



London Borough of Hammersmith & Fulham

HOUSING HEALTH & ADULT SOCIAL CARE SELECT COMMITTEE

19 FEBRUARY 2014

CARE BILL: PROGRESS AND UPDATE ON IMPLICATIONS

Report of the Tri-borough Director of Adult Social Care

Open Report

Classification: For Information

Key Decision: No

Wards Affected: All

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1. EXECUTIVE SUMMARY

- 1.1 This report sets out the background to the Care Bill which was introduced into the House of Lords in May 2013 and summarises the potential financial impact upon the London Borough of Hammersmith and Fulham.

2. RECOMMENDATIONS

- 2.1 For the Committee to note the potential financial impact of the Care Bill upon LBHF and the steps currently in place across the Tri-borough Adult Social Care team to model and understand these changes.

3. INTRODUCTION AND BACKGROUND

- 3.1 The Care Bill was introduced into the House of Lords in May 2013 and takes forward a number of separate Government commitments around social care, including:
- A full review of adults' legislation (consolidating over a dozen pieces of legislation pertaining to adult services within a single modern law);
 - Driving up the quality of care following the findings of the Francis Inquiry (Mid Staffordshire NHS Foundation Trust) which identified failures across the health and care system;
 - Delivering commitments made in the "Caring for our future: reforming care and support" White Paper to put in place a modern care system that enables people to prevent and postpone the need for care and support;
 - Strengthening the rights for carers to access support;
 - Introducing a new adult safeguarding framework; and
 - Taking forward recommendations made by the Dilnot Commission (on the funding of care and support) to introduce a cap on the costs that people will have to pay for care in their future.

- 3.2 There is a National Programme Office managing these reforms which includes membership from the Local Government Association, the Department of Health and the Association of Directors of Adult Social Services (ADASS). The Executive Director of Tri-borough Adult Social Care is linked into this National Programme office as well as the National Health Task Transformation Group.

4. PROPOSAL AND ISSUES

- 4.1 The Care Bill, if enacted, will implement the following key changes to the current care and support system:

a.) Introduce a financial cap on the costs that people have to pay to meet their eligible needs (from April 2016).

This cap will be set at £72,000. Local Authorities will have a duty to carry out a needs assessment in order to determine an adult's care and support needs. After the assessment, the local authority will then determine whether the person is eligible for support using the criteria. The Bill introduces a new national eligibility framework, which will be set out in regulations and will commence in April 2015.

b.) To ensure that financial support is provided to more people to help them with care home costs (from April 2016).

For adults in residential care, the upper capital threshold for means tested support will be increased to £118,000 except where a property is disregarded in the financial assessment. Where a property is disregarded in the financial assessment the threshold will be £27,000. The current threshold is £23,250.

c) Introduce, nationally, the option to defer paying for care costs (from April 2015)

This would allow people to defer paying for the cost of their care until after their death, so that people do not have to sell their home in their lifetime to pay for residential care

d.) Ensure people in care homes remain responsible for their living costs if they can afford to pay them.

A personal contribution to living costs of around £12,000 a year will be introduced from (April 2016). This will not count towards the cap.

Summary of the potential financial impact of these changes on the London Borough of Hammersmith and Fulham

- 4.2 The reforms to adult social care, in particular the way the care system is funded, will result in a significant increase in the cost of care provision.
- 4.3 Under the new burdens principle, Central Government is expected to provide funding to meet any increased costs on local authorities arising from legislative or policy changes. However, the detail of how the reforms will be financed in practice is still not clear. Some of the changes proposed, for example the new requirements around deferred payments, may have particular implications for local resources which will need to be managed. Recent planning guidance published by NHS England revealed that Councils would be expected to use £185m of the £3.8bn Better Care Fund to cover the cost of new responsibilities created by the Care Bill.
- 4.4 Simulation events have been undertaken nationally to assist in modelling the impact of these reforms. Some analysis and modelling has also been undertaken locally in order to begin to arrive at some early estimates of the likely impact upon the Tri-borough. It is important to note that modelling the impact of these reforms is challenging due to the large number of variables and 'unknowns' Therefore these estimates should be treated with caution, particularly in relation to self funders where we have had to replicate national

methodologies, and the cost may well be covered by additional funding from central government. However, this modelling can be used to provide an indication of the likely scale and extent of the financial impact of the Care Bill proposals.

