

Health and Social Care Scrutiny Sub-Committee SUPPLEMENTAL AGENDA

DATE: Tuesday 1 March 2016

9. CARE ACT - REVIEW OF IMPLEMENTATION (Pages 3 - 12)

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

Agenda item

Special Circumstances/Grounds for Urgency

9. Care Act - review of implementation – Report of the Director of Adult Social Care

This report had not been finalised when the main agenda was published and circulated. Members are requested to consider this report as a matter of urgency.

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**REPORT FOR: Health and Social Care
Scrutiny Sub-Committee**

Date of Meeting: 1 March 2017

Subject: **INFORMATION REPORT – The
Care Act 2014 implementation
review**

Responsible Officer: Bernie Flaherty, Director of Adult Social
Care

Exempt: No

Wards affected: All

Enclosures: None

Section 1 – Summary

This report sets out an overview of the implementation of the Care Act 2014, that was made law in May 2014 and came into force in April 2015, with the intention to change the way care and support is provided by all Local Authorities; repealing out of date legislation and imposing new duties.

FOR INFORMATION

Section 2 – Report

The Care Act 2014 was the single biggest change to adult social care legislation in the UK since the National Assistance Act 1948. 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. The first Part of the Act went live on the 1st April 2015, and this report explains the demands and challenges faced by its implementation since then.

Background

The Care Act received Royal assent on 14th May 2014. The draft guidance and regulations were published for consultation in June 2014, and the consultation closed on 15 August 2014. The final guidance and regulations were published 23rd October 2014 for Part one. At this point it was thought that Part two would be published in October 2015, however in a Department of Health Statement the implementation of Part two was pushed back until 2020 following the identification of large scale funding gaps preventing the implementation of part two, which included a cap on care cost and the implementation of appeals processes.

Key Points for Part One

- The promotion of wellbeing across all care and support functions
- The responsibility to prevent, reduce and delay needs
- The requirement to provide quality information and advice
- The need to shape the market and commission appropriate care and support services
- Extended responsibilities for managing providers who suffer a business failure
- Standard Assessment and eligibility criteria – replacing FACS eligibility criteria (setting a national standard)
- Setting a national standard for Carers eligibility, that is similar to that for the users they care for; based on outcomes and impact on wellbeing
- The new requirement for Local Authorities to pay travel time for home carers, and also to provide equipment up to £1000
- The creation of Independent Care Act Advocates, and a responsibility on the Local Authority to commission and refer to them
- The requirement to impose person centred care and support planning, including; Personal Budgets, direct payments and reviews
- The placing of Safeguarding on Statutory Footing for the first time; and the addition of modern slavery, and self-neglect.
- Changes to the operation of Ordinary Residence and continuity of care for cross border placements.

Phase Two: It was intended, that from the 1st April 2016 that changes to funding reforms would be implemented, but in August 2015 the Department of health announced that due to unprecedented financial pressures on the

Social care sector, there was not the budget to be able to implement this part of the Act. As such, this has been deferred until 2020 – although there is a general election before this date, which may change this date again.

The proposed funding changes for 2020 include:

- Setting a limit on the total amount people will pay for their social care. The aim of this is to enable and encourage people to plan for how they will meet the cost of their social care in later life.
- Changing the capital limits on how much people can have in savings or assets before they have to contribute to the cost of their social care (increased from £23,250 to £118,000).
- Making Policy suggestions for the creation of an appeals mechanism for all social care decisions, that will provide an independent review of decision making processes and make recommendations to the Local Authority about the application of their policies and how they should apply them to the specifics of the case at hand.

Implementation of Phase 1 in Harrow

In order to implement the Act, and embed new ways of working into Harrow we undertook a programme approach to implementation. With a designated project manager and project officer we were able to build up a programme with specific work stream leads directly from front line services to facilitate the implementation.

We have spent a lot of time working with the community, delivering presentations to Carers network groups, CNWL Carers and other organisations to ensure people were fully informed of changes. Furthermore, we ran a very successful Care Act briefing for our voluntary sector, nursing/residential and homecare providers so they too were able to provide adequate information to the hard to reach population of Harrow, and understand the importance of the promotion of wellbeing.

