

2 September 2014		ITEM: 7
Health and Wellbeing Overview and Scrutiny Committee		
The Care Act – Proposed Changes and the Council’s State of Readiness		
Wards and communities affected: All	Key Decision: Non-key	
Report of: Ceri Armstrong, Strategy Officer, Adults, Health and Commissioning		
Accountable Head of Service: n/a		
Accountable Director: Roger Harris, Director of Adults, Health and Commissioning		
This report is Public		

Executive Summary

The Care Act received Royal Assent in May 2014. The Act is the first overhaul of social care legislation for more than 60 years, building on a ‘patchwork’ of Acts. Whilst much of the legislation leaves practice as it is now, there are a number of significant changes. These include:

- Introduction of a principle of wellbeing that needs to be applied to every element of care and support;
- A national minimum eligibility threshold;
- Carers being placed on an equal footing with service users;
- A general duty on local authorities to prevent, reduce and delay the need for care and support;
- Every person receiving care from the local authority to receive a personal budget;
- Adult Safeguarding Boards becoming a statutory requirement; and
- Local authorities having to promote greater integration with the NHS and health-related services – e.g. housing.

The Act also embodies the Dilnot recommendations for the funding of social care. These changes will not come in to effect until April 2016.

The report, and appended Department of Health presentation relating to part one of the Act, identify the Act’s key changes and how they are likely to impact on the Council. The report also evidences how the Council is ensuring compliance with the Act by April 2015.

1. Recommendation(s)

1.1 For the Committee to note the Care Act changes and their impact on the Council; and

1.2 For the Committee to note the Council's state of readiness to implement the Care Act's requirements and the steps being taken to ensure compliance by April 2015 and April 2016.

2. Introduction and Background

2.1 The Care Act received Royal Assent in May of this year. The Act has been described as the most significant piece of legislation affecting Adult Social Care for over 40 years. It builds on the review of the "patchwork" of Acts covering Adult services (e.g. National Assistance Act 1948, Health Services and Public Health Act 1968, Chronically Sick and Disabled Persons Act 1970 etc.) undertaken by the Law Commission and it puts into legislation the recommendations for how Adult Social Care is funded as proposed by the review undertaken by Sir Andrew Dilnot.

2.2 Local authorities will be required to meet the Care Act's duties, statutory guidance and regulations from April 2015. This is with the exception the parts of the Act related to charging which come in to effect as of April 2016. The 2015 changes fall under a number of themed sections:

- General responsibilities and universal services;
- First contact and identifying needs;
- Charging and financial assessment;
- Person-centred care and support planning;
- Adult Safeguarding;
- Integration and Partnership working;
- Moving between areas: inter-local authority and cross-border issues; and
- 'Other areas' – sight registers and transition to the new legal framework.

2.3 Whilst many of the Act's statutory duties transfer from previous legislation relatively unaltered, there are a number of fundamental changes which are explained further on in this paper. The Act also includes the introduction of a number of general duties which both broaden and change the nature of the relationship between the public sector and the individual:

- The duty to promote individual wellbeing;
- The duty to prevent the need for care and support;
- The duty to promote the integration of health and social care;
- The duty to provide information and advice; and
- The duty to provide diversity and quality in services.

- 2.4 The Care Act embodies a shift in philosophy and language and this is reflected by the very broad general duties mentioned in 2.3. The Act, alongside its related guidance and regulations, focus not on service provision, but on the delivery of ‘care and support’. There is a clear commitment to the individual being best placed to know what is best for them and the outcomes they wish to achieve. The Act and guidance are very clear about the need to prevent, reduce and delay need – the achievement of which requires a partnership approach beyond health and social care and including the community itself. The Council already embodies this philosophy within its Building Positive Futures Programme and Health and Social Care Transformation Programme.
- 2.5 The Council has established a Care Act Implementation Project Group to analyse and oversee the implementation of the Act’s requirements. The Group sits as part of the broader Health and Social Care Transformation Programme and meets monthly. The Group is chaired by the Director of Adults, Health and Commissioning.
- 2.6 To support the implementation of the Act, the Department of Health has released draft guidance and regulations relating to April 2015’s requirements. The changes relating to care funding will not be ‘live’ until April 2016, and guidance will not be released until late this year. Thurrock’s Care Act Implementation Project Group has already assessed the Council’s readiness to meet the Act’s 2015 requirements.
- 2.7 The Association of Directors of Adult Social Services in conjunction with the Local Government Association has set up a number of regional programmes to assist local authorities with their planning. The Council is well represented on the programme’s many work streams which allows access to best practice and problem solving. The Council attended a regional event in July where the Department of Health delivered a presentation on its consultation of part one of the Care Act’s draft regulations and guidance. This is attached at appendix 1 and provides a useful and concise summary of the non-Dilnot elements of the Act – i.e. those parts of the Act we will need to be compliant with from April 2015. The intention is to present the Department of Health’s presentation to the Committee at its meeting of the 2nd September.
- 2.8 The Committee is asked to note the key changes for the Council; its state of readiness; and the steps being taken to ensure compliance with the Act.