Cap on Care Costs

- 4.5 The care bill introduces a cap on the costs that people will have to pay to meet their eligible care needs. The cap will be set at £72,000 in April 2016 for people of state pension age and over. There are residents who at present pay for and arrange their own care (described as self funders). These self funders will be incentivised to contact the local authority in order to benefit from the cap and the financial protection it offers. For self funders aged 65 and over who reach the care cap the additional cost for LBHF in 2019/20 (year 4) is estimated to be in the region of £0.65 - £1.29 million.
- 4.6 Local authority service users aged 65 and over who contribute to their care are also set to benefit from the cap. By 2019/20 (year 4) the annual cost to LBHF is estimated to be in the region of £0.15 million. It is important to note that there will also be cost implications for persons aged under 65 in relation to the cap on care costs. However, we have not been able to estimate the costs of this as we do not yet know what the lower cap will be.

Means tested financial support

- 4.7 The Bill proposes to extend the means tested financial support people receive from local authorities to help them with care costs. The lower threshold for means tested support is set to increase from £14,250 to £17,000. If a person's assets are below £17,000 then they will only contribute their income towards the cost of meeting their eligible needs. The upper means-tested threshold is set to increase from £23,250 to £118,000 where property is included in the financial assessment and £27,000 where no property is included. The increase in the upper means tested threshold for those in residential care, who have not had their property disregarded in their financial assessment, has been partially 'costed'. The annual cost across in LBHF is estimated to be nearly £0.16 million in 2016/17 (year 1). There will an additional financial impact from persons who become eligible but are not currently known to the local authority.

Assessments

- 4.8 We are expecting to see an increase in the number of assessments we are required to undertake locally. These additional assessments will comprise of carers' assessments and assessments of self funders aged 65 and over. The cost of carrying out the additional assessments required, if current practices remain, could be between £0.2 and £0.4 million in 2016/2017 (year 1) for LBHF. This is if all self funders present for assessment in the first year.

Other

- 4.9 There will be additional financial pressures facing the Tri-borough prior to 2016/17 and post year 1 as a result of delivering the changes required by the Bill. These additional pressures include, but are not limited to, resourcing increased challenges and complaints, increased demand for information and advice, managing Care Accounts and additional demands upon front line and back office staff.
- 4.10 A summary table of the predicted financial impact of the Care Bill in LBHF is attached as Appendix A.
- 4.11 It is also worth noting that the national simulation events have indicated a potential widening of the current Fair Access to Care Services (FACS) system. FACS applies to all local authorities in England and is used to decide how much support people with social care needs can expect. There are four bandings within the FACS system: critical needs, substantial needs, moderate needs, low needs. The national simulation events have indicated that the system could potentially be widened to require support to be provided to those with moderate needs. This will have a major resource impact on Hammersmith and Fulham and Westminster City Council who do not currently provide support to all those with moderate care needs.

Key messages from the Tri-borough consultation response

- 4.12 In July 2013, the Government published the consultation document, "Caring for our future: reforming what and how people pay for their care and support". This looked at some detail about how the proposed changes to the funding system should happen and be organised locally.
- 4.13 The Executive Director of Tri-borough Adult Social Care submitted a tri-borough response to this consultation on 25th October 2013. This was informed by the Tri-borough team and Cabinet Members from all three boroughs.
- 4.14 The consultation response makes it clear that the introduction of a capped care system and raising the eligibility threshold will have significant costs both in terms of preparation and implementation. We also stressed that the funding identified by the Government so far for preparation and implementation of the Bill's reforms is not sufficient to fund these cost pressures fully.
- 4.15 The response set out some of the difficulties that local areas face in predicting the numbers of self funders who may benefit from the cap. We expect this to lead to an increase in assessments, reviews, and case management for self funders which will require careful management of resources by local authorities. As such it is important that we are provided with as much information and time as possible to prepare for this.
- 4.16 Our consultation response also considered the potential difficulties that local areas may face in implementing the reforms around deferred payments. We believe that we could see a significant increase in the number of people

wishing to take out a deferred payment. This will have a clear financial impact on local authorities particularly in relation to managing cash flow and in ensuring we can effectively manage our budgets year on year. We stressed the need for Central Government to give thought as to how the potential financial, budgeting and accounting implications of deferred payments can be managed by local authorities.

Current position of the Care Bill

- 4.17 The Care Bill is in the process of being considered by Parliament. As such, changes to the legislation can be expected.
- 4.18 During the Bill's passage through the House of Lords, a number of amendments were made to the Bill which could have considerable impact on how the reforms are implemented. Some amendments could also impact on other local authority departments. These changes included:
- Placing a requirement on local authorities to consider housing when promoting the integration of care and support within health services.
 - Placing a requirement on local authorities to consider whether universal services may be available locally which benefit a person being cared for as well as carers, children, child carers and young carers.
 - Placing a requirement on local authorities to maintain a relationship with a person they have cared for who moves out of the borough. This is so that they are aware of the services that the second authority is putting in place for that care recipient.
 - Introducing a new statutory duty of candour, requiring registered providers of health and adult social care to be open about failings in care.
 - Giving the Care Quality Commission new powers to undertake a special review of local authority commissioning of adult social services in cases of systematic failure.
- 4.19 It is also worth noting that during debates in the House of Lords, the Government suggested that there may be movement on the proposed eligibility criteria for a deferred payment option. The threshold is currently proposed to be set at £23,250, so that only those with non-housing assets less than £23,250 would be eligible for the deferred payment scheme. The Government has suggested that this could be changed to bring it in line with the cap on care costs. This would mean that we could expect to see more people take advantage of the deferred payment scheme with an increase to the financial risks around deferred payments that have already been identified in this paper.

