



Adult & Community Scrutiny Panel

8 July 2014

Report title	Care Act Implementation
Cabinet member with lead responsibility	Cllr Steve Evans
Wards affected	All
Accountable director	Sarah Norman, Community
Originating service	Transformation Programme
Accountable employee(s)	Simon Nightingale Transformation Programme Team Tel 01902 550285 Email simon.nightingale@wolverhampton.gov.uk
Report to be/has been considered by	Health and Wellbeing Board – 9 July 2014

Recommendation(s) for action or decision:

The Panel is recommended to:

1. Indicate how they wish to scrutinise the implementation of the Care Act.

Recommendations for noting:

The Panel is asked to note:

1. Note the Council's progress to date in response to implementing the Care Act.

1.0 Purpose

- 1.1 To inform members of the Health and Wellbeing Board of the work of the Care Act Implementation and Personalisation Programme Board.

2.0 Background

- 2.1 The Care and Support Bill published in July 2012 was developed into the Care Bill, which was announced in the Queen's Speech on May 9 2013 and published on 10 May 2013. It 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. The Care Act 2014 received Royal Assent on 14 May 2014.

- 2.2 The Department of Health has summarised the aims of the Care Act, it:

- ensures that people's well-being, and the outcomes which matter to them, will be at the heart of every decision that is made;
- puts carers on the same footing as those they care for;
- creates a new focus on preventing and delaying needs for care and support, rather than only intervening at crisis point;
- puts personal budgets on a legislative footing for the first time, which people will be able to receive as direct payments if they wish.
- reforms the funding system for care and support, by introducing a cap on the care costs that people will incur in their lifetime.
- will ensure that people do not have to sell their homes in their lifetime to pay for residential care, by providing for a new universal deferred payments scheme;
- provides for a single national threshold for eligibility to care and support;
- gives new guarantees to ensure continuity of care when people move between areas, to remove the fear that people will be left without the care they need;
- includes new protections to ensure that no one goes without care if their providers fails, regardless of who pays for their care;
- has new provisions to ensure that young adults are not left without care and support during their transition to the adult care and support system.

- 2.3 The main changes to the Care Bill prior to Royal Assent were:

- Right to independent advocacy for those needing most support to engage with key processes such as assessment.
- Ensure focus on prevention in assessment process by signposting to other services in the community.
- Stronger emphasis on importance of housing.
- Local authorities to take a more active role on financial advice.
- Commissioning must take account of well-being of individuals.
- New appeals system to challenge decisions.
- Secretary of State must have regard to well-being principle when issuing regulations and guidance.

2.4 The reforms within the Care Act will be implemented through:

- Primary legislation – the Care Bill
- Secondary legislation – the regulations
- Statutory guidance
- Practice guidance/implementation support

2.5 The consultation process on the [Care Act guidance and regulations](#) began on 6 June and will run until 15 August 2014. Responses under the consultation will be used to clarify and improve the guidance and regulations. The Councils' response is likely to be submitted as part of a West Midlands Regional Group.

3.0 **The Care Act Implementation and Personalisation Programme**

3.1 In response to the Care Act 2014 the Council has initiated a Programme, with a named Programme Manager, to oversee the implementation of the Act including ensuring its Personalisation agenda is aligned with the Programme objectives. The Programme utilises existing Council resources across its Directorates supported by the Community Transformation programme Team. The structure of the Programme is shown at Appendix A.

3.2 The initial workstreams established within the Programme are currently working on defining their objectives and deliverables but much of this detail will be dependent on future regulations and guidance. The structure of the Programme will need to adapt to the requirements of the regulations and guidance in that workstreams may be subject to change.

