adult social care, which is still essentially based around the National Assistance Act 1948
  - To implement the Dilnot recommendations on the funding of adult social care
  - To implement the recommendations of the Francis report that require primary legislation.
- 3.2 The Bill will receive Royal Assent on 1 April 2014 but the provisions will not come into effect until April 2015 (for care and support) and April 2016 (funding reform provisions).

- 3.3 This following paragraphs describe some of the key changes which the London Borough of Islington will be required to make in providing adult social care support as a result of the Care Bill:
- 3.4 **Wellbeing Duty:** Local Authorities will have a duty to promote an individual's well being whenever they exercise a function in Part 1 of the Bill in relation to that individual. "Well-being" includes personal dignity and respect, physical, mental and emotional well-being, protection from abuse and neglect amongst other matters.
- 3.5 **Prevention:** Local authorities will have duty to provide or arrange for the provision of services which will contribute to preventing, or reducing or delaying needs for care and support;
- 3.6 **Integration:** Local authorities will have a duty to ensure integration of care and support where that will promote wellbeing
- 3.7 **Market Development:** Local authorities will have a general duty to promote quality and diversity in the operation of a market in services for meeting care and support so as to ensure there is a range of different providers of services available, and a variety of high quality services to choose from;
- 3.8 **Information and Advice:** Local authorities will be required to establish and maintain a service for providing people in its area with information and advice relating to care and support for adults and also carers.
- 3.9 **Partnership:** The Bill sets out duties to co-operate with relevant partners who have functions relating to provision of care and support. The relevant partners must also co-operate with the local authority. There is a specific duty on the local authority to make arrangements for ensuring co-operation between adults social care, housing, public health and children's services.
- 3.10 **Minimum Eligibility:** The Bill sets a minimum national eligibility threshold for access to services. This is likely to be equivalent to the current "substantial" level.
- 3.11 **Duty to Assess:** The Bill creates a single legal basis requiring local authorities to carry out a "needs" assessment. It will replace the duty set out in section 47(1) of the National Health Service & Community Care Act 1990
- 3.12 **Carers:** For the first time carers will be recognised in the same way as those they are caring for. The new legislation will require local authorities to assess a carer's own needs for support on the same basis as they are required to assess adults with needs for care and support.
- 3.13 **Cap on care costs :** The new legislation will prevent local authorities from making a charge for meeting needs once an adult's care costs have reached the cap.
- 3.14 **Care Accounts:** To support the funding reforms and the cap on care costs system, there will be a duty on local authorities to keep an up to date record of an adult's accrued costs of care, and inform the adult once the costs exceed the cap on costs.
- 3.15 **Deferred payments:** The Bill extends deferred payment agreements to adults making their own care arrangements for care and support services which are not provided by the local authority under the legislation.
- 3.16 **Continuity of care when moving:** There will be new "continuity of care" duties imposed on local authorities to ensure that when an adult in receipt of care and support moves to another area, they will continue to receive care on the day of arrival in the new authority.
- 3.17 **Safeguarding:** The Bill specifies local authorities' duties in relation to adult safeguarding in primary legislation for the first time. It sets out the duty to undertake enquiries into cases of abuse and neglect and imposes the duty on local authorities to establish Safeguarding Adults Boards

- 3.18 The Council has been following the progress of the Bill through Parliament, and is considering the impact of the proposed changes on adult social care in Islington.
- 3.19 The Council has developed some early plans to ensure effective implementation of the requirements. Where possible, these have been incorporated into existing transformation projects for adult social care in the Moving Forward programme. Appendix 1 describes these in more detail.
- 3.20 It should be noted that further direction and guidance is being developed, and the Council will respond and further develop its plans as this becomes available. A national programme team, jointly co-ordinated by the Association of Directors of Adult Social Services (ADASS), the Local Government Association (LGA), and the Department of Health (DH), is supporting this process.

## **4. Implications**

### **4.1 Financial implications**

The Care Bill signals a fundamental change to the way in which Adult Social Care service are delivered. The main financial implications of the Care Bill for the Council is the implementation of the cap on care costs of £72k. There are further considerations around the cost of implementation and the on-going costs going forward. It is unclear what the overall financial impact for Islington Council will be as there are a number of variables, such as the level of increased demand and allocation of additional funding from central government.

The June Spending Round 2013 announced £335m in 2015/16 so that councils can prepare for reforms to the system of social care funding including the introduction of the cap of care costs from April 2016 and a universal offer of deferred payment agreements from April 2015. Of the £335m, £180m is contained within the Better Care Fund.

Islington's has been provisionally allocated £1.5m to cover the following:

- early assessment and reviews
- deferred payments (cost of administering loads and the loans themselves)
- capacity building including recruitment and training of staff
- an information campaign

Within the Better Care Fund, a further provision of £1m (£0.7m from revenue and £0.261m from capital) has been made for:

- funding for putting carers on par with users for assessments,
- implementing statutory Safeguarding Boards,
- setting national eligibility.
- capital investment, including IT systems

On 1 April 2015 deferred payments will become a statutory requirement. This scheme is already adopted in Islington, but there will potentially be an increased demand for deferred payments. This will cost approximately £090k in administration costs.

