

REPORT FOR:

OVERVIEW AND SCRUTINY COMMITTEE

Date of Meeting:

24 March 2015

Subject:

IMPLEMENTATION OF THE CARE
ACT IN HARROW

Responsible Officer:

[Bernie Flaherty](#)

Scrutiny Lead

Councillor Jerry Miles

Member area:**Exempt:**

No

Wards affected:

Please list Ward(s).

[All](#)

Enclosures:

•Appendix A: The Care Act, Key Fact Sheet

Section 1 – Summary and Recommendations

This report sets out the implementation programme in Harrow for the Care Act.

Recommendations:

Overview and Scrutiny Committee are asked to:

- a) Note the approach taken in Harrow to the implementation of the Care Act
- b) Note the progress to date in preparing for implementation
- c) Consider the risks identified.

Section 2 – Report

The Care Act 2014 is 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 changes are being implemented at pace, and it is important that Harrow has appropriate arrangements in place to deliver the requirements of the Act.

In Harrow, a work programme is being led by the Director for Adult Social Services to ensure effective local implementation. In addition, officers are involved in regional and national activity around the implementation of the Care Act 2014.

Background

The Care Act received Royal assent on 14 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 The draft guidance and regulations were published for consultation in June 2014, and the consultation closed on 15 August 2014.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.

The Care Act is being implemented in two distinct phases:

Phase One: From 1st April 2015, local authorities will have a range of new duties including:

- The rights of carers to assessments and services will be extended and put on a similar footing to those of service users.
- Local authorities will be required to offer comprehensive information, advice and advocacy services to prospective and current users of adult social care services.
- Local authorities will need to offer advice and support to people who arrange for, and pay for, their own social care services.
- There will be a duty to ensure that health and social care support is effectively co-ordinated.
- There is a new duty for Local Authorities to pick up care needs on a temporary basis should a provider be unable to continue service
- People who own their homes will be able to defer paying the cost of residential care so that their homes can be sold either after death or a time they feel ready to do so, rather than rushing sale after 12 weeks to afford their care.
- People with eligible support needs will have a statutory right to a personal budget, and this right is now extended to carers.
- Local authorities will be encouraged to integrate and work better with external partners such as local NHS bodies, police and probation services, as well as internal partners, specifically including housing, children's services and public health officers. This is to be done with the intention to provide better more personalised support for service users, to meet the objective of:

- **Preventing**
- **Reducing** and;
- **Delaying** needs.

Phase Two: From 1st April 2016, the changes to funding reforms will be implemented; the final phase of these reforms is highly dependent on the outcome of the general election.

The proposed changes under consultation include:

- Setting a limit on the total amount people will pay for their social care (£72,000 15/16). 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. It is expected that more people will approach local authorities for assessments at an earlier stage as a result. There are also some additional recommendations for the treatment of working age adults
- 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.

Governance

A Care Act Implementation Board has been established to ensure effective implementation of the Care Act. This Board has representatives from all major departments and partners involved in the Care Act (Childrens, Housing, Resources, Access Harrow, Public Health, Central & North West London NHS Trust, CCG).

In many areas of work, Harrow is already well-positioned. For example, the Council already has a well-established Safeguarding Adults Board and produces 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.

Harrow is well placed in terms of meeting the legal requirements of the Care Act as the Act aims to ratify existing good practice and personalisation objectives.

The key workstreams within the 2015 programme are:

Carers: the Care Act widens the responsibility of local authorities for carers, and increases the rights of carers to assessments and services. Harrow welcomes this recognition of the vital role that family carers play in enabling people to remain living in the community, and wants to ensure that people are properly supported in this role. Harrow currently supports 2500 carers linked to an eligible service user. The new requirements could see this increase significantly (2011 Census suggests there are 24,000 unpaid carers in Harrow).

