



City of Westminster Cabinet Member Report

Meeting	Westminster City Council Cabinet
Date:	13th October 2014
Classification:	General Release
Title:	Care Act: Progress and Implications
Wards Affected:	All
Better City, Better Lives Summary	Effective implementation of the Care Act will contribute to Better City, Better Lives by delivering reforms that ensure adult care and support helps people to achieve the outcomes that matter to them in their life.
Key Decision:	This is not a Key Decision
Financial Summary:	There are a number of duties within the Care Act that are likely to have financial implications for the Council.
Report of:	Liz Bruce, Executive Director, Tri-Borough Adult Social Care

1. Executive Summary

- 1.1 This report provides an update for Cabinet about the implementation of the Care Act 2014. This paper also outlines the implications of the reforms.

2. Recommendations

Cabinet is requested to note and comment on progress and the implications.

3. Background, including Policy Context

3.1 The governance arrangements to manage implementation of the Care Act legislative reforms have been in place since April 2014 and are overseen by Liz Bruce, Executive Director of Adult Social Care, who is the programme sponsor. The programme is focussed on delivery of the key milestones set out below as part of a phased approach.

3.2 Phase 1 key deliverables for compliance by 31 March 2015 include:

- a) Implementation of an eligibility framework and a single set of criteria for Carers.
- b) All service users in receipt of a personal budget (includes a review of the appropriateness of the resource allocation system).
- c) Assessment processes in line with Care Act requirements (includes Carers Assessments, assessment of self-funders, and prevention duty).
- d) Implementation of new safeguarding duties.
- e) Market shaping responsibilities embedded (including Market Position Statement and protocols regarding duty around provider failure).
- f) Managing transition from children and young people services to adults services which includes a right to an “adults” assessment prior to the 18th Birthday. This right also extends to carers of children and young people.
- g) Information and advice provision (across operations and commissioned services) and provision of preventative services.
- h) Provision of an advocacy service.
- i) Workforce trained and developed to meet the new operational requirements.

3.3 Phase 2 key deliverables for compliance by 31 March 2016 include:

- a) Funding Reforms embedded in business (including a care account, cap on care costs).
- b) Communications and engagement plan fully implemented.

4. Progress

- 4.1 Each of the workstreams are scoping and planning delivery of the reforms based on the draft regulations and guidance which the Department of Health issued for consultation in June. This includes developing a shared understanding of: a) the legal, financial and operational implications for social care practice; b) workforce development; c) market development and the prevention offer; d) information technology infrastructure; and e) changes to processes and ways of working. It has also involved further forecasting of future demand based on the new duties a) in terms of the deferred payments scheme; and b) for additional assessments for self-funders linked to the care cap of £72,000, carers, and prison population which potentially could lead to funding their care and support.
- 4.2 In addition, the workstreams are looking at identifying which cohorts of people may benefit from preventative or support services. A mapping exercise is underway to determine existing information, advice, and advocacy support to help review what the future offer will look like. This requires liaison with other departments across the Tri-Borough. Work is also underway to review the eligibility framework to ensure it is aligned to the national framework and to align assessment and support planning processes to the Care Act requirements for customers and their carers. The social care practice workstream has also taken tentative steps to conduct a review of the transition pathway between children's and adult social care and support systems.
- 4.3 Staff awareness sessions are currently underway to enable all staff in Tri-Borough Adult Social Care teams to be kept informed of the new duties within the Care Act. This includes discussion about what it means specifically for their teams in terms of changes to social care practice, new ways of working, and workforce training and development. This could be extended to other departments across the Tri-Borough where teams have a significant role to play in terms of compliance with the Care Act. However there is a resource implication given that the implementation grant funding is only £125,000 per borough. Implementation of the Care Act also requires collaboration with other departments across the Tri-Borough to ensure that they are aware of their responsibility for delivering key aspects of the reforms.
- 4.4 A formal Tri-Borough Adult Social Care response to the consultation about the draft regulations and guidance on Part 1 of the Care Act 2014 has been submitted to the Department of Health. This involved collation of feedback from all teams to provide formal responses to the 84 consultation questions. There were several areas of the guidance and regulations that have highlighted concerns about the lack of clarity and consistency, potential for wide interpretation, and the financial impact on local authorities. We will liaise closely with the Department of Health to check whether they have appropriately addressed all feedback from the Tri-Borough, regional Association of Directors of

Adult Social Services (ADASS), London Councils and other local authorities, when reviewing the regulations and guidance.

- 4.5 The Department of Health, ADASS and LGA have been supporting local authorities with implementation through the national programme office. This has included a modelling tool for forecasting future demand from self-funders, advice from Skills for Care to determine workforce training requirements, and the sharing of best practice.

