

# Cabinet Meeting

## 16 September 2015

<b>Report title</b>	Care Act Implementation and Personalisation Programme	
<b>Cabinet member with lead responsibility</b>	Councillor Elias Mattu Adults	
<b>Key decision</b>	No	
<b>In forward plan</b>	No	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Tony Ivko	
<b>Originating service</b>	People Directorate: All Adult Social Care Services	
<b>Accountable employee(s)</b>	Steven Cartwright Tel Email	Business Change Manager, Projects and Programmes Team 01902 551672 steven.cartwright@wolverhampton.gov.uk
<b>Report to be/has been considered by</b>	People Directorate Leadership Team Senior Executive Board	24 August 2015 1 September 2015

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### Recommendation(s) for action or decision:

Cabinet is recommended to:

1. Review the document and comment on the future of the Care Act Programme.
2. Consider the wider impact as described in section 8.

## **1.0 Purpose**

- 1.1 The purpose of this report is to inform Cabinet about the current status of the Care Act Implementation and Personalisation Programme – with particular regard to the impact of the recent government announcement to delay the funding reforms outline in the Care Act for another four years.

## **2.0 Background**

- 2.1 The Care Act brings into a single statute all legislation on adult care and support, the government's response to the Dilnot Commission into the funding of adult care and support services, as well as the findings of the Francis Inquiry into the failings of Mid-Staffordshire Hospital. On May 14th 2014, the Care Act received its Royal Assent. This marked a significant milestone in terms of the legal framework for delivering adult social care services.
- 2.2 The Care Act seeks to reform the funding of care and support and purports to ensure that: everyone receives the care they need; more support goes to those in greatest need; there is an end to unlimited care costs; and people will be protected from having to sell their homes in their lifetime to pay for their care.
- 2.3 The Care Act reframes the current law regarding assessment for care and support, creating a single route to entitlement, introducing national minimum eligibility criteria. It puts the processes of care and support planning, and personal budgets, introduced through Transforming Social Care, on a legal footing. A single framework for charging for adult social care services has been introduced and financial assessment rules will be standardised in regulations.

## **3.0 Announcement regarding Funding Delays (July 17 2015)**

- 3.1 On 17 July 2015, the Local Government Association received a letter from the Department of Health confirming that the Government would be delaying phase two of the Care Act Implementation until 2020 at the earliest. This phase two delay includes the proposed cap on care costs, the changes to means testing for financial support and the recommendations for a new system of appeal.
- 3.2 The Dilnot recommendations for a cap on care costs were set to be introduced in April 2016. This cap was likely to be £72,000 and would have applied only to the costs of care, not including a person's daily living costs or any 'top up' fees a person may choose to pay (e.g. for a different room in a care home). Currently individuals face the risk of losing almost everything to pay for their care costs (10% of older people face care costs over £100,000) The primary objective of the cap was to provide people with financial protection from catastrophic care costs and as a result give them the peace of mind from knowing that they do not risk losing all their assets to pay for their care.

- 3.3 The funding reform recommendations also covered proposals to change the capital threshold limits. The upper limit represents the point at which a person is no longer entitled to financial support from the Local Authority to meet their care and support needs. This is currently £23,250. The proposal was that from April 2016 this would change to £118,000 for those people going into residential care and £27,000 for those receiving home-based care. This was likely to result in more people being eligible for some level of financial support from the Local Authority.
- 3.4 The proposed system of appeals involved a three-stage appeals system which would be introduced to govern challenges against local authorities' decisions by the person affected, someone acting on their behalf, with consent, or in their best interests if they lack capacity to consent, or an advocate. In the first stage – known as early resolution – a member of staff from the local authority will review the decision. Following this, the local authority would decide whether the original decision was reasonable or whether it should be amended. It would have been required to do this within 30 days of the appeal and to notify the person of the outcome and their right to an independent review.
- 3.5 The announcement also delays section 18.3 of the Care Act which places a duty on Local Authorities to meet the needs of eligible self-funders when the person asks the authority to meet the adult's needs.