In order to prepare for this increase demand this workstream has involved understanding how many additional carers may need assessment and services, and whether or not our current carers' offer needs to be developed and extended to provide this support. In addition this workstream is looking at the way in which carers assessments are carried out to best match the service user with these services. This workstream is currently in the process of working with the Voluntary sector to re-tender for this service outcome.

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 Statement", to 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 the quality of service provided is of the highest standard, with competitive low prices.

Harrow as part of its implementation of Personalisation has spent the last five years developing its local market and was one of the first to publish a Market Position statement. This document was also considered by the Institute of Public care (IPC) as one of the most comprehensive, and user focussed in the country. Minor amendments have been made to make it compliant under the Care Act. This workstream is also looking at the new responsibilities for provider failure, including devising a strategy to deal with Local Authority duties if a provider should fail.

Assessment and Eligibility: Possibly the most significant change in practice under the Care Act is the replacing of four levels of eligibility under FACs criteria with one eligibility threshold, most comparable to the high/moderate level under FACs. Harrow is currently at a substantial level, which means this effectively lowers the threshold to eligibility. This workstream is working through in detail the implications of the change to the eligibility threshold, including reviewing forms used by front line staff, and reviewing how this will operate in practice.

Deferred Payments: Although Harrow already offers deferred payments, the Council needs to ensure it is able to meet a potentially increased demand for this function, owing to extended eligibility criteria for Deferred Payments under the Act, and a requirement on the Local Authority to offer them when certain criteria are present. This workstream aims to quantify expected demand for deferred payments, and ensure that the local authority is compliant with the final guidance. The report concerning Deferred Payment Agreements will be going through Cabinet in March 2015, and the Policy is currently open for a 4 week Public Consultation.

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 includes developing Council information and working with partners in the voluntary sector to commission high quality information & advice services. This workstream is currently in the process of working with the Voluntary sector to re-tender for this service outcome.

Transition: The Act requires Local Authorities to sufficiently plan for young 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).

Safeguarding: The Care Act puts adults safeguarding on a statutory footing, and creates a Safeguarding Adults board, which mirrors the arrangements for safeguarding children's boards. The Act also widens the breadth of the adults safeguarding remit with the inclusion of self-neglect and modern slavery into the remit of Safeguarding concerns. This will lead to an increase in Safeguarding referrals and investigations and put additional pressure on the service.

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

These include:

Information technology: This includes developing tools to support people in finding information and managing their care and support online where they choose to do so. Harrow is currently working with the Council's web team to develop online self-assessment and signposting tools. Adults are also currently working with Oxford Computer Consultations to develop My Community ePurse to include a system of "care accounts" linked to personal budgets. This will track the amount that people are paying towards their care in order to establish when they meet the cap on the total amount they have to contribute to their care costs. The finite requirements for this are currently in draft format and open for public consultation.

Workforce development: Ensuring that staff are supported to deliver the Care Act. The programme team have delivered training to a range of staff across all directorates. This includes 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 to facilitate bespoke training all Social Care and Access Harrow staff around the Care Act changes based on requests for specific training topics.

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 (i.e. Social Care Providers, Carers, members and CNWL Carers).

There has also been extensive national communication around the Care Act changes, and we have kept all public messages in line with these.

Project Support: These changes have to be delivered at scale and pace. A programme management approach is being used to co-ordinate this activity. Updates are provided to the Director for Adult Social Services at the Care Act programme board, which is held every four weeks.

The local authority is required to provide regular “stocktake” updates to the joint national programme board that oversees national delivery of the Care Act. The latest stocktake for Harrow is included as Appendix B and still illustrates that Harrow is confident that it will meet all the requirements by the 1st April.

We will also be reporting on a monthly basis to Senior Management team and Members the financial impacts, risks and issues raised following the 1st April 2015.

The attention of Overview and Scrutiny committee is directed to:

Funding: The Government have announced £1.223m (2015/16) in additional funding for Harrow to support the implementation of the Care Act through the Revenue Support Grant (RSG) and a further £545k via the Better Care Fund (BCF) for Social Care Reform.

