



## **Cabinet Meeting on Wednesday 21 January 2015**

### **The Care Act**

#### **Alan White, Cabinet Member for Health, Care and Wellbeing, said:**

“We want to ensure that Staffordshire is a place where people are healthy, are supported in their community and live as independently as possible for as long as possible.

There are many different laws about care and support at the moment, so it’s difficult for people to know what information and advice they have access to, and what care and support they can access in the future. The Care Act changes the way care and support is accessed, assessed and funded and makes it clearer for people to know what their care and support options are.

The powers in the Care Act will enable the Council to promote the health and wellbeing of Staffordshire residents more effectively by preventing, reducing or delaying the need for care and support.

We will build on and extend the comprehensive information and advice network already on offer to help people live as independently as possible. Staffordshire Cares and the Staffordshire Marketplace will be part of that network that will help residents to make informed choices about their own care and support; choosing how and when they are supported. ”

#### **Report Summary:**

The Care Act received Royal Assent in May 2014. It is a consolidation Act, which draws together into one single piece of legislation the various approaches, concepts and statutory requirements that affect the provision of adult care and support, but also sets out new directions of travel in a number of key areas.

This report outlines the approach which the county council is taking to the implementation of the Care Act and how we are aligning our approach to ensuring that people in Staffordshire are healthier, happier and prosperous.

## **Recommendations**

- a. The Cabinet approves the approach being adopted to implement the Care Act.
- b. The Cabinet delegates responsibility for the sign off on policy implementation to the Cabinet Member for Health, Care and Wellbeing, in order that they can be implemented with effect from 1<sup>st</sup> April 2015.

<b>Local Members Interest</b>
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N/A
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## **Cabinet – 21 January 2015**

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#### **Report of the Director of Strategy & Customer Services**

#### **Reasons for Recommendations:**

#### **Introduction**

1. The Care Act received Royal Assent in May 2014. It consolidates previously fragmented social care and health law into one single framework, which reforms the way Care and Support is accessed, assessed and funded. This is the biggest reform to the Social Care System in over 60 years, and seeks to make it clear what kind of care and support people should expect and change the way people are cared for. The Care Act will also help us to extend and improve the comprehensive information advice and guidance we already have in Staffordshire to help prevent problems or stop them getting worse.
2. Adult Social Care, including care and support of an ageing population, will probably be the single biggest financial challenge facing Local Government over the next 20 years. The Care Act seeks to support the long term sustainability of the health and social care system.
3. Central Government expects the Care Act to support the County Council and its health partners to integrate on both strategic and operational levels in order to work clearly and in a joined up way to meet these issues head on.
4. The County Council has commissioned LG Futures to produce a demand model to assist in estimating the financial impact of the Care Act. The model looks particularly at the increased cost implications around retirement age

self-funders. Additional work is taking place to model the financial implications of other aspects of the Care Act, including implementation of the reforms.

5. Because the Care Act makes considerable changes to the law and practice around Social Care, most notably introducing a single national eligibility criteria, there is a need for the County Council to review and update its policies and guidance. This is also an opportunity to enshrine our commissioning approach into our policies in a way that will continue to meet the outcomes of residents.
6. It will be necessary to consult with the public and key stakeholders on some of the policy changes. However, it is important to note that the Care System is developing not changing, in the sense that the Care Act builds on current practice, adjusts it and embeds best practice in the law.

## **Proposal**

7. The Care Act is being implemented through a robust project management approach governed by a Care Act Co-ordination Group to which a number of work streams report: Policy, Regulations and Communications; Finance; Assessments, Eligibility and Support Planning; Workforce, Care Markets and Quality; ICT; Safeguarding; Information, Advice and Guidance, Advocacy and Prevention.
8. A key part to the Project's success is the approval of the policies; these are listed in the background documents below, by April 2015.
9. Four key dates should be highlighted:-
  - a. Review and revision of all County Council policies affected by the Care Act to ensure compliance to be completed by 31 December 2014.
  - b. Review and revision of care pathways and processes to be completed by 31 March 2015.
  - c. Implementation of any revisions required to the IT system CareDirector to reflect any agreed changes by 30 June 2015.
  - d. Assessment and Care Management workforce within the County Council and externally provided services to be fully trained and Care Act compliant by 30 September 2015.
10. A Communication Plan will set out engagement activities with staff and stakeholders between now and April 2015, in line with the Government's national Communication Strategy.