3.3 The structure includes a two way relationship between the Care Act Implementation and Personalisation Programme and the Health and Wellbeing Board. Within the Act the general wellbeing duty places the individual at the heart of any judgements and decisions about them. The wellbeing principle is intended to establish what the Law Commission called a 'single unifying purpose around which adult social care is organised'. The duty also emphasises the importance of preventing or delaying the development of needs for care and support or needs for support and the importance of reducing needs of either kind that already exist. In preventing needs for care and support the Council must provide or arrange for the provision of services, facilities or resources, or take other steps, which it considers will:

- contribute towards preventing or delaying the development by adults and carers in its area of needs for care and support;
- reduce the needs for care and support of adults and carers in its area.

This is not just about what the Council does itself, but also how it works with other local organisations to provide preventative information, build community capacity and make the most of the skills and resources already available in the area. Whilst these provisions

set out the council's duties, it is clear that 'promoting wellbeing' and 'preventing needs' are dependent on all parts of the system acting with these objectives in mind. The duty to promote integration deals explicitly with well-being and prevention.

3.4 To promote integration of care and support with health services etc. the council must exercise its functions under this Part with a view to ensuring the integration of care and support provision with health provision and health-related provision where it considers that this would:

- (a) promote the well-being of adults in its area with needs for care and support and the well-being of carers in its area,
- (b) contribute to the prevention or delay of the development by adults in its area of needs for care and support or the development by carers in its area of needs for support, or
- (c) improve the quality of care and support for adults, and of support for carers, provided in its area.

The duty to integrate also extends to some of the other general duties within the Care Act – for example, the duty to provide information and advice, the duties to assess and meet needs and the duties to co-operate generally and in specific circumstances, etc. Councils need to ensure that their operations and workforce are aligned to the promotion of well-being and prevention.

4.0 Financial implications

4.1 Implications for the Council are huge, multiple and, as yet, not fully defined. Within the Care Act Implementation and Personalisation Programme is a workstream focused on understanding the financial implications of the Care Act.

4.2 The most significant changes to be introduced by the Act from a financial perspective are the introduction of a cap on the total lifetime cost of care for any individual, anticipated to be at £72,000 for those of state pension age, and lower for working age adults (although the amount is yet to be announced), and increases in capital thresholds used in calculating client contributions. The effect of these changes is to transfer a significant portion of the total cost of care from individual care recipients to local authorities. These changes will take effect from 1 April 2016.

4.3 The Act is also expected to introduce a wide range of other changes, including a national eligibility threshold, a universal entitlement to request a deferred payment, additional assessments, and a duty on councils to provide advice and information. Most of these changes take effect from 1 April 2015. See Appendix B for a summary of changes and timescales.

4.4 The position on funding for the costs of the Care Act remains unclear. The Government has announced £335.0 million of funding nationally, as set out below. It is not clear how much of this will be 'new money'.

- £145.0 million for early assessments and reviews.

- £110.0 million for deferred payment (cost of administering the loans and the loans themselves).
- £20.0 million for capacity building including recruitment and training of staff.
- £10.0 million for an information campaign.
- £50.0 million for capital investment, including IT systems (which sits in the Better Care Fund).

4.5 For the costs arising in 2015/16, funding has effectively been taken from Wolverhampton's Better Care Fund allocation (£989,000). A breakdown of this £989,000 is provided at Appendix C (these are Government estimates of the cost to the council, and it should be noted that they include a deduction of £71,000 for 'savings from staff time and reduced complaints and litigation').

4.6 One-off funding has been announced (4 June 2014) by the Minister of State of £125,000 to each local authority in England to provide adequate provision for programme management to implement the requirements of the Care Act.

[AS/30062014/A]

5.0 Scrutiny

5.1 The Panel are requested to provide indication of how they want to scrutinise the Care Act implementation. These could include:

- Staffing and workforce development
- How do we engage with communities and what is the impact on the public?
- Market development of services
- Legal compliance

6.0 Legal implications

6.1 The Care Act will change the legislative framework for care, as outlined above. In particular the legislation will have a major impact on local authorities in relation to their adult social care responsibilities. The Care Act places new duties and responsibilities on local authorities as well as extending existing responsibilities. The Act also seeks to introduce new regulations in relation to people's eligibility for care and support services, and in changing the existing charging regimes. RB/27062014/K

7.0 Equalities implications

7.1 This report has no equalities implications. The wider Care Act work, including the implementation of the changes, will require an equality analysis in due course.

