

## HEALTH AND WELLBEING BOARD

**30 JUNE 2015**

### CARE ACT UPDATE

Report from: Ian Sutherland, Deputy Director, Children and Adult Services

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#### Summary

This report provides Board Members with an update on the Care Act in Medway and outlines the next steps and actions going forward.

#### 1. Budget and Policy Framework

- 1.1 The Care Act 2014 came into effect across England on 1 April 2015 introducing a number of reforms intended to make care and support more consistent across the country. It aims to simplify a diverse range of legislation that has developed since 1948; put best practice in social care on a statutory footing; and respond to the challenge of how people plan and pay for the cost of their social care.

#### 2. Background

- 2.1 Following this key change in the legislative backdrop against which adult social care services are delivered, the council made a series of adjustments in order to meet its new duties and responsibilities under the Act. These included steps to assist people accessing care and support, support unpaid carers, offer a deferred payment scheme<sup>1</sup> as well as meet its new responsibilities in places like prisons.
- 2.2 This report provides a summary of the main issues following implementation of the Care Act in Medway and the steps we are taking to ensure we are ready for the 2<sup>nd</sup> wave of reforms which are due to take effect from April 2016.

#### 3 Summary

Information and Advice. The council's web pages have been revamped and, where appropriate, content added, to ensure that the information, advice and guidance we provide local people is more comprehensive, effective and easier to access. However, the information portal, which we have commissioned, will provide us with additional functionality and improve our information, advice and guidance offer even further and is due to come on stream in August. Enhancements include a new information and advice

directory of services for Adults, which will join up with information provided by our health partners and Public Health; an e-Marketplace for providers of all types to provide information about the services they offer locally, including home care, and care home and Personal Assistance services; and downstream a module to allow purchasing of services and potentially the ability for people to complete a self-assessment online. These enhancements will take things to the next level.

- 3.1 Advocacy. Arrangements are in place thereby ensuring any person in substantial difficulty and who does not have a relative, friend or other appropriate adult to support them in key decisions they face around their care and support has access to the services of an independent advocate free of charge. So far, there has been one referral.
- 3.2 Safeguarding. Now on a statutory footing, the necessary changes have been implemented for 1 April but taken as a whole, this represents more a change in Law than in practice locally.
- 3.3 Carers. Now on an equal footing as the cared for in Medway, this welcome change in the Law has seen an exponential rise, which was expected, in the numbers of carers coming forward for an assessment, directly or referred to us by carers or other local organisations helping to support the cared for (e.g. Carers First, the Multiple Sclerosis Society, Motor Neurone Disease Association and charities working with people with a substance misuse). However, the current numbers (100+ since April) is placing strains on our Carers Team and seen us needing to put interim measures in place to cope with the demand. We will also be reassessing how best to manage this additional requirement in the longer term if the rise in numbers is sustained.
- 3.4 Market Shaping and Provider Failure. Plans to commission, re-commission and decommission Adult services over the course of the coming year should help to create a more vibrant market locally. It should also produce one which is more responsive to the needs of local people and addresses, for example, the preventative agenda by providing high quality, cost-effective services which help prevent or delay the development of care and support needs, or reduce care and support needs (including for carers). Moreover, contingency planning and closer cooperation with the Care Quality Commission together with the help and support we will be providing the provider community to develop its resilience aim to halt or reduce the risks of provider failure and, over time, improve the quality of service and outcomes for users of those services.
- 3.5 Deferred Payments Arrangements. Medway already offered a Deferred Payment Scheme before the introduction of the Care Act; however, from April 2015, local authorities may levy administration charges for meeting needs under certain sections of the Care Act including some costs associated with setting up a Deferred Payment Scheme as well as for residential and nursing provision and non-residential services. Primarily for new users of services - current users will be unaffected unless their personal circumstances should change when they are next reviewed - Medway's proposals have been subject to formal consultation and come to Cabinet for approval on 7 July 2015.

- 3.6 Prisons. Arrangements are now in place to assess and, if eligible, meet the care and support needs of inmates in Medway's two prisons: HMP Rochester and Cookham Wood Young Offenders Institute. To date there have been 4 referrals and no packages of care put in place.
- 3.7 Processes and Pathways. Changes have been made to our assessment and eligibility processes to accommodate the Care Act. Transitional arrangements came to an end on 1<sup>st</sup> June. Inevitably, staff have experienced some issues using the forms in 'the field' which have been fed back to the Systems Team who are making the necessary modifications.
- 3.8 Transition to Adulthood. The fact that we have a 0-25 service and Children and Adults Services directorate in Medway is helping to ensure a smoother transition to Adulthood. However, we acknowledge, as with carers generally there is more we can do with our partners to identify and target young carers in Medway.
- 3.9 Integration. We continue to develop ways to build on existing resources and networks and work more closely with other partner organisations and programmes such as the Better Care Fund to make sure the transformation is as coherent as possible in delivering better, integrated care and support outcomes across Medway.