As part of the recommendations of the Care Bill a cap on care costs will be introduced in April 2016 at £72k. This means that once the care costs have reached £72k, a person will pay no more towards the cost of their care needs regardless of ability to pay. The bill will also raise the threshold of means test eligibility from £23,250 to £118,000. The on-going cost pressure from this aspect of the Care Bill is estimated at approximately £5.1m. This cost pressure will take a few years to impact, and the majority of the impact is likely to be in 2019/20. In addition to this pressure, there will also be increased on-going costs of assessment & care management for private and self-funded clients.

These reforms in social care funding will place an increased demand on council services, potentially bringing an estimated additional 25-35% of clients into the council system from the private sector.

## 4.2 Legal Implications

The Care Bill sets out a new comprehensive legal framework for the provision of adult social care. The provisions relating adult care and support are in Part 1 of the Bill. The funding reforms are contained in Part 2 of the Bill.

The Care Bill completed its committee stage at the House of Commons on 4th February 2014; the Care Bill was updated on 5th February 2014 with some important changes as agreed in the committee stage. The Care Bill has yet to complete the report stage in the House of Commons before receiving the Royal Assent. No date has been set for the report stage as yet. As such the Care Bill is not yet in its final form.

The Care Bill will receive Royal Assent on 1st April 2014, it will become law on this date but the changes will not come into effect straightaway. This will give local authorities time to make the necessary preparations to ensure they are able to fulfil the new requirements when they come into effect.

Part 1 of the Act which sets out the care and support provisions will come into effect on 1st April 2015. The funding reforms in Part 2 of the Act will come into effect in April 2016.

On 1st May 2014, consultation will begin on the draft regulations and guidance for those provisions contained in Part 1 of the Act. There is set to be many pieces of secondary legislation and guidance which will need to be reviewed as and when they are published. On 1st October 2014, these regulations will be laid before Parliament.

The Care Bill and subsequent Regulations and associated Guidance is set to change the way the Council operates in particular the Housing and Adult Social Services department; although it will also affect other Council departments.

The Legal Department are working closely with Adult Social Services Department in advising, supporting, considering legal implications and implementing the Care Bill. The Legal Department will continue to support and assist the Adult Social Services Department with implementation of the Care Bill once the Regulations, Directions and associated Guidance are published.

With all the changes proposed by the Care Bill, the Council must still have due regard to the Public Sector Equality Duty under section 149 of the Equality Act 2010.

## 4.3 Resident Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

There is no specific Resident Impact Assessment associated with this report. Resident Impact Assessments will be undertaken in relation to specific changes to the organisation of adult social care services in Islington.

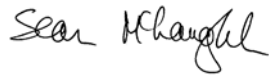
## 5 Conclusion and reasons for recommendations

- 5.1
  - The Care Bill will mark a significant change in the way adult social care is delivered.
  - The London Borough of Islington must ensure that all reasonable efforts are made to ensure the effective implementation of these changes.
  - Further guidance and direction is expected in the lead up to the implementation of the Bill in 2015.

## Appendices

- Appendix 1: Summary of key requirements of the Bill and high level action plan

### Final report clearance:



**Signed by:** Corporate Director of Housing and Adult Social Services      **Date:** 27 February 2014

**Received by:** Head of Democratic Services      **Date:**

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## Action Plan to deliver against Care Bill implications

Key implication(s)	Comments / what we will do	Where will this sit?	Timescales
<b>Prevention and integration</b>			
Local authorities will have duty to provide or arrange for the provision of services which will contribute to preventing, or reducing or delaying needs for care and support.	This is already consistent with Islington's preventative approach, with a variety of reablement and rehabilitation services provided in the borough. Islington are one of few local authorities providing support to those considered to have 'moderate' needs, which is recognised as a preventative measure. In addition, <i>Prevention</i> is a key element of Islington's Pioneer status and the on-going work with the Islington Clinical Commissioning Group (CCG).	Business as usual and integration work with CCG through Integrated Care Programme	On-going
Local authorities will have a duty to ensure integration of care and support with health where that will promote wellbeing.	This will be included in work already underway with our health partners: Whittington Health; and the Islington (CCG). Significant work has been undertaken and further work is planned to seek more localised integration of health and social care services on the ground.	Integrated Health & Social Care (Moving Forward Programme) and Integrated Care Programme with CCG.	On-going. First phase of integration expected in 2015.
<b>Market Development</b>			
Requirement to produce Market Position Statements for all client groups to better understand the needs of self-funders and to ensure the local market offers sufficient choice for people (self-funders and 'eligible' service users) to meet their needs.	This work is already underway in Islington, although is still in its early stages. An initial Market Position Statement (MPS) has been developed for older people's nursing and residential requirements. Further MPSs will be developed for other areas and work will commence this year to seek to address any imbalances identified in the local market by proactively supporting or commissioning services to ensure service users and self-funders can make personalised choices about their care and support. Although this work has commenced, it is in its early stages and it should be noted this is a significant piece of work of the coming years.	Developing the Market project within Moving Forward Programme.	Aug 2013 – Dec 2015