3. Issues, Options and Analysis of Options

- 3.1 Key changes and Thurrock response – the table below focuses on areas where there will be significant change or the greatest challenge to implement requirements:

Section	Key changes	Readiness
Promoting Wellbeing	The Council is expected	The concept is extremely

	<p>to promote wellbeing when it undertakes its care and support functions. The wellbeing principle applies equally to those who do not have eligible needs but come in to contact with the system. Assessments must move away from resulting in service provision, to meeting needs – which include identifying how resources in the local community could help the person to achieve their outcomes.</p>	<p>broad and relies on the practitioner undertaking a holistic assessment. We have already moved some way to undertaking assessments in this way, ensuring that they are based on the outcomes an individual wishes to achieve and that they focus on the individual's strengths. We will need to carry out ongoing training with practitioners to ensure consistency of assessments undertaken.</p>
Preventing, reducing or delaying needs	<p>This section of the Act details how councils are expected to shift the focus from providing services when individuals reach crisis point, to preventing and delaying the individual from needing a service at all. This includes early intervention – e.g. recognising when an individual may need support prior to them reaching crisis. Councils are also expected to identify how they can reduce an individual's level of need. The Act defines prevention in terms of 'primary', 'secondary', and 'tertiary' approaches.</p>	<p>The Council is well placed to deliver the requirements of this part of the Act (Building Positive Futures) and needs to build on the work it has started. We are also looking, in partnership with health colleagues and other council departments such as Housing, at how we can intervene early and well before people reach crisis – which also means ensuring that carers are well supported. Much of the requirements of this section are the focus of our Better Care Fund programme of work.</p>
Information and Advice	<p>This is an extremely broad duty and has links to a number of sections within the Care Act guidance. Councils will be required to provide</p>	<p>The Council already provides a range of information and advice, but the extent to which this is broad enough or joined up across</p>

	<p>information and advice about care and support – not only related to service provision, but related to how to access independent financial advice, and also related to the broader ‘promoting wellbeing’ requirement – e.g. information about housing, and information on what is available in the community. Information and advice will need to be broad enough to meet the Council’s responsibilities for preventing, reducing and delaying needs. Information and advice will need to be provided at a number of points of contact with care and support, be targeted and will need to be proportionate and appropriate to the needs of the person – e.g. not just web-based or via leaflets.</p>	<p>services is currently patchy and requires better co-ordination. Adult Social Care, as part of the Council’s Corporate Transformation Programme, is developing an information and advice hub. Work will take place to identify how clearer links to housing and health information can be made. Particular consideration will need to be given to the provision of information and advice in relation to preventing, reducing and delaying needs. Work is taking place with Thurrock Coalition to ensure that the delivery of information and advice requirements are co-produced and effectively targeted.</p>
<p>Market Shaping and commissioning of adult care and support</p>	<p>Councils will need to ensure that they develop the market sufficiently so that it can offer choice and support the individual to achieve a range of outcomes. This includes designing strategies that meet local needs; engaging with providers and local communities; understanding the market and developing the market; developing an integrated approach with local partners; and</p>	<p>The Council has developed a Market Position Statement (MPS). The MPS identifies what we want the care and support offer in Thurrock to consist of, and therefore where the market needs to be developed. This will inform how and what the Council commissions in the future. The Market Position Statement is to be signed off by the Health and Wellbeing Board at its September</p>