Harrow have carried out extensive modelling work around costs. Harrow has used the two National Models but has developed its own modelling to include additional pressures likely as a result of the Care Act (e.g. lower eligibility threshold, increased Safeguarding responsibilities, Equipment under £100).

This has suggested that there will be a gap of £1.765m in 2015/16 based on funding allocations. This pressure has been raised in a number of reports and briefings including the commissioning panel and leader updates.

Carers: Based on demand modelling consistent with National approach the best estimates suggest that approximately 2100 additional carers will approach the Council for support in 2015/16.

The commissioning team have mapped existing support and services for Carers. In addition, service capacity is currently being planned to ensure support is readily available.

Information, advice and advocacy: Harrow has launched a new and refreshed version of its online information tool for adult social care. This is now available online, but is still in its development stage. This will support residents, carers, voluntary sector partners and staff in finding appropriate information and linking people into local services that will help them.

Communications: A national communications toolkit was published in November 2014 by Public Health England, which includes approved national wording and key messages Local Authorities could market as their own including customisable leaflets. Harrow has adopted their key messages on our own website and will be publishing leaflets in the coming weeks.

Implications

Key risks:

Risks	Mitigation
<p>Funding: There is national recognition that funding is not enough to cover implementation costs for 2015/16. The LGA, ADASS and London Councils have all leaned on this fact in discussions with the Department of Health, but there have been no additional funds since original allocations. Only marginal redistribution of funds for different purposes in line with the final guidance.</p> <p>Demand for Assessment: There is a risk that the numbers of carers (2015) and self-funders (2016) approaching the Council for assessment and support will be greater than anticipated.</p> <p>Timescales: The final guidance was delayed by a number of months, but the deadline for implementation and go live was not delayed; all changes have had to be made in an extremely short time frame, with limited resources.</p> <p>Service User and Carers Expectations: The expectations of service users and carers about what is available are likely to exceed the provisions of the Act. National campaigns set misleading messages e.g. <i>“you will no longer have to sell your home to pay for your care”</i>.</p> <p>Judicial Review: The risk of challenge and judicial review with any changes in law are significant. The Care Act covers all aspects of adults social care and therefore represents an even greater risk as there will be no existing case law covering the Act.</p> <p>Care Home Development: The Law around Ordinary Residence will mean that Local Authorities will take over the Social Care costs of Self-Funders living in the Borough as soon as they reach the Care Cap introduced in Phase 2 (April 2016). Additional development of Care Homes in Harrow aimed at Self Funders will put significant (£5m - £7m) additional pressure on Adults budget from 2020/21 onwards. Each additional care home bed potentially represents a significant increased pressure on the Adult’s budget.</p> <p>Phase Two: There is a General Election between the consultation and final guidance, although the direction from Department of Health is to begin making preparations for the second phase of guidance, it could be altered massively, or revoked entirely with the change of administration.</p>	<p>As the actual pressure is unpredictable Adults will be closely monitoring the increased demand, changes in eligibility and provision of new services. This will be mitigated by prioritising assessment and adjusting Resource Allocation Systems.</p> <p>Modelling demand has been consistent with national approaches. Harrow is working on Demand Management approaches including new online self-assessment tools.</p> <p>Harrow has applied strong governance to the implementation of the Care Act across all Departments and Partners.</p> <p>Access Harrow and Reablement staff have been trained on what the Act means in real terms. FAQs have been developed locally to respond to queries and information & advice (web and leaflets) developed to try and ensure people know what is available.</p> <p>Legal services have worked with Adults to identify low risk approach to implementation. We have consulted on Deferred Payments but have kept changes to current policies and procedures to a minimum to reduce the risk of challenge.</p> <p>Adults have linked with planning including the Director for Planning and have provided comments on all known planning requests for Care Home development. The Chief Executive, Leader and Members have been briefed about the potential pressure. The Adult’s Commissioning team are currently mapping future demand so that we can provide a clear statement of the type of provision needed in the Borough.</p> <p>Harrow are following advice from the Department of Health, to begin preparing for the implementation process to happen as stated in the draft guidance, but are prepared that the final phase of the changes may vary.</p>

Financial implications

There are risks around the proposed allocation of funding for the new burdens for adult social care. The most significant risk is that funding will not be sufficient, and the Council will have to fund the shortfall.

