

Report of: Executive Member for Health and Wellbeing

Meeting of:	Date	Agenda item	Ward(s)
Health & Care Scrutiny	18 November 2014		All

Delete as appropriate	Exempt	Non-exempt

SUBJECT: IMPLEMENTATION OF THE CARE ACT 2014 IN ISLINGTON

1. Synopsis

- 1.1 The Care Act 2014 is the single biggest change to adult social care legislation in the UK since the National Assistance Act 1948. It aims to simplify a diverse range of legislation that has developed since 1948; put best practice in social care on a statutory footing; and respond to the challenge of how people plan and pay for the cost of their social care. The changes are being implemented at pace, and it is important that Islington has appropriate arrangements in place to deliver the requirements of the Act.
- 1.2 In Islington, a work programme is being led by the Service Director for Adult Social Care to ensure effective local implementation. In addition, officers are involved in regional and national activity around the implementation of the Care Act 2014.

2. Recommendations

- 2.1 Health and Care Scrutiny Committee are asked to:
- Note the approach taken in Islington to the implementation of the Care Act
 - Note the progress to date in preparing for implementation
 - Consider the risks identified.

3. Background

- 3.1 The Care Act received royal assent on 14 May 2014. The draft guidance and regulations were published for consultation in June 2014, and the consultation closed on 15 August 2014. The final guidance and regulations are expected in October 2014. The Care Act is being implemented in two distinct phases:
- 3.2 From 1st April 2015, local authorities will have a range of new duties. Details can be found in the Department of Health Fact Sheets: <https://www.gov.uk/government/publications/care-act-2014-part-1->

[factsheets](#). A summary of the key changes is also included in Appendix A. These duties include:

- The rights of carers to assessments and services will be extended and put on a similar footing to those of service users.
- Local authorities will be required to offer comprehensive information, advice and advocacy services to prospective and current users of adult social care services.
- Local authorities will need to offer advice and support to people who arrange for, and pay for, their own social care services.
- There will be a duty to ensure that health and social care support is effectively co-ordinated.
- People who own their homes will be allowed to defer paying the cost of residential care so that their homes do not need to be sold during their lifetime.
- People will have a right to a personal budget.
- Local authorities will be required to co-operate with external partners such as local NHS bodies, police and probation services, as well as internal partners, specifically including housing, children's services and public health officers.

3.3 **From 1st April 2016**, the changes to funding reforms will be implemented. These will:

- Set a limit on the total amount people will pay for their social care. The aim of this is to enable and encourage people to plan for how they will meet the cost of their social care in later life. It is expected that more people will approach local authorities for assessments at an earlier stage as a result.
- Change the capital limits on how much people can have in savings or assets before they have to contribute to the cost of their social care.

3.4 A Care Act Implementation Board has been established to ensure effective implementation of the Care Act. In many areas of work, Islington is already well-positioned. For example, the Council already offers a scheme to defer the sale of people's homes to pay for residential care during the person's lifetime. However, there are a number of other areas where a significant realignment of services is required to meet the requirements of the Care Act.

3.5 The key workstreams within the programme are:

Identification of self-funders in Islington – these are people who currently pay for their own care, but who might approach the local authority for assistance with the changes to the funding cap from 1st April 2016. It is important to understand how many people might be approaching the local authority for support so that service capacity can be planned accordingly.

Identification of additional family carers in Islington – the Care Act widens the responsibility of local authorities for carers, and increases the rights of carer to assessments and services. Islington welcomes this recognition of the vital role that family carers play in enabling people to remain living in the community, and wants to ensure that people are properly supported in this role. This workstream involves understanding how many additional carers we want to reach, and whether or not our current carers' offer needs to be developed and extended to provide this support.

Increasing our approach to prevention: The Care Act makes it a requirement for local authorities to promote the wellbeing of people who need support, and also to have a clear offer of services which support people to remain well and independent for longer, or which help people to regain independent living skills after, for example, a period of care in hospital. This workstream aims to map current prevention, and ensure that provision is adequate, and that people are effectively signposted to services which will support them.

Market Shaping: The Care Act requires local authorities to shape a market of care within their area which offers choice and quality for all services users, whether self-funders or supported directly by the Council. This includes the development of "Market Position Statements", which clearly articulate the approach the local authority is taking to ensuring this requirement is met.

Deferred Payments: Although Islington already offers a deferred payment scheme (as outlined in 3.4

above), the Council needs to ensure it is able to meet a potentially increased demand for this function. This project aims to quantify expected demand for deferred payments, and ensure that the local authority is compliant with the revised guidance once this is received.

