


<p align="center">London Borough of Hammersmith & Fulham</p> <p align="center">HEALTH, ADULT SOCIAL CARE AND SOCIAL INCLUSION POLICY & ACCOUNTABILITY COMMITTEE</p> <p align="center">2nd February 2016</p>	
<p>CARE ACT UPDATE</p>	
<p>Report of the Executive Director of Adult Social Care and Health</p>	
<p>Open Report</p>	
<p>Classification - For Decision / For Information/For Policy & Accountability Review & Comment</p> <p>Key Decision: No</p>	
<p>Wards Affected: All</p>	
<p>Accountable Executive Director: Liz Bruce, Executive Director Adult Social Care and Health</p>	
<p>Report Author: David Evans/Martin Calleja</p>	<p>Contact Details: Tel: 020 8753 2154 E-mail: david.evans@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1. This report provides an update on the impact of the Care Act 2014 following the introduction of Part 1 of the Act in April 2015. The report is based on a statutory stock take return to the Department of Health covering the period 1st April 2015 – September 2015.
- 1.2. The committee is advised no compliance issues associated with meeting Part 1 requirements have emerged since the changes went live. There are emerging considerations regarding demand and costs, particularly with regards to meeting carers requirements and implementation of the national eligibility standard. However it is too early to draw any firm conclusions and there are a range of other factors that need to be taken into consideration including increasing demand associated with an ageing population. It is expected that the impact of the Care Act 2014 on demand and costs for 2015/16 will be contained within the provisions made by the Care Act grant and contribution from the Better Care Fund.

2. RECOMMENDATIONS

- 2.1. Continued monitoring of the impact of Part 1 of the Care Act Grant will be undertaken and aligned to the wider service improvement planning and budget management processes that are Corporate requirements of the Council.
- 2.2. Following successful delivery of the Care Act, the implementation programme which was closed in October 2015. Work has continued to consolidate and bed down requirements through business as usual service delivery.

3. REASONS FOR DECISION

- 3.1. This is an information report.

4. INTRODUCTION AND BACKGROUND

- 4.1. The Care Act 2014 was recognised as the most substantial change to the delivery of adult social care (ASC) for a generation. The Act provides a unified legal framework for the delivery and development of adult social care services. Part 1 became a legal requirement on 1st April 2015.
- 4.2. Part 2 committed to establishing a national cap on long term care charges and a national system for appeals. It was announced by government in 2015 that Part 2 would be delayed until 2020, due to increasing pressures on the health and social care systems being felt.

5. KEY PART 1 PROVISIONS AND IMPLEMENTATION OF THE CARE ACT

- 5.1. The key provisions of Part 1 of the Care Act include:
 - Universal duty to promote well-being.
 - New rights to an assessment and an advocate.
 - National eligibility system with needs and outcomes for prevention, care and support to be catered for.
 - Carers given the same rights as adults with care and support needs.
 - Independent personal budgets and offering deferred payments for care are to be offered as standard.
 - Scope of safeguarding responsibilities extended.
 - Exacting standards for information and advice (to be delivered in partnership with health and housing) and for hospital discharge and reablement management.
 - New duties for work with providers (candour, human rights and provider failure).
 - Duties for market management strengthened.
 - Duty to promote and develop an integrated health and social care service system.
- 5.2. Part 1 was successfully implemented with all the requirements met to the 1st April 2015 deadline. The programme was closed in October 2015, although a

plan to consolidate work is in place and is being delivered. A key achievement was the involvement of staff from all service areas and levels as Change Champions.

- 5.3 The department has three core transformation programmes that have inter-dependencies with this consolidation work. These programmes are; the Customer Journey Programme, Commissioning Strategy and Savings Programme and Whole Systems Integration Programme.
- 5.4 Part 2 of the Act included provisions for social care funding reform which include:
- Introduction of a cap on the costs of care to meet eligible care needs which an individual is liable to pay.
 - Changes which would have made the capital limits, which set the means test of who can receive support with the costs of paying for care, more generous.
- 5.5 Part 2 was originally due for implementation for April 2016, however, the government announced in Summer 2015 that it would be delaying the implementation of Part 2 until April 2020 due to increasing pressures on the health and social care system being felt.