5 Main considerations

- 5.1 The Care Act delivers the Government's vision of a reformed care and support system which instructs local authorities to:
- a) focus on prevention and promote people's wellbeing and independence rather than waiting for them to reach a crisis point.
 - b) give people clear information and advice on what they are entitled to and more choice and control over the care and support they receive.
 - c) always provide high quality care from a workforce that treats people with dignity.
 - d) provides more scope for communities to be involved in decisions about health and social care.
 - e) recognises the need to support carers as well as those cared for.
 - f) has high standards of commissioning based outcomes.
- 5.2 All of the above requirements imply a need for Adult Social Care to work collaboratively with other parts of the Council and Tri-borough to support implementation of the reforms (including but not limited to Housing, Children and Families, Public Health, Leisure, Community Safety, Corporate Voluntary and Community Sector).

General Duties

- 5.3 The reforms focus on local authorities having to deliver a number of general duties which apply to individuals and the population as a whole. These include:
- a) Promoting individual wellbeing
 - b) Preventing Needs for care and Support
 - c) Promoting integration of care and support with health services
 - d) Providing information and advice
 - e) Promoting diversity and quality in services
 - f) Co-operating generally between relevant partner organisations

5.4 These new duties therefore mean that services within the Council will need to work together to consider the following:

- a) what services, facilities and resources are already available across the Council that contribute to these duties (e.g. through housing provision, universal services, health, private, voluntary and community groups including social enterprises).
- b) identify unmet need across local populations.
- c) suitability of living accommodation and housing options.
- d) development of a comprehensive set of information and advice covering all aspects of health and wellbeing including, but not limited to care and support, universal services, community activities, housing, health services, effective treatment of health conditions, children's social care and transition, financial advice, aids and adaptations, befriending and prevention of social isolation and employment.

Market Shaping

5.5 The Care Act requires local authorities to ensure the local market delivers a wide range of care and support services. The Council has a role to facilitate and influence market provision working very closely with the voluntary and private sector. This includes supporting innovation and sustainability within the care market, establishing a robust quality assurance framework and influencing workforce development. Key business areas across the Council will need to jointly consider the following to achieve this effectively:

- a) mapping services that are not necessarily funded by the Council;
- b) involvement of service users, local communities and the voluntary sector in helping to shape the market;
- c) review the new market provision statement, analyse gaps in the joint strategic needs assessment, gather local sources of intelligence about market provision, and fully understand 'unmet need';
- d) outcomes focused market provision.

Public Health Implications

- 5.6 The wellbeing principle within the Care Act underpins the care and support system and as such is focussed on placing this at the heart of all decisions. There is a strong emphasis on prevention and delaying needs for care and support, which is very much part of the Public Health agenda. As such, the core offer for 'primary' prevention i.e. keeping people well for as long as possible and delaying needs for care and support, should be jointly developed with the Public Health Team. This may also require active engagement with communities and external organisations including the voluntary sector, local GPs and Health more generally.

Housing Implications

- 5.7 Given the wide scope of the wellbeing principle, the Care Act specifically mentions housing and suitability of living accommodation, as being a place which is safe, healthy and suitable for the needs of a person, so as to contribute to promoting physical and emotional health and wellbeing and social connections. This includes all places where people live; for example a house, flat, other general dwelling or an adult placement or other specialist housing. Housing therefore has a critical role in enabling people to live independently and in helping carers to support others more effectively. There are also implications for provision of supported living as part of the duty in determining 'Ordinary Residence' which needs to be reviewed as part of the service offer with Housing.
- 5.8 There is a need to consider the Housing department's responsibilities for implementation of the reforms, especially given that the Care Act guidance states this is an integral part of the health and care system and a local authority's responsibility for care and support. This may involve considerations to existing housing legislation to agree collaborative assessment and support planning, prevention services, information and advice, and housing options. Early discussions with colleagues in Housing are underway to consider involvement in implementation of the Care Act.

Children and Families Implications

- 5.9 The Care Act requires effective person-centred transition planning to help young people and their families prepare for adulthood. This means that effective cooperation between professionals and organisations responsible for health and social care and support will need to be in place to ensure compliance with the Care Act. Considerations will need to be given to the Children and Families Act especially for, but not limited to, people with special educational needs (SEN) who have an Education, Health and Care (EHC) plan, where preparation for adulthood must begin from year 9. There is therefore a need to work closely with teams within Children and Families to effectively implement any required changes to the transition process.

Staff Awareness and Training Implications

- 5.10 The staff awareness sessions should be extended to key teams in other departments to ensure managers and staff are kept informed. This becomes particularly important for those areas of the Council where teams will have direct involvement in collaborative work to implement the reforms. If significant changes are made to process and ways of working in these teams then there are also training implications as staff may need to adapt to new ways of working.

