

From: Graham Gibbens, Cabinet Member for Adult Social Care and Public Health
Andrew Ireland, Corporate Director Social Care Health and Wellbeing

To: Adult Social Care and Health Cabinet Committee – 26 September 2014

Subject: **CARE ACT IMPLEMENTATION PROGRAMME UPDATE**

Classification: Unrestricted

Past Pathway: Adults Transformation Board – 10 September 2014

Future Pathway: None

Electoral Division: All

Summary: This report provides an update on the Care Act Programme since the previous report that was presented to the Adult Social Care and Health Cabinet Committee on 2 May July 2014. The report also focuses on progress to date on calculating the potential additional demand associated with the implementation of the Care Act in 2015/16 and an initial estimate of the costs involved.

In addition the paper covers other important issues of self-assessment, ICT, training, eligibility criteria and charging policies and an update on the consultation on the draft regulations and guidance.

Recommendation: The Cabinet Committee is asked to note progress on the implementation plan in readiness for April 2015 changes.

1. Cost modelling update

1.1 As stated in previous reports, the Government has to date made the following funding announcements:

- 2014-15: £19 million to help local authorities prepare for the changes. Kent received its allocation of £0.125 million at the end of August 2014. Every local authority has been given the same amount of money.
- 2015-16: £335 million from both the Department for Communities and Local Government and Department of Health (DH) for new burdens (new entitlement for carers, national minimum eligibility, deferred payments, better information/advice and safeguarding and other measures). It is understood that this is top-sliced from the main Revenue Support Grant settlement rather than being new money. Kent's indicative funding is about £8.6 million of this based on the breakdown of the total Better Care Fund new burdens allocations announced late 2013. Aspects of this are currently subject to a separate consultation on the funding formulae for implementing the Care Act in 2015/16 and this will inform the final allocation. KCC will be making a response to the consultation by the deadline of 9 October.

- 2015-16: £135 million identified out of the £3.8 billion Better Care Fund. This is earmarked for new burdens under the Care Act. According to Kent BCF plans, this translates to £3.5 million for Kent. That is £12.1 million indicative funding in total for Kent.

1.2 Further announcements are expected in the next Spending Review.

1.3 On the advice of the DH, the 'Lincolnshire Model' has been used to estimate the costs in 2015/16 associated with carers and also the early assessment of about 50% of self-funders for the care costs cap beginning in April 2016. The results of this modelling are that carers' rights are estimated to cost approximately £9.1million and early assessment for the cap approximately £4.1 million. This is £13.2 million in total. As is clear from section 1.1 above, this significantly exceeds the approximate £12.1 million so far announced for 2015/16, even before the additional costs identified in 1.5 are taken into account. These extra costs will be factored in as they become clear. A note of caution concerning the modelling needs to be exercised due to some uncertainty concerning the data entered into the model and some of the requirements of the model itself. This is being noted as an issue within the programme management.

1.4 Increased capital thresholds and introduction of a cap on lifetime care contributions will have the biggest cost impact in 2016-17 and beyond. A standard model provided via the Association of Director of Adult Social Services (ADASS) is being used to estimate the cost of these changes, supplemented by local information. The model predicts aggregate costs rising from £16.6 million in 2016/17 to £19.3 million in 2020/21.

1.5 The costs outlined above do not include the costs associated with the extra assessments beyond 2015/16, the impact on the care market and other costs, such as IT, Training, information advice and guidance, advocacy, deferred payments scheme, safeguarding, new responsibilities for prisons and the introduction of direct payments in care homes. These costs will be included in cost estimates as more information is known and decisions taken.

1.6 The Local Government Association/ADASS/County Council Network consortium is currently undertaking research into the impact of the Care Act on local care markets and Kent is taking part in this. It has been agreed that an independent consultant will be hired to carry out this work.

2. Estimate of additional activity update

2.1 Using the 'Lincolnshire Model' we have estimated that in 2015/16 we may need to conduct approximately 10,000 early care assessments for cap on care costs reasons. The Government has advised local authorities that they should consider undertaking some assessments from October 2015 in order to help with expected influx in the demand for assessment. The assessment would be for people who currently pay all of their care costs (known as self-funders). The 10,000 represents 50% of the expected demand from this group, the other 50% being assessed from April 2016.