6. IMPACT TO DATE

6.1 Detail of the impact is required by the Department of Health on a quarterly basis with the last verified return provided in November 2015 and covering the period 1st April 2015 – 30th September 2015. The following summary also considers experience from services working on the ground including a view of customers' priorities.

6.2 National Eligibility Standard - Adults.

- 6.2.1 The Care Act set a national minimum standard for providing care and support services to adults with a physical or mental impairment or illness.
- 6.2.2 Services must be provided when two or more outcomes could not be achieved from ten key areas and not providing a service would have a significant impact on well-being. The key areas are; nutrition, personal hygiene, toileting needs, appropriate clothing, home safety, habitable home, maintaining family and personal relationships, work, training and educational, making use of community facilities and meeting caring responsibilities for a child.
- 6.2.3 Compared to the local Fair Access to Care eligibility system that was in place prior to 1st April 2015, the Care Act both extended the scope of outcomes that must be catered for in a standardised way and provided new and detailed guidance on the key issue of when personal care must be provided.
- 6.2.5 The Care Act does not appear to have made substantial impact to levels of assessment or eligibility levels although conclusions cannot be drawn at this

point. Particular scrutiny of low level home care packages is taking place as this shows a moderate level of increase through the first 6 months of the year followed by a reduction through Q3. This may be associated with the impact of the Care Act in the first instance, when care managers were getting to grips with the new eligibility system, followed by efforts to make more consistent judgements against the new system. This is being scrutinised further.

6.2.6 In terms of the wider view from practice on the ground, considering customers priorities, the following key points are highlighted.

- The Care Act has brought prevention to the heart of care planning.
- Helps customers to understand what is on offer in terms of their needs and the outcomes they want to achieve.
- Meeting requirements requires continuity of a portfolio of prevention services.
- There remains the need for social care professionals, working closely with customers, to make a judgement call in many cases.

6.3 **National Eligibility Standard - Carers**

6.3.1 The Care Act also sets a national minimum standard for providing care and support services to adults with a caring role.

6.3.2 Services must be provided when any outcomes could not be achieved from eight key areas and not providing a service would have a significant impact on well-being. The outcomes are; meeting caring responsibilities for a child, providing care to other persons nutrition, habitable home, maintaining family and personal relationships, work, training and education, making use of community facilities and recreation.

6.3.3 The Care Act requires that carers needs are assessed independently of the adult that they care for and shifts the emphasis of the support that is provided from one that allows those under great strain to cope to achieve a quality life.

6.3.4 There have more in-depth standard of assessment required under the Care Act and application of the eligibility standard. There has been a significant increase in the level of eligibility following assessment.

6.3.5 The assessment process has been streamlined so that it could be undertaken quicker whilst still meeting requirements. This new streamlined process went live in November 2015 and is supporting a focused effort to improve performance in this area.

6.4 **Advocacy**

6.4.1 98 customers were provided with access to an independent advocate since 1st April 2015. This is a new form of advocacy service to address difficulties in involvement and where an appropriate adult is not available to provide the support that is needed.

6.4.2 In terms of the wider view from practice on the ground and considering customers priorities the following key points are highlighted;

- It is important that advocates are not a substitute for good customer care and taking all reasonable steps to satisfy the customer and manage their expectations
- Overall facilitation of an advocate has been a useful contribution for both staff and customers.
- Understanding the role of the advocate (what they can and cannot do) and building trust are key priorities for customers.

6.5 **Safeguarding**

6.5.1 The Care Act strengthens the role and requirements of the local Safeguarding Adults Boards and extended the scope of what must be managed within the strong framework for safeguarding management in the borough e.g. self-neglect and domestic violence have been brought into framework.

6.5.2 There has been a 17% increase in safeguarding enquiries in the first half of the year compared to the level made in 2014/15. This was anticipated as a potential scenario given the extended definition and ongoing efforts to encourage reports and improve recording and categorisation. The quality of work undertaken in this area is supported by a robust management framework which includes close partnership working and a well planned approach to meeting the extended definition.