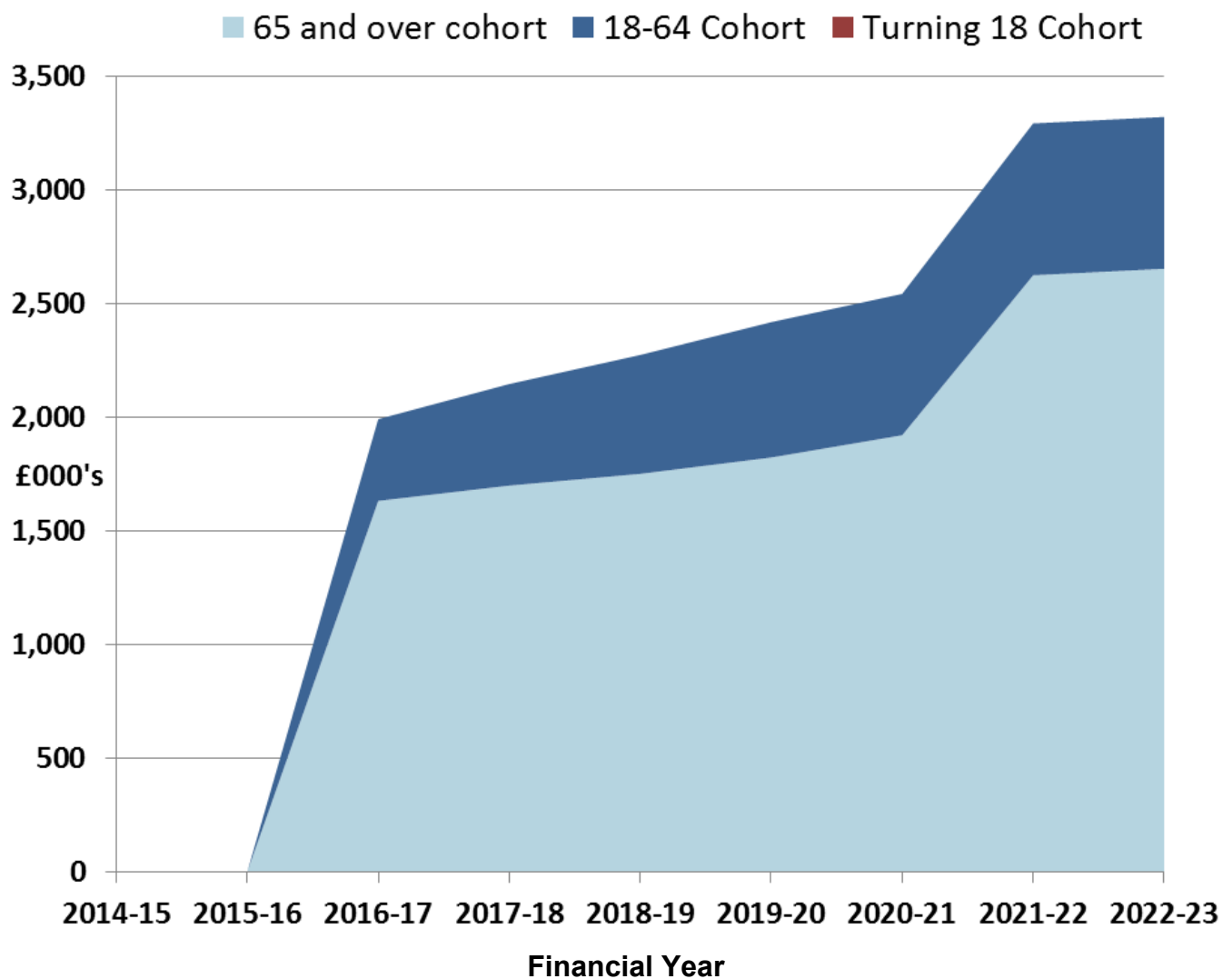
#### **4.0 Reasons given for the delay**

- 4.1 The letter from Rt Hon Alistair Burt MP, Minister of State for Community and Social Care to Izzy Secombe (Chair of the Local Government Association) outlined several key reasons why the reforms are not going ahead as planned:
- The proposals to cap care costs and create a supporting private insurance market were expected to add £6 billion to public sector spending over the next five years. "A time of consolidation is not the right moment to be implementing expensive new commitments such as this, especially when there are no indications the private insurance market will develop as expected".
  - The consultation earlier this year highlighted significant concerns about the provision to meet the eligible needs of self-funders in care homes. The extra time will enable the Government to better understand the potential impact on the care market and the interaction with the cap on care costs system.
  - The Government is reacting to concerns around the timetable for delivery of the funding reforms and has pledged to work hard to use the additional time to ensure that everyone is ready to introduce the new system.