Information, advice, and advocacy: The Care Act requires Local Authorities to provide information to people on how and where to access services, and to ensure that there is adequate access to independent financial advice services, as well as provision of advocacy support. This project includes redesigning the operating model for Islington's adult social care assessment and care management services to make sure that people can be effectively advised.

Integration: There is a requirement in the Care Act to ensure that health and care support is joined up to provide people with more seamless care. This work is being taken forward through the work of Islington's Integrated Care Pioneer.

Transition: The Act requires Local Authorities to sufficiently plan for young disabled people moving to adulthood. This co-incides with the requirements of the Children and Families Act to develop co-ordinated education, health and social care plans for people with Special Educational Needs and Disabilities (SEND).

Safeguarding: The Care Act puts adults safeguarding boards on a statutory footing, and therefore mirrors the arrangements for safeguarding childrens boards.

Prisons: The Care Act places responsibilities of local authorities to meet the social care needs of adults in prisons and approved premises (e.g. bail hostels) within their borough. This has obvious implications for Islington, which has three such premises.

- 3.6 In addition to the workstreams identified above, a number of enabling projects are also being progressed to support successful implementation of the Act. These include:

Information technology: This includes developing tools to support people in finding information and managing their care and support online where they choose to do so. It also includes ensuring that a system of "care accounts" is developed, to track the amount that people are paying towards their care in order to establish when they meet the cap on the total amount they have to contribute to their care costs.

Workforce development: Ensuring that staff are supported to deliver the Care Act. This includes training around the changes in legislation and guidance, as well as new ways of working, for example information and sign-posting.

Communications: Making sure that our residents, staff, and other key stakeholders are aware of the appropriate changes that arise due to the Care Act, and are provided with information in the right format at the right time.

- 3.7 **Governance:** These changes have to be delivered at scale and pace. A programme management approach is being used to co-ordinate this activity. Updates are provided to the Corporate Director for Housing and Adult Social Services at the Adult Social Care programme board, which is held every six weeks.
- 3.8 Whilst the final guidance is awaited, progress is necessarily more advanced in some areas than others. The local authority is required to provide regular "stocktake" updates to the joint national programme board that oversees national delivery of the Care Act. The latest stocktake for Islington is included as Appendix B.

The attention of Health and Care Scrutiny is directed to:

Modelling work around self-funders in Islington has not to date provided us with conclusive

information on the numbers of people who fund their own care arrangements. Both a local exercise and national modelling tools have been used to date, and these will be cross-referenced with a pan-London project that has just commenced. Given Islington's demographic profile, it is expected that numbers will be relatively small in comparison to outer London boroughs.

Carers: It is expected that approximately 340 additional carers will approach the Council for support in 2015/16, of which about 1/3 will need information and advice only. Service capacity now needs to be planned to ensure support is readily available.

Prevention: Work is starting in partnership with the Clinical Commissioning Group and Public Health to scope and map the preventative offer in Islington.

Market shaping: Islington is engaged in a Peer Review exercise to help the shaping of a market development strategy. The Peer Review will report its findings on 30 September 2015, and an action plan will be produced by 24 October 2014. This will be reported to Scrutiny on 18 November 2015.

Information, advice and advocacy: Islington has launched a new and refreshed version of its online information tool for adult social care, called "Links for Living". This is now available online, but is still in its development stage. This will support residents, carers, voluntary sector partners and staff in finding appropriate information and linking people into local services that will help them. In order to ensure that the appropriate range of advocacy services are available, Islington is working with the Social Care Institute of Excellence (SCIE) to trial its toolkit for commissioning advocacy services.

Prisons: further clarification has been requested from the Department of Health on the requirements on Local Authorities due to the Care Act, as the draft guidance is very general in scope. In the meantime, Islington is working closely with NHS England and the National Offender Management Service to begin to scope possible requirements that arise from needing to provide services in prisons and approved premises.

Workforce: There are a number of other areas where a significant realignment of services is required to meet the requirements of the Care Act. This includes the development of an information and advice function for adult social care that is also able to meet the needs of people who fund their own social care arrangements. It also involves the development of services that better co-ordinate the involvement of health and social care staff. Officers have been developing ideas of what a social care offer could look like to meet these requirements, including a stronger information and advice offer as part of the current Access function, and building on the care co-ordinator approach that was trialled in the "N19" pilot. This will require a comprehensive service restructure, in line with the Council's change management policy. In order to properly engage staff, trade unions, service users and carers in these changes in time for implementation in April, consultation on this redesign will begin in October 2014.