6.6 **Deferred Payments**

6.6.1 The Care Act 2014 requires local authorities to offer Deferred Payments Agreements to allow persons to defer the sale of their home where it is needed to fund care home fees. Whilst this flexibility was previously offered on a discretionary basis the Care Act required it to be offered as a statutory standard.

6.6.2 The Council already offered deferred payments prior to the Care Act 2014 with a limited take up. The introduction of the Act has made no substantial difference to uptake.

7. **CONCLUSIONS**

7.1. The overall impact of the Care Act for staff and customers has been a positive one.

7.2. The impact on activity and demand is not year clear and it is early days. Impact needs to be considered carefully with other dynamics which both push up

demand (e.g. an ageing population) and are working to reduce it (the delivery of services which aim to prevent or delay the need for long term care).

- 7.3. There is some evidence that implementation of the Care Act locally may now be driving up levels of eligibility for adults and carers. This requires further analysis and close monitoring.
- 7.4. Mid-year measures provide a limited picture, particularly where work is taking place to improve performance on services to carers.
- 7.5. Increased costs and demand are catered for through specific funding streams and demands and costs could increase in the future.

8. CONSULTATION

- 8.1. A wide range of communications and consultation with customers, residents and partners was undertaken through the Care Act Implementation Programme that was delivered up to October 2015. Care Act considerations continue to inform ongoing activity.

9. EQUALITY IMPLICATIONS

- 9.1. The Care Act 2014 is a statutory requirement that ratifies requirements of the Equality Act 2010 as relates to the delivery of adult social care services. Key aspects highlighted include the need to make reasonable adjustments so that information and advice is accessible and in the commissioning and provision of care and support services and data collection. This is core business for the Adult Social Care Department.

10. LEGAL IMPLICATIONS

- 10.1 As indicated in paragraph 4 above the Care Act 2014, Part 1 of which came into force on 1st April 2015, was a momentous change in the law relating to adult social care. However although the Care Act 2014 included new provisions, many of the requirements consolidated good practice which was already part of the operating framework.
- 10.2 Legal Services worked closely with Adult Social Care throughout the implementation programme so that the Council was best placed to face the challenge posed by the introduction of the Care Act. Legal Services continues to work closely with Adult Social Care, providing advice and support generally, and in particular in respect of potential legal challenges.
- 10.3 Case law will develop and will be closely monitored as it may require changes to practice and decision making. However very little case law has been created in the first 9 months under the Care Act.
- 10.4 The Council has faced surprisingly few pre-action letters threatening judicial review, and no actual judicial review applications as yet. This is consistent with the feedback at the Bimonthly meeting of the London Care Act Lawyers Group. It

is unlikely that this period of relative calm will continue indefinitely and those attending the London Care Act Lawyers Group all anticipate more activity in respect of case law nationally and legal challenges for each borough.

10.5 Implications verified by Kevin Beale, Principal Social Care lawyer, 0208 753 2740.

11. FINANCIAL AND RESOURCES IMPLICATIONS

11.1. The additional requirements of the Care Act 2014 represent a major risk to increased demand and costs. This risk is being catered for by undertaking analysis of potential costs, careful tracking, continued focus on delivering savings through transformation and making use of the Care Act Grant allocated by the Department of Health of £840,000 for 2015/16.

11.2. The Care Act Grant allocation is now included in the Revenue Support Grant. This grant/allocation, along with work to align the Department's Better Care Fund plan to support delivery in this area, is expected to meet the additional burdens of the Care Act during 2015/16 and 2016/17.

11.3. Implications verified/completed by: (Rachel Wigley, Tri-borough Director of Finance, Adult Social Care) .

12. IMPLICATIONS FOR BUSINESS

12.1 Providers of care and support services in the Borough must comply with a range of requirements as set out in the Act including a duty of candour as set out in 5.1.

13. RISK MANAGEMENT

13.1 This is an information report.

14. PROCUREMENT AND IT STRATEGY IMPLICATIONS

14.1 This is an information report.

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.	ASC Department Implementing the Care Act Programme Closure Report October 2015	Martin Calleja, Head of Transformation, ASC	ASC Department Town Hall Annex
2	Q2 Care Act Stocktake return to	Martin Calleja, Head of	ASC

	the Department of Health, November 2015	Transformation, ASC	Department Town Hall Annex
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