	ensuring market sustainability and quality.	meeting.
Assessment and Eligibility	The Care Act introduces a 'minimum national eligibility standard'. The threshold will remain set at substantial and critical – which is where it is currently set in Thurrock. Assessments will move away from being 'needs based'. They will need to be outcome focused, and need to consider how an individual's needs can be reduced and further needs prevented or delayed.	Whilst the Council's eligibility to care threshold is already set at substantial and critical, the regulations related to eligibility criteria are more prescriptive and may result in increased cost to the Council as the Council may be expected to provide care as part of meeting needs deemed substantial which are currently not considered 'substantial'.
Independent Advocacy	Local authorities must arrange an independent advocate to facilitate the involvement of a person in their assessment, in the preparation of their care and support plan and in the review of their care plan. The duty also applies to children who are approaching transition to adult care and support, and also those in their role as carers.	The Council provides advocacy through an external provider. There is a risk that the new duty will lead to a greater number of people requesting an advocate which may lead to us having insufficient capacity to meet the obligations. We will be working with our existing providers to identify how this will be managed.
Personal Budgets	Everyone whose needs are met by the local authority must have a personal budget. The personal budget gives the person an idea of the money that will be allocated to the needs identified. This allows the individual to identify what the Council will contribute towards meeting those costs, and what the individual	The Council currently does not have a Resource Allocation System in place to allow an individual to identify what their personal budget will be. A Resource Allocation System is being developed and will be in place prior to April 2015.

	themselves will have to contribute – subject to receiving a financial assessment.	
Safeguarding	For the first time, the Safeguarding Adult Board (SAB) is put on a statutory footing. The Act and guidance describes the requirements of the Board, the local authority's safeguarding obligations, and also the obligations of partners to cooperate.	Thurrock's Safeguarding Adult Board is well established and we are prepared for the new legal requirements. An action plan is in place to ensure that our current procedures are compliant.
Integration, cooperation and partnerships	There are a number of links between the Care Act and Better Care Fund. This chapter is one such example – for instance, local authorities must carry out their care and support responsibilities with the aim of promoting greater integration with the NHS and other health-related services (e.g. housing).	The Council is already working closely with Thurrock CCG, key health providers, and housing to develop greater integration. This was initially progressed through the Building Positive Futures Programme, and is now part of the Better Care Fund and Thurrock's Health and Social Care Transformation Programme. Our ambition is to develop an integrated commissioning team, a single vision and develop our local integrated teams around hubs of GP practices. This is also in line with the developing Primary Care Strategy.

3.2 In addition to detailing how the care and support needs of the individual are to be met through the implementation of the Care Act's requirements, the Act also ensures that carers receive equal status. This means that almost every section of the Act and its guidance details councils' responsibilities for the carer – e.g. provision of information and advice, taking in to account wellbeing of the carer, and preventing, reducing or delaying the need for care and

support – e.g. ensuring the sustainability of the carer. The greatest challenge for the Council will be the requirement that assessments will be carried out on the basis of appearance of need and will also not be linked to the person the carer supports having substantial or critical needs. It is yet to be confirmed whether carers will have their own eligibility criteria set in guidance or regulations. We have recently outsourced our information and advice service for carers to Cariads, who are strong on promoting carers' rights to a community and social life outside caring, as well as early intervention and preventative services and solutions within the community. The Council will work with Cariads to identify how the potential for an increased amount of assessments and assessment requests will be dealt with.

3.3 Whilst implementing the Care Act's requirements for 2015 will be challenging, the greatest challenge will result from the implementation of a care funding cap:

- There will be a cap of £72k on the care costs that an individual will pay over their lifetime – subject to their ability to pay. This will be based on their personal budget which will include local authority and individual contributions; and
- The upper capital limit will be raised from £23,500 to £118,000 from which point the state will not be making any contribution to someone's care costs.

The changes are of significant concern to the Council and will result in additional cost pressures with a significant loss of income through care charging and a likelihood of a significant increase of individuals requesting care assessments (e.g. those people currently self-funding the cost of their care). Further modelling is being carried out to ascertain the impact – which is dependent upon a number of assumptions being made.