Communications: A national communications toolkit will be published in October 2014. A communications officer is working within the adult social care programme management office to develop local communications in line with these national messages. Initial communications work has already taken place with a number of stakeholders, but this will step up as the date of implementation approaches.

3.9 **Key risks:**

- a) It should be noted that there is a risk that numbers of self-funders approaching the Council for support will be greater than anticipated, which will place additional pressure on services and resources.
- b) Similarly to self-funders, there is a risk that the numbers of carers approaching the Council for support will be greater than anticipated.
- c) The cap on support is likely to begin to have an impact on Council budgets from about 2018/19. Although additional resource is being provided to support local authorities with this pressure, there is a risk that this will be insufficient to cope with the additional demand. The Association of

Directors of Adults Social Services has requested that the Department of Health asks the National Audit Office to support modelling of this impact across England and Wales.

The complete risk register for implementation of the Care Act in Islington is included as Appendix C.

4. Implications

4.1 Financial implications

Islington Council will receive New Burdens Funding for the implementation of the Care Act in 2015/16. The Department of Health are currently consulting on the proposed formulae for the distribution of funding, and this figure will be either £537k or £552 depending on the model that is agreed. This funding will cover early assessment and reviews; deferred payments (cost of administering loans and the loans themselves); capacity building including the recruitment and training of staff; and the information campaign. Islington Council will receive a further £267k to meet the responsibilities for social care in prisons that has been outlined in the Care Act.

In addition to the new burdens funding, a further provision has been made available within the Better Care Fund of £932k (£667k from revenue and £268k from capital) for putting carers on par with users for assessments; implementing statutory Safeguarding Boards; setting national eligibility; and for capital investment including IT systems.

There are risks around the proposed allocation of funding for the new burdens for adult social care. The most significant risk is that funding will not be sufficient, and the Council will have to fund the shortfall. At this stage we are still in the process of estimating the number of self funders in the borough. There has been no indication that funding will be recurrent funding, and what the future allocation will be. This has been raised with the Department of Health for further clarification.

It is unclear at this stage whether the funding for the additional assessments from the Care Act will be for financial assessments as well as care assessments. There is a risk that there is no funding for additional financial assessments, and this will result in a further cost pressure for the Council.

4.2 Legal Implications

The Care Act ("the Act") sets out a modern and cohesive legal framework for adult social care in the form of a single statute. It implements the Government's commitment to reform social care legislation in the White Paper *Caring for our future: reforming care and support (July 2012)*. The new legislation will replace much of the existing law and statutory guidance on adult social care.

The Act also implements the changes recommended by the Dilnot Commission on the Funding of Care and Support by introducing a cap on the costs that people will have to pay for care. Sections 15 and 16 of the Act allow the Secretary of State to make regulations establishing a financial limit on the amount that adults can be required to pay towards the costs of meeting their eligible needs over their lifetime. Local authorities will be prevented from making a charge for meeting needs (other than for daily living costs) once an adult's care costs have reached that limit. The cap on care costs and other funding reform provisions will not come into force until April 2016.

The care and support provisions are in Part 1 of the Act which sets out the core legal duties and powers relating to adult social care. More detailed legal requirements are contained in regulations made under the Act.

The consultation on the draft regulations and statutory guidance closed on 15 August 2014 and the final versions are expected to be published in October 2014.

The London Borough of Islington will be required to review its policies and procedures in light of the new legislation to ensure that these comply with the responsibilities set out in the Act.

4.3 Environmental Implications

There are no environmental implications.

4.4 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.

Neither the initial screening for a Resident Impact Assessment nor a full RIA has been completed because the Care Act 2014 is a legislative requirement. However all the work streams identified will consider the impact on service users as well as the service delivery individually and monitor equalities data of service users to identify if there is any effect from its implementation. .

5. Conclusion and reasons for recommendations

- 5.1 The Care Act 2014 represents a significant change in the way adult social care services are delivered and organised, and needs to be delivered at pace.
- 5.2 A programme structure has been developed to support effective implementation of the Care Act, with a number of component workstreams.
- 5.3 Some changes to the current approach might be required following publication of the final guidance and regulations for the Care Act 2014, which are expected in October 2014.

Appendices

- Appendix A: The Care Act, Key Fact Sheet
- Appendix B: Care Act Stocktake, September 2014
- Appendix C: Risk Register, October 2014

Final report clearance:

Signed by:



Executive Member for Health and Wellbeing

Date: 05 November 2014

Received by: Head of Democratic Services

Date:

Report Author: Simon Galczynski, Service Director – Adult Social Care

Tel: 020 7527 1761

Email: simon.galczynski@islington.gov.uk