## Background

11. The main elements of Care Act come into force on 1 April 2015, though the financial reforms will not be implemented until 1 April 2016. The key changes and new duties effective from 1 April 2015 are as follows:

- a. To consider the physical, mental and emotional wellbeing of the individual needing care taking steps to prevent, reduce or delay their need for care and support focusing on keeping people as independent as possible through prevention and early intervention.
- b. To provide comprehensive information and advice about Care and support including funding options and independent financial advice services.
- c. To support carers, prisoners and self-funders (people who pay for the full cost of their care).
- d. Promote integration with NHS, Housing and other services to achieve integrated Care and Support that is person centred and tailored to the need and preferences of individuals within their assessed need.
- e. To arrange independent advocacy to facilitate the involvement of people in their assessment, preparation of their care and support plan and in subsequent reviews of their care plan.
- f. Assessments should be appropriate, proportionate and where necessary integrated and will need to take account of the wider picture by considering fluctuating needs and the impact on the whole family.
- g. A single national threshold for eligibility for Care and Support and provides guarantees for continuity of care for people who move between areas.
- h. Embedding choice and control through care plans and personal budgets and direct payments.
- i. We have for the first time been provided instruction to work within on how best to safeguard adults and to protect from abuse.
- j. To assess Children and young people in advance of transition from Children's to adult services.
- k. To manage local care markets in order to ensure that people who need care and support (including self funders and direct payment users) have a choice of good quality services.
- l. Commissioning and market shaping activity should facilitate market development to support sustainability and ensure market capacity and capability.
- m. To ensure that no one goes without care if their provider fails, cooperating to ensure continuity of care irrespective of eligible need or regardless of who pays for their care.
- n. Ability to delegate functions although Local Authorities will retain the ultimate responsibility for any such functions and must ensure that through any delegated arrangements that their legal obligations are met.
- o. A universal Deferred Payment Scheme to enable individuals to retain their property when admitted into long term care.

12. The Care Act key changes and new duties effective from April 2016:

- a. There will be a cap on the maximum lifetime costs people will pay for their care, it is anticipated that this will be £72k for older people, with a lower cap for those of

working age and zero for those people who have existing care needs at the point when they reach the age of 18 years.

- b. A care account will be used to record accrued direct care costs calculated using the Local Authority's usual cost of care rate. General living costs and support costs not identified in the person's care plan will be excluded.
- c. An increase in the financial assessment capital thresholds for those individuals with eligible needs.
- d. Direct payments for individuals residing in long term care to enable greater choice and control.

## **Risks**

13. A full risk register identifies the risks associated for the Care Act. The key risks include:-

- a. Ineffective implementation would expose the County Council to legal challenge through Judicial Review.
- b. Capability and capacity might not be sufficient to meet the increase in demand for care assessments and reviews through new duties to support self-funders, carers and prisoners within current resources.
- c. The costs of implementation and ongoing delivery of the Care Act could create significant budget pressures.
- d. Timescales are particularly challenging to ensure that the assessment and Care Management workforce might not be sufficiently trained to ensure compliance with the Care Act.
- e. With many services commissioned via external providers, the County Council might find it difficult to enforce compliance through current partnership/agreement arrangements.

## **Mitigations**

14. In order to mitigate the risks above, the following mitigating actions are in place:-

- a. A report has been commissioned that will look at the impact of self-funders on the Care Market and will be flexible in our approach based on the outcome of that report.
- b. The implementation plan sets out timescales and approaches for developing policies leading to new pathways, updated ICT and training for the workforce is in place.
- c. The £1.9m from the CCG's is recognized in the BCF submission and the Medium Term Financial Strategy.
- d. Capacity pressures are reflected in the MTFs, and the project is exploring ways to improve efficiency of assessments and review and understand the costs against the available funding.
- e. LG Futures has been commissioned to undertake financial modelling (Appendix W), work streams have conducted gap analyses to understand resource requirements and costs and we are working with partners to understand cost pressures and alleviate them where possible.

- f. A training programme covering all areas of the act will be completed by October 2015.
  - g. Renegotiation of current contract arrangements is in hand to ensure compliance with the Care Act and protect the Local Authority which has overall legal responsibility.
15. As a county council we are in a good position to meet our extended obligations under the Care Act for more extended information, advice and guidance and adult safeguarding. These are examples of best practice across local authorities:
- a. Staffordshire Cares –A website of information, advice and guidance that has recently been improved - in both navigation terms and in the advice it houses for people of all ages. This website is currently being expanded to ensure that information about the Care Act is in one place. This will be a cornerstone of our approach to extolling our Information, Advice and Guidance obligations
  - b. Staffordshire Market place – This will be a key method of promoting the Care Market and the range of providers to our service users.
  - c. Safeguarding – The roles of the MASH and the SSASPB are well defined and already well embedded to ensure we are meeting our adult safeguarding obligations.