In many areas of work, Harrow was already well-positioned. For example, the Council already had a well-established Safeguarding Adults Board and produced a Safeguarding Adults Annual Report. Harrow is also one of the leaders in personalisation with the highest percentage of cash personal budgets in the country. This put us on strong footing in terms of implementation of the Part 1 changes, which mainly focussed on the practice element of social care for adults.

In order to support the Council meet it's statutory responsibilities we procured three distinct Care Act Specific contracts; Information and advice (Care Act), Independent Care Act Advocacy and Carers Services.

The purpose of these tenders was to work with the voluntary sector in Harrow to fully deliver these key elements of the Act. The winners of the Tender were:

- Carers (including Reablement) Harrow Carers
- Information and Advice (SWISH – made up of 5 organisations from the Harrow Community Action group)
- Independent Care Act Advocacy – Community Solutions (Harrow Mencap, and Age UK Harrow)

In order to fully launch these new services, and refresh front line staff as to their responsibilities under the Care Act we delivered team based training sessions for each of these contracts. This training was delivered with representatives from the winning providers and aimed to launch the new services, while also addressing new statutory responsibilities on care management, social workers and managers.

While the formal structure of the Care Act 2014 work programme has somewhat lapsed, and the implementation of the Act has become business as usual there still remains oversight of the implementation and also policy support available from the Project Team.

In order to fully implement the Act, we set up key work streams:

Carers: This workstream involved understanding how many additional carers may need assessment and services, and whether or not our current carers' offer needed to be developed and extended to provide this support. In addition this workstream looked at the way in which carers assessments are carried out to best match them with these services. On the back of the work undertaken by this workstream, the tender was designed for Carers services – including designing the 12 outcomes of the Carers Reablement programme. Delivered by Harrow Carers.

Market Shaping: The Care Act requires local authorities to shape a market of care within their area which offers choice and quality for all services users, whether self-funders or supported directly by the Council. This includes the development of a “Market Position Statements”, which clearly articulate the approach the local authority is taking to ensuring the services available in the Borough are reflective of needs in the area, and to ensure high quality of service with competitive low prices. In Harrow the Market position statement was already very comprehensive, but following changes expected in 2016 (including national living wage, and additional new responsibilities for Adult Social Care) it is anticipated that the current Statement will be updated in due course. This workstream also looked at the new responsibilities for provider failure, including devising a strategy to deal with Local Authority duties if a provider should fail and we need to take over responsibility for clients within the establishment. While at the time of writing, no provider has suffered such a failure the strategy has been used when providers have looked like they may fail.

Assessment and Eligibility: This was possibly the most significant change in practice under the first phase of the Care Act. It replaced four levels of eligibility under FACs criteria with one eligibility threshold, most comparable to the high/moderate level under FACs. This workstream worked through in detail the implications of the change to the eligibility threshold, including reviewing forms used by front line staff, and fed heavily into the training requirements – identifying areas where practice would be most different and the most detailed training would be required. All assessment forms, Resource Allocation Systems and referrals have now been amended and are being well used. The protocol change group (aside from the Care Act Work programme) addresses any issues or inaccuracies in these forms. In addition, at present the referral forms for the Care Act Tenders are being uploaded to

the case management system, which is another step to make the change as smooth as possible for all front line staff.

Deferred Payments: Although Harrow already offered deferred payments, we needed to ensure we were able to meet a potentially increased demand owing to extended eligibility criteria for Deferred Payments under the Act, and a requirement on the Local Authority to offer them. This workstream devised a Policy document and worked closely with the informatics workstream to put in place electronic provision to handle them, as well as organising a public consultation of the Policy. Following public consultation, some minor amendments to the Policy were made and then agreed by Portfolio holder sign off. At present, the practical workings of DPAs remain under constant review, with very limited uptake it is difficult to fully see the challenges and successes of this particular work stream, however it remains under constant review. The need for additional training, and refinement will also be established in the coming months.