3.4 The Government is currently consulting on funding allocations for the new Care Act duties. The Government has stated that councils are not expected to be 'out of pocket' as a result of the new duties. This will not be clear until the true costs of the Care Act to local authorities are known, and the proposed allocations are announced. The Council is carrying out financial modelling to try to identify as accurately as possible how much the new duties will cost.

3.5 All upper-tier local authorities have been awarded a one-off grant of £125k to implement the Care Act. The true cost of implementation is far higher and additional costs are expected to be met through the Better Care Fund – which is a pooled fund between local authorities and Clinical Commissioning Groups. The Better Care Fund is not new money.

4. Reasons for Recommendation

4.1 To enable the Committee to receive assurance that the arrangements that Council is putting in place for the implementation of the new Care Act duties will deliver compliance; and to understand the key changes and challenges that the Act will bring to the Council both in terms of implementation and delivery.

4.2 Further reports will be brought to the Committee as appropriate to ensure ongoing assurance of arrangements.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 The contents of this report have been informed by statutory guidance and by readiness assessments carried out by members of the Council's Care Act Implementation Project Group. The Project Group contains broad representation from the Council, health providers, Thurrock CCG, and Voluntary and Community Sector – via Thurrock Coalition.

5.2 The development and delivery of various statutory requirements will be carried out in consultation with a broader group of stakeholders – e.g. information and advice requirements are being developed in conjunction with Thurrock Coalition.

5.3 An Engagement Group is one of the Council and Thurrock Clinical Commissioning Group's Health and Social Care Transformation Programme arrangements. The Group has broad representation from the voluntary and community sector and is being kept fully informed and involved with regard to the Programme's various projects – including the Care Act.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The implementation of the Care Act compliments the Council's corporate priority 'improve health and wellbeing'. Implementation is a key priority for the Council and is a critical element of the Health and Social Care Implementation Programme.

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**
Head of Corporate Finance

The Care Act brings significant financial implications, the extent to which are in the process of being assessed. The full cost of the Care Act is unlikely to be known until the statutory requirements become live. This is due to the complexity and assumptions behind understanding the true costs of the Act for the Council.

The Government is currently consulting on funding allocations for new adult social care duties for 2015/16. This exercise will be repeated for the funding cap responsibilities that will become statutory as of April 2016.

No additional cost pressures have been added to the MTFs based on the Government's assertion that additional cost burdens arising from the Care Act will be met via the New Burdens grant. This has been recognised in various budget reports as a risk.

7.2 **Legal**

Implications verified by: **Roger Harris**
Director of Adults, Health and Commissioning

The Care Act, Guidance and Regulations contain statutory requirements that the Council will need to comply with from April 2015 and from April 2016 (charging). Legal implications are considered within the body of the report and we will be working with legal to assess the full implications prior to April 2015.

7.3 **Diversity and Equality**

Implications verified by: **Rebecca Price**
Community Development Officer

The Care Act 2014 seeks to provide a modern and up to date legal framework for all vulnerable adults. Its focus is to ensure that safeguarding, producing better outcomes and well-being are at the core of all adult social care activity. Some specific requirements e.g. the need to produce a register of people with visual impairments are targeted at specific groups.

The Council has established a Care Act Implementation Project Group to analyse and oversee the implementation of the Act's requirements. The Project Group contains broad representation from the Council, health providers, Thurrock CCG, and Voluntary and Community Sector – via Thurrock Coalition. An Engagement Group has also been established and is one of the Council and Thurrock Clinical Commissioning Group's Health and Social Care Transformation Programme arrangements. The Group has broad representation from the voluntary and community sector and is being kept fully informed and involved with regard to the Programme's various projects – including the Care Act.

The Council will develop its plans to meet the requirements of the Care Act over the next 6 months and will work closely with both the Project and Engagement Groups to identify equality and diversity implications arising from the implementation of the Act in Thurrock with a view to mitigating the potential for negative impact.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None identified.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Health and Social Care Transformation Programme Report to July 2014 Health and Wellbeing Board;
- Care Act Implementation Programme Section Assessments; and
- Care Act Draft Guidance (July 2014).

9. Appendices to the report

Appendix 1 – Department of Health presentation: 'a consultation on draft regulations and guidance for part one of the Care Act 2014'.

Report Author:

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