8.0 Environmental implications

8.1 No direct implications at this stage.

9.0 Human resources implications

9.1 No direct implications at this stage.

10.0 Corporate landlord implications

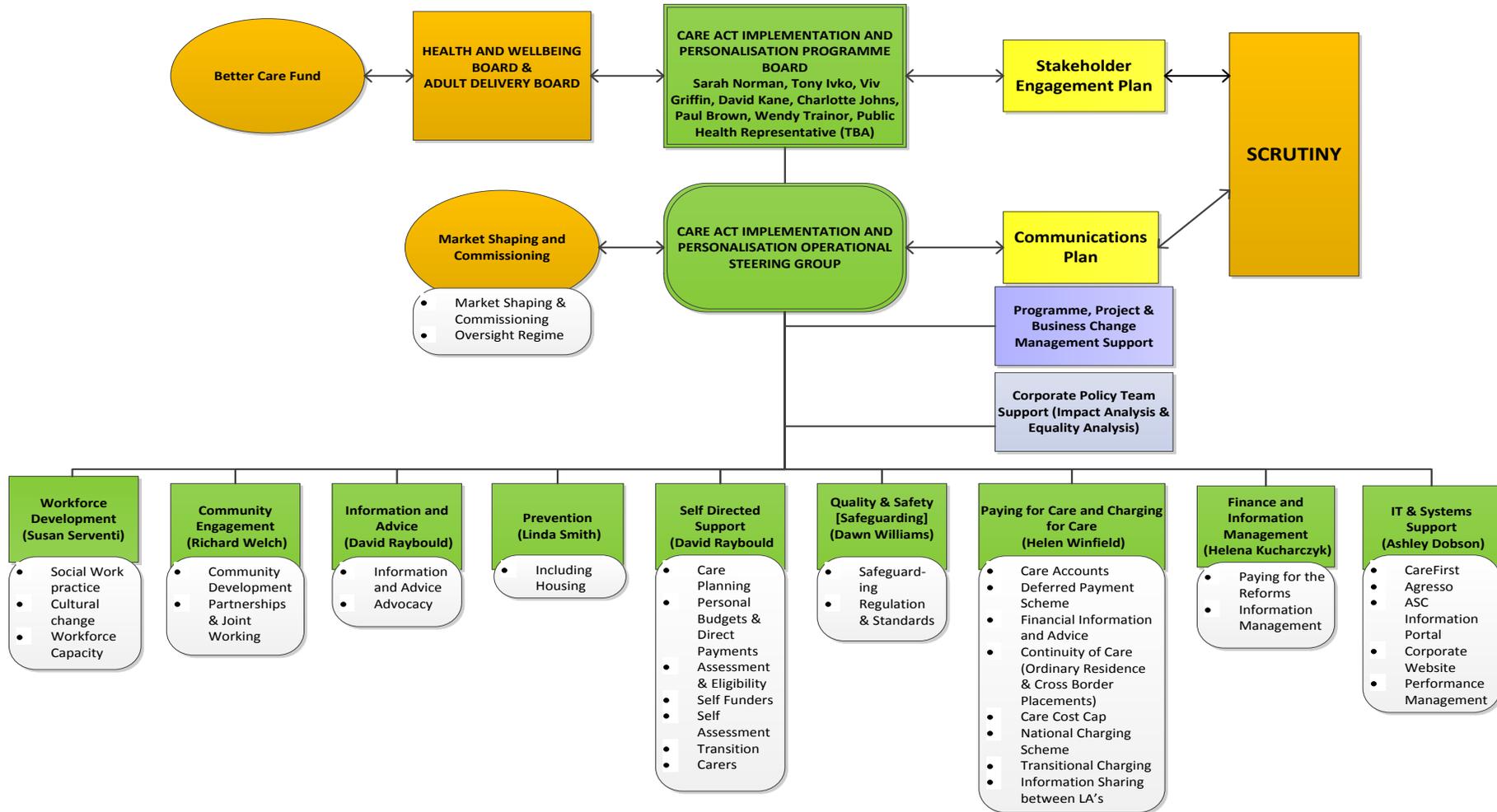
10.1 No direct implications at this stage.