#### 4. Risk management

- 4.1 The highest risks reported by councils to delivering the Care Act reforms are total implementation costs for 2016/17 and uncertainty about the demand from carers, self-funders and others from 1 April 2015.
- 4.2 The following risks have been identified in Medway:

Risk	Description	Action to avoid or mitigate risk	Risk rating
Rise in cost of provision and implementation costs	If funding not sufficient or not identified, the organisation will struggle to meet its requirements or be unable to provide the level of help and support local people need and/or are entitled to.	Budget to be identified from within appropriate revenue service budgets	H
Uncertainty over Demand (e.g. from carers, self-funders)	Carers: High take up of service by public may impact on ability to provide service/ pressures on resources/ manage expectations/ see rise in complaints	Develop interim and alternative options - if take-up continues to rise at current levels this may need us to increase resource or develop alternate models and solutions	M

Impact on local provider market	The provider community struggles to make the changes needed, particularly in respect of the 2 <sup>nd</sup> wave of reforms.	Engage with and support local providers to make the transition. Some training is planned and there is a regional taskforce looking at workforce issues.	M
Public expectations (including legal challenges)	Notwithstanding the steps it has taken to ensure compliance, council is challenged or criticised over the changes it has made	Application of Care Act compliant policies and procedures; transparency and clear communication around the changes we have made; effective information, advice and guidance; appropriate training of staff and commissioning of services will mitigate (but cannot remove) the chances of a Legal challenge in Medway	M

## 5. Consultation

- 5.1 Changes we are recommending around administrative charges for chargeable services have been the subject of recent consultation and is the subject of a separate report to Cabinet in July. Co-production is a key tenet of the Act and more is planned in this regard as we develop the Information Portal, refresh our strategies and engage providers and local people to help us shape and improve our services going forward.

## 6. Financial implications

- 6.1 We have put in place mechanisms to capture the costs from 1 April of carrying out more assessments and a rise in the numbers of people eligible for a service. It is still too early to tell whether changes from Fair Access to Care Services criteria to the new national minimum threshold has materially affected the numbers of people now eligible for a service in Medway. Other than carers, there is not enough data as yet to determine the extent to which additional demands will be placed on the council's budget, although the impact of these additional demands still need to be fully costed. Currently the implementation grant is proving sufficient to meet our obligations. However, we continue to monitor the situation closely.

## **7. Legal implications**

- 7.1 The Care Act 2014 sets out a modern and cohesive legal framework for adult social care in the form of a single statute. It implements the Government's commitment to reform social care legislation in the White Paper "Caring for our future: reforming care and support (July 2012)". The new legislation will replace much of the existing law and statutory guidance on adult social care.
- 7.2 Along with other authorities, Medway has made a conscious effort to interpret the Act and apply it to our current procedures and practices and make the changes we must make from April. This would not prevent us from being challenged, but the steps we have taken would hopefully ensure we are able to provide a defense to a claim.
- 7.3 The Act also implements the changes recommended by the Dilnot Commission on the Funding of Care and Support by introducing a cap on the costs that people will have to pay for care. The cap on care costs and other funding reform provisions will not come into force until April 2016.
- 7.4 From April 2016 appeals may be made against decisions taken by a local authority in respect of individuals' care and support. It will therefore be essential that needs assessment outcomes and eligibility determinations are sufficiently robust. Developing staff knowledge and application of the new assessment processes and eligibility criteria is key to avoid/minimize appeals once the mechanism is introduced.

## **8. Next Steps**

- 8.1 Immediate Actions. The immediate actions after 1 April have been to support frontline staffs to embed the changes and build up knowledge and skills so that they are comfortable and confident to deliver what is being asked of them. Reinforcement training has been laid on around assessment and eligibility processes and with prison healthcare providers. Further training is being scheduled around safeguarding and legal literacy and we will be working with Social Care Institute for Excellence and others in this regard.
- 8.2 Where technical or other problems have been reported, these are being put right.
- 8.3 Having concentrated on the 'must dos' for 1 April, there are further changes we are making this year though completion dates were always going to mean the changes would not be made until after April.
- 8.4 Preparations for 2016. The national consultation on the capping of care costs and a new Appeals system only recently closed. We are expecting initial feedback in July. However, the final statutory regulations and guidance are not expected until October thereby limiting what we can usefully do before then without the risk things will change.
- 8.5 Governance. There is a clear project plan against which we are delivering, with oversight and control from a Director-level Programme Board.

## **9. Recommendations**

9.1 Board Members are invited to note the report.

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### **Background papers**

None

### **Appendices**

None

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<sup>i</sup> A deferred payment agreement helps a person use the value of their home to fund their care home costs.