Information, advice, and advocacy: The Care Act requires Local Authorities to provide information to people on how and where to access services, and to ensure that there is adequate access to independent financial advice services, as well as provision of advocacy support. This workstream focussed on developing Council information and working with partners in the voluntary sector to commission high quality information & advice services, as well as creating our own quality information online and in print format. There is a cross directorate working group (lead in conjunction with the web team) and including representatives from; housing, public health, policy, web team, childrens, adults and performance this group looks in detail at the needs of the web based information offer and in the coming months will see the information online updated and presented in a much more user friendly fashion. Following feedback from users and carers (at the Local Account group towards the end of last year)

Transition: The Act requires Local Authorities to sufficiently plan for young disabled people receiving services moving to adulthood. This coincides with the requirements of the Children and Families Act 2014 to develop co-ordinated education, health and social care plans for people with Special Educational Needs and Disabilities (SEND). This workstream worked across both projects to ensure that people who transition from childrens support to adults support had appropriate assessments in line with their needs, and promoted their wellbeing. Importantly, this work stream also connected with the plans for young carers (led by Children's services) into the main care act programme, allowing forms and assessments to be altered to identify and support young carers.

Safeguarding: The Care Act puts adults safeguarding boards on a statutory footing, and creates a Safeguarding Adults board which mirrors the arrangements for safeguarding childrens boards. The Act also gives statutory definition to safeguarding and this workstream worked to incorporate self-neglect and modern slavery into the remit of Safeguarding concerns, not only on our recording forms but also to know how to spot it and to deal with self-neglect and modern slavery as part of safeguarding.

In addition to the workstreams identified above, a number of other enabling projects were also progressed to support successful implementation of the Act.

These included:

Information technology: This included developing tools to support people in finding information and managing their care and support online where they choose to do so. This work, allowed the creation of a pre assessment tool online for carers to get an indication around their eligibility without needing to contact the main access Harrow number, or social workers/ care managers directly.

Workforce development: Ensuring that staff are supported to deliver the Care Act. This included training around the changes in legislation and guidance, as well as new ways of working, for example information and sign-posting. This workstream has utilised the £16k training grant provided by London Councils to facilitate bespoke training for all Social Care Staff around the Care Act changes based on requests for specific training topics, and using the specially designed SkillsforCare materials. In addition, the update training and service launch delivered at the beginning of 2016 supports staff to retain the information, and helps to keep the information fresh.

Communications: Making sure that our residents, staff, and other key stakeholders are aware of the appropriate changes that arise due to the Care Act, and are provided with information in the right format at the right time. This has been done via presentations and on-going discussions with impacted groups (ie; Social Care Providers, Carers, members and CNWL Carers) Care Act presentations continue upon request (eg a recent care act carers presentation delivered to the carers group at Simpson House)

Review of Phase 1

The key implications:

The rights of carers to receive support services

Harrow has adopted the same successful provision of reablement for service users and extended this to carers. This provides parity with service user rights and ensures that a joint holistic approach is taken to support carers in the Community, as previously mentioned; the winning provider of Care Act Carers Services was Harrow Carers who have built on the basic foundation and outline of the carers tender to deliver reablement support to carers. Work goes on to ensure that the outcomes identified by the 6 week reablement are appropriate for carers in Harrow.

Information and advice demands

The Act brought in a new responsibility for Local Authorities to provide universal, quality information and advice. Harrow has setup a dedicated web-site (<http://www.harrow.gov.uk/homepage/CareAct>) for the Care Act within the Council portal to assist people to know their rights and sign-post

them to universal services. The information and advice requirement is also key to dealing with a high level of inaccurate or misleading information published in the media prior to the Care Act going live.

We have seen increased traffic on the Harrow Council website around the Care Act (www.harrow.gov.uk/careact) with more than 500 hits on Care Act pages (April 2015) over time the hits to the website has decreased and at present we are exploring the information provided online in order to consolidate it into easy to use information sources. This is on-going work as part of the working group mentioned above.

Demand around Deferred Payment Agreements

The demand around DPA's has not been great, and we have not seen a surge of requests for the service. There remains a working group around this, made up of; finance representatives, operational leads and service managers to review the requests and the processes to deliver deferred payment agreements. The need for additional training will also remain under review, to ensure that DPAs are being offered to clients considering selling their homes

Increase in safeguarding referrals (now applying to modern slavery and self-neglect)

While Harrow have always been ahead of good practice and have followed the Pan London Policy for safeguarding for some time, and has had provision for people who self-neglect (including the hoarding panel) there has been a consistent and noticeable increase in the number of Safeguarding referrals.