<b>Information and advice</b>			
Expected increase in people approaching adult social care for information and advice on local care and support services.	This will be included in work already underway within the Moving Forward Programme, to develop a new access point for adult social care and community health services. Staff in the new access point will focus solely on telephone calls and email contacts, with an increased focus on the provision of information and advice.	Independence, Choice & Support workstream in Moving Forward Programme	Jan 2013 - Mar 2015
	We are currently upgrading our on-line information portal, <i>Links for Living</i> to allow people to find local services and solutions appropriate to their needs.	Independence, Choice & Support workstream in Moving Forward Programme	Jun 2013 – Jul 2014
<b>Carer assessments</b>			
The Act will give carers more statutory rights in relation to the local authority meeting their needs as a carer. Islington already commissions a strong carers offer, but there is a risk that an increasing number of carers may approach us for assessments and subsequent support.	Islington has a proactive approach with carers. The Carers Hub, the voluntary sector commissioned provider, are working directly with GP surgeries to identify carers on their patient list. In addition, an engagement officer will be actively identifying hidden carers in other existing community hubs, particularly targeting minority ethnic groups. We will also ensure the current carers assessments are fit-for-purpose, taking into account any new requirements within the Bill.	Business as usual in short-term through Adult Social Care Commissioning teams.	On-going
<b>Cap on care costs</b>			
The council will be expected to pick up the full cost for individuals that have reached their care cap of £72,000. Although this funding will come from central government, initial figures that have been suggested are considered to be insufficient with the number of self-funders underestimated.	We will be undertaking a review of the self-funder market in Islington as part of our work on the development of Market Position Statements so we are able to fully assess the financial implications of the introduction of the cap.	Developing the Market project within Moving Forward Programme, followed by further work by Finance	Mar 2014 – Aug 2014

There is expected to be an increased pressure on London-based local authorities as residents are likely to reach the cap sooner than other areas where care and support is cheaper.	London Council's has submitted its response to Department of Health regarding funding issues and are currently awaiting a response.	N/A – await to hear outcome from DoH	Unknown at this stage
As spend on care is only counted towards the cap for individuals classed as 'eligible' for adult social care, it is anticipated that there will be a general increase in people wanting an assessment (self-funders).	Scoping work is being undertaken to identify how feasible it would be to allow individuals to complete a <b>self-assessment on-line</b> , which could reduce the number of assessments that social work staff need to carry out.	ICT workstream in Moving Forward Programme	Feasibility work to be completed by summer 2014
In addition, as spend on care is only counted towards the cap from 1 <sup>st</sup> April 2016 onwards, a spike in requests for assessments is anticipated in March and April 2016.	Depending upon the number of self-funders identified, it may be decided to <b>encourage some people to approach us for an assessment</b> of their care needs via a phased approach towards the end of 2015 and beginning of 2016 to prevent a spike in assessment requests in March and April 2016.	Independence, Choice & Support workstream in Moving Forward Programme	Will consider after implementation of new ways of working (post April 2015)
<b>Duty to hold and monitor care accounts</b>			
We will be expected to keep an up-to-date record of an individuals' total spend on their care costs so that we are aware when they reach the cap.	Care Accounts will be developed using existing software used within adult social care. This project is being monitored through the ICT Interfaces project within the Moving Forward Programme. ContrOCC Financials will be upgraded to include care accounts plus encompass other changes to calculating contributions towards care costs.	ICT workstream in Moving Forward Programme	Dec 2015
<b>Deferred payments</b>			
The requirement to place a charge against someone's capital assets should they need to go into a nursing / residential home instead of	Deferred payments are already in place in Islington. Scheme will be updated to include any changes in new guidance issued.	Already in place	N / A



requiring that individual to sell their house to pay for these costs.			
<b>Continuity of care when moving</b>			
To ensure people continue to receive the same care on the day of their move, should they decide to move from one local authority area to another.	We have been working closely with the Legal department on this, who have been involved in early consultation work to see how this will work in practice. Early guidance is being developed and we are involved in shaping this. As we learn more about the possible implications, we will commence relevant projects to prepare for these.	On-going work with Legal department	TBC
<b>Safeguarding</b>			
New specific duty to undertake enquiries into cases of abuse and neglect and to establish Safeguarding Adults Boards	Islington already has an Adult's Safeguarding Board in place with key relevant partners involved. At this stage it appears Islington already meets the new requirements.	Already in place	N / A
<b>Developing support plans and brokering services</b>			
Expectation that local authorities will broker services on behalf of people funding their own care should they request this.	It is unclear as yet whether local authorities will be able to charge for this service. We are currently in the early stages of thinking about brokerage options including the provision of impartial brokerage functions through other bodies such as voluntary sector agencies.	Developing the Market project within Moving Forward Programme	Now – Dec 2015
<b>Enabling provision of independent financial advice</b>			
Expectation that people will have access to independent financial advice.	There are national organisations like the Society of Later Life Advisors SOLLA. Locally, we need to look at how the market will develop around this. Beyond advice & information we need to do further work to identify who to refer on to for specific financial advice.	Developing the Market project within Moving Forward Programme	TBC