11.0 Schedule of background papers

11.1 References:

- Care Act Briefing Note – Executive Team 25 June 2014

CARE ACT IMPLEMENTATION AND PERSONALISATION PROGRAMME – GOVERNANCE @ MARCH 2014 (Version 3)



Care Act Implementation and Personalisation Programme – Key Events Timeline

****New in Law and Practice - Will have an impact on Local Authorities****

Area	01/04/2015 Care Act Provisions in Force (excl. Funding Reforms)	01/04/2016 Care Act Provisions in Force (inc. Funding Reforms)
Information and Advice	Duty to provide universal information and advice service Duty to provide an independent advocacy	
Legislation, Governance and Law Reform	Care Bill Provisions in Force (excl. Funding Reforms) Statutory Wellbeing Principle Duties and powers to meet needs Power to delegate provision Delayed Discharge provisions Mental Health after care Duty to promote integration Duty to co-operate Duty to maintain sight register Clarification re. care and support for people in prison and bail accommodation	
Paying for Care and Charging for Care	Universal Deferred payment agreements and loans to be available Charging Framework (regulations and guidance in force) Power to charge for care and support Duty to carry out financial assessment Recovery of charges, transfer of assets Right to choice of accommodation and extension to provision of top-up payments	Cap on Care Costs in Effect Duty to Provide Care Accounts Duty to provide independent personal budgets
Prevention	Duty to ensure the provision of preventative services	
Quality and Safety	Statutory Duty to establish Safeguarding Adults Board Responsibility to ensure enquiries into cases of abuse and neglect Information Sharing Protocols	
Care Planning & Personalisation	Duty to provide and review care and support plan in force Right to Direct Payments (inc. for authorised persons) Personal Budgets (as defined) Expanded scope of ordinary residence principle New arrangements in place to make placements in DA's	
Assessment and Eligibility	Duty to determine eligible needs Duty to conduct needs assessment Duty to provide continuity of care Legal duty on transition assessments Duty to provide carers' assessments in force Duty to meet carers' needs	
Care Markets	Duties on market shaping in force Duties in case of provider failure	

APPENDIX C

		W'ton allocation, £000
Care Bill implementation funding in the Better Care Fund (£135m nationally)		
Personalisation	<i>Create greater incentives for employment for disabled adults in residential care</i>	16
Carers	<i>Put carers on a par with users for assessment.</i>	86
	<i>Introduce a new duty to provide support for carers</i>	172
Information advice and support	<i>Link LA information portals to national portal</i>	0
	<i>Advice and support to access and plan care, including rights to advocacy</i>	129
Quality	<i>Provider quality profiles</i>	26
Safe-guarding	<i>Implement statutory Safeguarding Adults Boards</i>	42
	<i>Set a national minimum eligibility threshold at substantial</i>	208
Assessment & eligibility	<i>Ensure councils provide continuity of care for people moving into their areas until reassessment</i>	23
	<i>Clarify responsibility for assessment and provision of social care in prisons</i>	34
Veterans	<i>Disregard of armed forces GIPs from financial assessment</i>	13
Law reform	<i>Training social care staff in the new legal framework</i>	24
	<i>Savings from staff time and reduced complaints and litigation</i>	-71
Total		702
IT	Capital investment funding including IT systems (£50m nationally)	287
Grand Total		989