4.20 The Care Bill has now been introduced into the House of Commons and is at the Public Bill Committee Stage which is expected to report by 4th February 2014.

4.21 *Children and Families Bill*

The Children and Families Bill is also currently progressing through Parliament and is at report stage in the House of Lords. On the 18th November 2013 the House of Lords agreed an amendment to this Bill that would give stronger rights to assessment and support to younger carers by:

- Extending the right to an assessment of need to all young carers, regardless of who they care for, what type of care they provide or how often they provide it.
- Enabling local authorities to align the assessment of a young carer with the assessment of an adult whom they care for.

It is hoped that this will prevent young carers from falling through the potential gap between children and adult support services.

4.22 The Children and Families Bill is likely to become law in March 2014 with the new law for young carers being implemented in 2015.

5. OPTIONS AND ANALYSIS OF OPTIONS

Next Steps

5.1 A small project team in Adult Social Care has been working on predicting and forecasting the potential changes and implications of the Care Bill as it progresses through Parliament since November 2013.

A project board and working group will be established to manage these changes.

5.2 We will provide further updates as this work develops. However, we will not be in a position to provide fully assured detail on the impact of these changes until the Bill receives Royal Assent. We anticipate that the bill will receive Royal Assent by May 2014.

5.3 Councils will be expected to use £185m of the £3.8bn Better Care Fund to cover the cost of new responsibilities created by the Care Bill. We will be working with Health colleagues on the detail of the final Better Care Fund application over the next few months.

6. CONSULTATION

6.1. N/A

7. EQUALITY IMPLICATIONS

7.1. N/A

8. LEGAL IMPLICATIONS

8.1. The Care Bill is currently still in the progress of passing through the House of Commons. The Bill will not become law until it receives Royal Assent.

9. FINANCIAL AND RESOURCES IMPLICATIONS

9.1 A summary table of the predicted financial impact of the Care Bill in LBHF is attached as Appendix A.

10. RISK MANAGEMENT

10.1. N/A

11. PROCUREMENT AND IT STRATEGY IMPLICATIONS

11.1. N/A

LOCAL GOVERNMENT ACT 2000 **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	None		

Summary Reference Table: Partial Estimates for the Financial Impact of the Care Bill - LBHF

APPENDIX A

Area of Impact	Pre Bill 2015/16	Yr1 2016/17	Yr2 2017/18	Yr3 2018/19	Yr4 2019/2020
<p>£ Estimated: Impact of £118k upper threshold on service users</p> <p>£ Uncosted: Impact on self funders.</p> <p>Assessed Cost: MEDIUM (All ages)</p>		£159,771 in Year 1 (Year 2 onwards – not modelled)			
<p>£ Estimated: Impact of care cap re existing service users</p> <p>Assessed Cost: MEDIUM (for persons aged 65 and over only)</p>			£0	£0	£156,000
<p>£ Estimated: Impact of care cap in relation to 'self funders'</p> <p>Assessed Cost: HIGH (for persons aged 65 and over only)</p>		Minimal. Only self funders with large home care packages (e.g. 40 hour per week) or in Learning Disability specialist care homes would reach the cap before Year 4.			£651,000 - £1,294,000
<p>£ Estimated: Infrastructure to deliver changes – Assessments and Reviews</p> <p>Assessed Cost: MEDIUM (All ages)</p>	Only if it is decided to complete some assessments pre Bill.	Carers Assessments: £110,000 to £140,000 spread over 4 years Self Funder Assessment: £214,500 to £426,000 in Year 1 (Year 2 onwards and reviews- not modelled)			
<p>£ Uncosted: Infrastructure to deliver changes – Increase Challenges & Complaints, Demand for Information & Advice, Care Accounts and increase demands upon staffing.</p>	Increased provision of information and advice will need to commence pre cap. A strategy for managing increased challenges and complaints and a tested system for managing Care Accounts will need to be ready for the 1st day of Year 1. Care Accounts will need to be managed by the local authority and there are also likely to be increased demands upon front line and back office staffing functions.				