We have amended our internal processes, and assessment forms to reflect the changes and new responsibilities and retain close working relationships with other statutory organisations (through the Safeguarding Board) to ensure all obligations are met.

In addition, the Local Authority now has a responsibility to ensure that all staff are trained in Safeguarding, and know how to make a safeguarding referral. Once again, this is something Harrow is very strong at, with a well-established safeguarding training programme.

Minor Aids and Adaptations

Minor Aids and Adaptations under £1000 need to be provided free of charge to people meeting the national eligibility criteria. Harrow is no longer able to use the CADL and SADL method to order minor aids and adaptations and instead have adopted a trusted assessor method to order equipment. Trusted assessors have been recruited and are in post (x1 in reablement x1 across Personalisation) who understand and are aware of the equipment ordering protocol for Harrow and are able to ensure that those most vulnerable will be given equipment to support achieving identified outcomes.

The role of these assessors does not alter the important role played by our qualified Occupational Therapists, but does mean that Care Managers and Social Workers time is not diverted with equipment. The impact of these changes in equipment expenditure is being monitored on a regular basis, and

while there is some pressure on the budget as a result of the change; the pressure is not unmanageable.

Ordinary Residence

The Care Act has slightly altered the legal provision for Ordinary Residence (OR), and in the build-up to the change in Law many Local Authorities sent out letters discharging responsibility for clients whom after the Care Act, placing Authorities remain responsible. We set up a strong system to deal with this influx and with the support of our colleagues in legal have been able to send out our own discharge letters, and rebut a number of requests coming through to us.

A number of these requests are still outstanding, with Authorities attempting to recover large sums of money for people who they believe were OR in Harrow for a significant amount of time.

The biggest financial pressure here comes from a request from Ealing Council for backdated monies across a number of years for a number of clients. (Totalling 1.7million) Work is being done to try and reduce this cost, and once this pressure has passed it will not be an on-going pressure.

Section 3 – Further Information

The Care Act programme has been absorbed into the usual running of adult social care, with most of the elements fully imbedded within the day to day running of the department.

Section 4 – Financial Implications

- Harrow Council will receive £1.223m New Burdens Funding for the implementation of the Care Act in 2016/17 as part of the Council's Revenue Support Grant (RSG). This funding is not ring fenced for Adult Social Care or Care Act implementation/maintenance.
- In addition to the new burdens funding, a further provision was made available within the Better Care Fund of £545k for Social Care Reform. Although we are still to agree a final settlement for the BCF in 2016/17 it is understood that the £545k Care Act funding will be included.
- Other financial issues: Increased demand for minor aids and adaptations especially when the CCG do not have a trust wide policy about the provision of equipment.

Section 5 - Equalities implications

Was an Equality Impact Assessment carried out? Yes

A large scale EQIA was carried out extensively on a national level for all Boroughs to use for the implementation of the Care Act.

Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/317817/ConsultationIA.pdf

Section 6 – Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

Please identify how the report incorporates the administration's priorities.

- **Making a difference for the vulnerable** – The Care Act 2014 is designed to promote the rights of carers, increase the strength of safeguarding and promote wellbeing across all client groups. Making it crucial for the Local Authority to promote wellbeing in all care and support functions.
- **Making a difference for communities** – The Care Act 2014 imparts a responsibility to provide on-going quality information and advice to all residents. It must be available in all formats (on request) and must attempt to reach all people. We are working closely with our webteam to implement a strategy to improve the quality of information and advice available on line. We also are working closely with the winner of the information and advice contract to ensure that information and advice is maintained to a high standard.
- **Making a difference for families** – We have been working closely with representatives from childrens to include identification of young people providing care to an adult on the adult assessment forms. And in turn, childrens are identifying adults who they feel require additional support on their forms. To reinforce this, staff from the Adults personalisation teams provided successful training sessions for childrens social work staff, and vice versa to support identification and better cross directorate partnership working to ensure that the whole family is supported.

STATUTORY OFFICER CLEARANCE

Name: Donna Edwards,
Business Partner.

on behalf of the
Chief Financial Officer

Date: 23/02/2016

Ward Councillors notified:

NO

Section 7 - Contact Details and Background Papers

Contact:

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Head of Safeguarding Assurance & Quality Services

020 8424 1043

Background Papers: None