### **Next Steps**

16. If Cabinet agree that the approach to implementing the Care Act is acceptable, the next steps are to:
17. As appropriate, refresh and consult on a range of existing policies, including but not necessarily limited to:-
- a. Prisons and approved premises policy
  - b. Delayed Transfers and Pathways Policy
  - c. Charging/Partnership for Care/Contributions Policy
  - d. Carers Policy
  - e. Mental Health Policy
  - f. Eligibility Policy
  - g. Residential Care Fee Policy
  - h. Deferred Payments Policy
  - i. Direct Payments and Personal Budgets Policy
18. The need for consultation will be dependent on each policy and the scale of any service change as a result. Therefore, where significant change is applicable an appropriate level of consultation with key stakeholders will be undertaken in conjunction with provider(s).
19. Implement new Assessment Pathways and refresh Social Work Practice manuals for:-
- a. Care and Support
  - b. Prisoners

- c. Direct Payments
- d. Deferred Payments
- e. Delayed Transfer of Care
- f. Children's Transition
- g. Emergency Assessment
- h. Carers

- 20. Train Social Care workforce on the range of changes detailed above.
- 21. Undertake commissioning and market shaping activity to facilitate market development, support sustainability and ensure market capacity and capability.
- 22. To provide comprehensive information and advice about Care and support including funding options and independent financial advice services.
- 23. Make the necessary changes to ICT infrastructure to support the requirements of the Act.
- 24. Consider the affordability of the implementation and ongoing delivery of the Care Act; understand any identified budget pressures and mitigate where possible.
- 25. To continue to safeguard adults and to protect from abuse.

**List of Background Documents:**

- The Care Act
- The Care Act Statutory Guidance
- LG Futures Financial Modelling document

**Report Commissioner: Nichola Glover-Edge**

**Job Title: County Commissioner for Inclusion and Wellbeing**

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**Summary of Community Impact Assessment (including a Health Impact Assessment if applicable) for Care Act**

<b>Name of Policy/Project/Proposal: The Care Act</b>
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**Responsible officer: Nichola Glover-Edge**

**Commencement date & expected duration: April 2015 onwards**

	<b>Impact Assessment</b>	
	+ve/neutral/  -ve	Further information degree of impact and signpost to where implications reflected within the report/main Assessment
<b>Impact on access to more good jobs and increased economic growth</b>	+ve	Demographics indicate a growth in demand for Care and Support services. The County Council's strategic commissioning intentions will support market development to meet the range of needs for the individuals of Staffordshire, offering choice as to how their needs are met. Market shaping activities will encourage the care market to expand, supporting economic growth and access to jobs.
<b>Supporting healthier living and independence</b>	+ve	The underpinning principle of the Care Act is the promotion of health and wellbeing to prevent, reduce or delay the need for care and support focusing on keeping people as independent as possible through prevention and early intervention. Comprehensive information and advice will enable individuals to make early informed choices about their care and support; those entering the care system will do so through clear pathways and be able to choose how their care and support needs are met through a range of commissioned support or direct payment.
<b>Impact on feeling safer, happier and more supported in and by the community</b>	+ve	Staffordshire Cares will enable access to comprehensive information, advice and guidance so that individuals will be able to choose how they are supported to stay as independent as possible The Staffordshire Marketplace will enable individuals, including carers, to view the support available within their local community. This will include universal and preventative services, including local support groups.
<b>Maximising the opportunities for a good quality physical</b>	Neutral	Providing a good quality physical environment is not an expectation of the Care Act but any opportunities that do arise will be maximised. Part 2 of the Care Act, Care Standards, provides a duty of candour on providers of health and social care services

<b>environment</b>		registered with the CQC to ensure that care provided within physical environment meets agreed standards.
<b>Maximising the use of community property portfolio</b>	Neutral	There are no implications for community property portfolio.
<b>Addressing issues affecting rural areas?</b>	+ve	The Care Act promotes choice, control and personalised care for all individuals, the County Council's strategic commissioning intentions and market shaping activities support care providers who serve rural areas.
<b>Equalities impact</b>		
Age	Positive	The Care Act will have a positive equalities impact with an outcome based needs assessment ensuring that individuals views, needs and wishes are placed at the centre.
Disability	Positive	
Ethnicity	Positive	
Gender	N/A Positive	
Religion/Belief	N/A Positive	
Sexuality	N/A Positive	
Gender-reassignment	N/A Positive	
Pregnancy/maternity	N/A	
<b>Resource and Value for money</b>	There is a significant financial risk with potential additional cost for Care Act implementation and ongoing delivery. The main financial risks are outlined in the LGFutures appendix.	
<b>Risks identified and mitigation offered</b>	A range of risks have been identified and these are being worked on and mitigated through the Projects Work Stream co-ordination group.	
<b>Legal imperative to change/implications (including the Social Value Act 2012)</b>	The Care Act 2014	

**Author: Nichola Glover-Edge**