6. Financial Implications

- 6.1 There are a number of duties within the Care Act that are likely to have financial implications for the Council. These are detailed in the paragraphs below.
- 6.2 *Increased demand for needs assessments.* It remains a concern that the implementation costs of the Care Act are significantly higher than the Government's current estimation. The needs assessment will help self funders keep track of progress towards the cap on their care costs as they become eligible for local authority funding from April 2016. Carer's and prison population assessments will also increase from April 2015.
- 6.3 *Financial Modelling.* Conducting accurate financial modelling of the impact of the Care Act, and the care cap, remains a challenge due to the large number of variables and unknowns. Our initial modelling of the costs of self-funders approaching the council estimates that costs in Westminster could rise substantially. This is on top of the costs of additional assessments and deferred payments. The current consultation on the funding for the Care Act does not show that these costs are being addressed. This is of major concern. This is compounded by the fact that there is an overall lack of data regarding self-funders which makes it hard to accurately estimate costs for this group. We believe that, nationally, we are no further forward in terms of developing robust data to predict the impact.
- 6.4 *Deferred Payments.* We also have no robust evidence of the future demand which could arise from the implementation of a universal deferred payment scheme. However, we believe that we would see a large increase in the number of people wishing to take out a deferred payment. This will have a clear financial impact particularly in relation to managing cash flow.
- 6.5 *Possibility of more people becoming eligible for care and support.* There is likely to be an increased cost to operational delivery within each of the local authorities to manage the increased demand for information and advice, assessments, and arranging service provision as more people become eligible for public funding.

- 6.6 *Key London specific issue.* The impact upon London could be significantly different from those in other regions. This needs to be fully understood, and reflected in any funding received to support the implementation of these reforms. For example, the higher costs of care in London will mean that people are likely to reach their cap earlier so London boroughs will incur costs earlier and face higher costs for these newly eligible people than authorities in other parts of the country.
- 6.7 *Higher costs in London Councils.* The cost of living in London is higher than the rest of the country; this will therefore have implications on:
- a) The cost of care, as rates are higher in London as a result of issues such as higher staff costs. This will particularly be a problem when the funding reforms start as, based on our analysis, on average people in London are likely to reach their contribution cap in 3.5 years while other regions such as the north east will take up to on average 5.7 years as the costs of care are lower. London Councils research has also found that around 27 per cent of self-funders in London are likely to hit the cost cap. In comparison only 3 per cent in the north east and 15 per cent nationally are likely to hit the cap.
 - b) Savings that an individual is likely to have will be lower and their disposable income will be less due to the higher cost of living. This will have a significant impact on how much an individual is able to save and pay towards their care.
 - c) Home ownership levels are lower in London than other parts of the country. Releasing housing equity is the main way that people are able to contribute towards their care, low home ownership means people have less available to go towards their care.
- 6.8 *Higher staffing costs.* The Care and support reforms have significant workforce implications. There are concerns that due to the need for higher staffing resources the market will become more competitive and this may push up the workforce costs up for councils.
- 6.9 *Information and advice.* London is the most diverse city in the country with over 100 different languages spoken in every London borough by communities that reflect a wide range of ethnicities, religions and cultures. The guidance sets out a need for councils to consider and have regard to the diverse languages in their area in the provision of information and advice, this is likely to have a considerable impact on resources for London in the way they offer information and advice compared to some councils in other parts of the country. This proposal is particularly concerning for London boroughs as they come at a time when the Department for Communities and Local Government's message has been withdrawing and reducing the need to provide language specific advice and information.

7. Legal Implications

- 7.1 The Care Act 2014 comes into force in two stages, with the bulk of the changes coming into force on 1st April 2015. The Act is the most significant change in adult social care legislation for 60 years. Paragraph 3.2 above sets out the main areas of change as at April 2015, and Paragraph 5 provides more detail.
- 7.2 As indicated in Paragraph 4.4 the Care Act consultation in respect of the draft Regulations and draft Guidance concluded on 15th August 2014. Detailed submissions were made by Tri-Borough Adult Social Care and by London ADASS.
- 7.3 There are a considerable number of areas where the draft Regulations and Guidance were insufficiently clear and it is anticipated that there will be significant changes when the final version of the Regulations and Guidance are produced. It was originally intended that these final versions would be available on 1st October, but it is not yet known when they will be published. All Tri-Borough policies and procedures will need to be reviewed once the final documentation is available.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

Jerome Douglas, Programme Manager, Care Act Implementation Programme, jerome.douglas@lbhf.gov.uk, 0208 753 2306

BACKGROUND PAPERS: None