## 5.0 Financial implications

5.1 Financial Modelling of the impact of the proposed funding reforms suggested that Wolverhampton City Council's expenditure on social care was likely to rise by £2 million in 2016-17, rising steadily to nearly £3.5 million by 2023. The changes were due to have the most significant impact on expenditure for those in the 65+ cohort, as shown below:

**Impact of changes to threshold and £72,000 cap on care costs**



5.2 A further implication of the announcement is to delay the duty on councils to meet the eligible needs of self-funders in care homes at their request. This has implications for the care provider market, and may serve to mitigate against a widely perceived risk that this aspect of the reforms may have led to a cost equalisation within the social care provider market. Providers may have reacted to the possibility of self-funders seeking to arrange

their care via Local Authorities at the lower costs that can often be achieved by local Authority commissioners.

5.3 The commitment to implementing the reforms brought with it a national financial commitment to spending reaching £2.4 billion in 2024/25 and a cost of £6 billion in total over the next five years which would have gone into the social care system. More detail about any allocations associated with Wolverhampton would have been made clearer towards the end of 2015. However, following the announcement regarding the delays, no guarantees have been given that this earmarked money will be reinvested into the social care system and the case for investment in social care will need to be made as government departments put in submissions to the Treasury as part of the Comprehensive Spending Review. (ref: Carers UK Policy Briefing Aug 2015)

5.4 Wolverhampton City Council was allocated £1.4 million of Care Act grant in 2014/15 which was made up of the following components:

- Early Assessment Revenue Grant **£632,355**
- Deferred Payment Agreement Revenue Grant **£436,664**
- Carers and Care Act Implementation Revenue Grant **£318,310**

At present (20/08/2015), a decision has been left with ministers to determine what will happen to grant allocations following the delay. Of this amount, the £632,355 labelled as Early Assessment Revenue Grant relates directly to aspects of the funding reforms proposals.

**Ref: [AS/270815/P]**

## 6.0 Implications for Wolverhampton City Council

6.1 The announcement immediately changes the future direction of the local Care Act Implementation Programme. A significant area of work in the programme during 2015-16 was due to focus on required changes to social care systems, including the following:

<b>Deliverable</b>	<b>Original Deadline for Delivery</b>
The implementation of a system that would be able to create care accounts (the functional requirement to monitor a person's progression towards the care cap).	<b>APRIL 2016</b>
Alterations to the CareFirst finance modules to reflect the new mean testing levels	<b>APRIL 2016</b>
A procedure/process for calculating independent personal budgets for self-funders.	<b>APRIL 2016</b>
A procedure for undertaking, recording and processing self-funder early assessment requests.	<b>OCTOBER 2015</b>
A new process/system to underpin the proposed appeals system.	<b>APRIL 2016</b>

6.2 A significant piece of communications work was due to commence following any confirmation that the funding reforms would go ahead as planned. The primary objective of this work was intended to raise awareness amongst Wolverhampton’s self-funders about their rights under the care act – with particular regard to the care cap, care accounts and the nature of needs assessments. Ideally, this work would have aimed to reduce the numbers of unnecessary assessments that may have had to take place should self-funders have enacted their right to an assessment without fully understanding issues around the new eligibility criteria.

## 7.0 The Local Care Act Programme

7.1 To date, the Programme has delivered against many of the key duties outlined in the Care Act Guidance. These include:

Requirement	Progress
Duty to provide universal information and advice	The Wolverhampton Information Network (WIN) was launched on 24/03/15 and contains a range of information as prescribed in the Care Act.
Duty to provide independent Advocacy	The Adult Social Care Commissioning Service have developed a contract with the provider OneVoice which is able to deliver on the requirements for independent advocacy as detailed in section 7 of the Care Act statutory guidance
Duty to provide a universal deferred payment agreements and loans scheme.	The Financial Assessment Team operating an updated deferred payment agreement scheme, with administrative processes amended to reflect new changes
Updated charging framework	Consultation has taken place and has now closed. Charging policies have been updated accordingly and are published and available on <a href="http://wolverhampton.gov.uk">wolverhampton.gov.uk</a>
Duty to ensure the provision of preventative services	WCC continues to work with a range of providers and uses internal resources to ensure that customers have access to services that can prevent, delay and/or reduce care and support needs
Duty to establish Safeguarding Adults Board	WCC has established a functioning Safeguarding Adult Board, chaired by Alan Coe.
Set up a Local Authority Designated Adult Safeguarding Manager (DASM)	The DASM role has been set up and is operating in a multi-agency environment with other DASMs from partner organisations.
Updated multi-agency safeguarding procedures for enquiries and reviews in cases of abuse and neglect	Safeguarding procedures now available to the public via <a href="http://wolverhampton.gov.uk">wolverhampton.gov.uk</a>

Duty to provide and review care and support plans	Support planning tools have been updated are staff have undertaken training in their use.
Right to direct payments	Direct Payments team have updated processes to be care act compliant
Duty to determine eligible needs	Assessment support materials have been updated and staff have been trained on the new assessment and eligibility regulations and guidance
Duty to provide carer's assessments	The Carer's Support Team are handling additional assessments. Staff have been trained on the new carer's assessment and eligibility regulations and guidance.
Publication of a market position statement to detail the care and support market in Wolverhampton and the likely changes going forward	Interim Market position statements (MPS - one for older people, one for younger adults) have been published. The Adult Social Care Commissioning Team is going to publish a single MPS in August which will have been co-produced with key partners and provider services. This statement will cover all client groups.
Published set of procedures for provider failure protocol	Protocols have been published. Another version is being produced to update the procedures in the case of the failure of a non-residential care provider (i.e. domiciliary care service)

7.2 The programme now has no remaining deadlines on the existing milestone plan. As such, the Board has taken the decision to undertake a full work-stream level review of the programme. This report will be made available to the Care Act Implementation and Personalisation Programme Board on 28 September 2015. This report will contain recommendations in regard to on-going programme governance and will identify any further objectives that will contribute to the realisation of an adult social care service which truly realises the ambitions set out in the care act.

7.3 Since April 1 2015 the programme has been effectively aligned to three key themes

- 1) Embedding the reforms
- 2) Monitoring the impact
- 3) Implementation of the 2016/17 funding reforms

As the purpose of the third theme is now delayed, the remaining work associated with the care act programme is now primarily associated with activity required to effectively embed the reforms. The programme review will also seek to establish what additional objectives (projects, Business as usual, workforce development etc.) must be undertaken in order to realise an effective realisation of the Care Act.

## **8.0 Wider Implications of the Delay**

- 8.1 Families will not receive any further protection from high costs of care or more support with the costs of paying for care. Without a £72,000 cap on care costs, families will still face the potential of limitless care costs. (ref: Carers UK Policy Briefing Aug 2015)
- 8.2 The decision to delay the extension to the upper capital limit of the means-test means that those people who would have come within the current local authority duty will remain outside it as self-funders until the extension is implemented. (ref: Carers UK Policy Briefing Aug 2015)
- 8.3 However, by incentivising self-funders to approach their local authority, the care cap and care account had the potential for local authority assessments to provide value to the consumer, allowing much better advice to be given through sound social work skills, as well as making social care needs much more visible through assessments, allowing for clearer strategic and co-ordinated planning. This would have made self-funders much more transparent to the local authority, helping to diversify the local care market, boost market provision. Without this transparency, the job of local authorities to support local self-funders will be much harder. (ref: Carers UK Policy Briefing Aug 2015)

## **9.0 Legal implications**

- 9.1 There are no immediate legal implications arising from this report. However, there remain significant legal implications to ensure that the implementation of the remainder of the Care Act fulfils all statutory requirements.  
RB/05092015/S

## **10.0 Equalities implications**

- 10.1 An Equalities Analysis was completed as part of the original Programme documentation.

## **11.0 Environmental implications**

- 11.1 There are no Environmental implications arising from this report.

## **12.0 Human resources implications**

- 12.1 There are no Human Resources implications arising from this report.

## **13.0 Corporate landlord implications**

- 13.1 There are no Corporate landlord implications arising from this report.