At this stage there has been no confirmation that funding will be recurrent funding, and what the future allocation will be. The Department of Health is working on a single cost model for 2016/17. This should be available before the end of March 2015.

It is unclear at this stage whether the funding for the additional assessments from the Care Act will be for financial assessments as well as care assessments. There is a risk that there is no funding for additional financial assessments, and this will result in a further cost pressure for the Council. The clarity of communication is not present at this point, meaning it is very difficult to predict the impact of the changes for 2016.

Legal Implications

The Care Act ("the Act") 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.

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. Sections 15 and 16 of the Act allow the Secretary of State to make regulations establishing a financial limit on the amount that adults can be required to pay towards the costs of meeting their eligible needs over their lifetime. Local authorities will be prevented from making a charge for meeting needs (other than for daily living costs) once an adult's care costs have reached that limit. The cap on care costs and other funding reform provisions will not come into force until April 2016.

The care and support provisions are in Part 1 of the Act which sets out the core legal duties and powers relating to adult social care. More detailed legal requirements are contained in regulations made under the Act.

The London Borough of Harrow will be required to review its policies and procedures in light of the new legislation to ensure that these comply with the responsibilities set out in the Act. Owing to the short time frame for implementation, we have started with those of key significance (for example: the Deferred Payments Policy, and Financial Charging Policy) to the initial changes, but will continue to review existing Policy and Procedure post April 2015.

Performance Implications

In recent years Performance in Harrow has been very strong across all indicators: Assessment waiting times are low (87% within 28 days); almost every single service user and carer is reviewed annually (94.5%); social care delays to discharge are at their lowest levels since they were measured (2nd in London); and Harrow has the highest percentage of cash personal budgets in the Country (13/14 - 47.1%).

The increased demand for assessment under the Care Act will have a significant impact performance. In particular the assessment waiting times and the capacity to complete reviews within existing staffing levels are likely to be impacted by the Act.

Other concerns will be the timescales for Safeguarding referrals and the threshold for Deprivation of Liberty Assessments carried out by the in-house team. Cost pressures and Capacity issues are also likely to impact on delay discharges.

The Adult's service will monitor this closely and report any significant pressures to the Senior Management Team and members on a monthly basis.

The Department of Health are looking at the introduction of new measures into the Adult Social Care Outcomes framework to reflect the new duties on local authorities. New measures are likely to include measures around Carer Assessment and Outcomes; Transition into Adulthood; diversity of the market of care services; and the Making Safeguarding Personal work stream.

Conclusion and reasons for recommendations

The Care Act 2014 represents a significant change in the way adult social care services are delivered and organised, and needs to be delivered at pace.

A programme structure has been developed to support effective implementation of the Care Act, with a number of component workstreams.

Risk Management Implications

See separate guidance notes.

Risk included on Directorate risk register? Yes

Separate risk register in place? Yes

Equalities implications

Was an Equality Impact Assessment carried out? **Yes** – we are in the process of designing an overarching EQIA, this will sit with the extensive national EQIA carried out last year.

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

Council Priorities

The Care Act makes a positive contribution to the following:

- *Making a difference for the vulnerable*
- *Making a difference for communities*
- Making a difference for local businesses
- *Making a difference for families*

Ward Councillors notified:	NO
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Section 4 - Contact Details and Background Papers

Contact: Chris Greenway, Head of Safeguarding Assurance & Quality Services, Adults Social Care

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Background Papers:

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