2.2 As a result of the additional care assessments mentioned above, the planning assumption is that they would be a need to complete about 7,000 financial assessments on the basis that about 70% of care needs assessments lead to a full financial assessment. The remaining 30% opt not to have this usually because it is clear they have well over the capital limit.

2.3 With reference to the number of additional carers assessments that may be carried out, we estimate this to be a little less than 8,000 during the year on top of what we have been managing on an annual basis. As a result of the extra carers assessments and the increased rights for carers, we calculate that additional carers services (including respite) provided during 2015/16 may be as much as 5,800.

2.4 Work is in progress to complete the full modelling work to factor in the further additional demand for 2016/17 onwards. A report on this will be provided to this Committee at a later date.

3. Other key issues

Self-assessment options

3.1 The requirements of the Care Act (particularly the need to assess all those, including self-funders who wish to take advantage of the care costs cap) mean that there is a strong imperative to develop an on-line self-assessment function as part of the options available.

3.2 On-line self-assessment could be used to direct individuals (both eligible and non-eligible) to information and advice, arrange sources of support such as equipment and also be used as the first stage of a fuller assessment for those for whom it is appropriate.

3.3 Work is under way to develop detailed options for self-assessment.

Resource Allocation System

3.4 Even without the requirements of the Care Act, social care staff need a mechanism to calculate an individual's *estimated* Personal Budget (ePB) once their needs have been deemed eligible. Although the ePB is only the first stage (and care and support planning will result in a more accurate final *actual* Personal Budget) it is important that the ePB gives as accurate an estimate as possible of how much money will be available to meet needs. This will be even more important once the cap on care costs is introduced and the amount in the Personal Budget is used to calculate progress towards the cap.

3.5 Currently a tool known as the Cost Setting Guidance is used to calculate the ePB. For various reasons its accuracy is poor, with an average variance from the *actual* Personal Budget of over 110%. It is believed that a more sophisticated points based Resource Allocation System (RAS) would prove to be a better tool to calculate the ePB.

3.6 Work is currently underway to consider the various options available for implementing a new points based RAS.

Training proposals

3.7 The Care Act introduces several new duties and powers and makes significant changes to existing duties and functions. This will necessitate a major programme of staff and partner training and development.

3.8 Work is under way to develop the detail of the training programme for the 2015 changes, to be delivered from January to the end of March 2015. Resources provided by the Department of Health and Skills for Care will be utilised where appropriate.

ICT systems

3.9 With regard to the 2015 changes, it is believed that the main change required to the client database (Swift) will be in relation to Deferred Payments. Northgate, the systems developer, will release a Care Act compliant version in December 2014 which will be able to support the required changes. ICT work is underway to develop a contingency plan if the compliant version is not ready to be implemented by April 2015.

Legal Advice (Eligibility)

3.10 KCC legal advice received on the draft eligibility regulations is consistent with the current view in the Directorate and Strategic Policy. That is, that the new criteria “create a threshold that is lower than the current substantial level, and may in fact be a little lower than moderate..”. The consensus is that much will rest on the final guidance and interpretation of the phrase “significant impact on well-being”. With regard to consultation, Legal Services’ view is that if we determine that the new minimum is as generous as our current “moderate” offer, we would not need to consult. If on the other hand we determine that the new minimum is not as generous we would need to consult, probably even if we took the decision to continue to provide down to the moderate level (because of the potential impact on Kent’s tax payers). Regardless of whether we need to consult in the end, the decision on eligibility will be a Key Decision to be taken by the Cabinet Member, after discussion at the Cabinet Committee in December (or January if consultation requirements dictate this).

3.11 In order to inform the final decision a series of workshops are being held to test “moderate” cases against the new draft eligibility regulations. It should be noted that we will not know the final definition of the national minimum eligibility until the final regulations are released (expected October this year).

Legal Advice (Charging)

3.12 From April 2015 charging for all services will be a power only and therefore KCC has to actively make a decision on which services it will charge for. Although it is being recommended that we preserve the status quo (at least for the first year) Legal has endorsed the view that a fresh Key Decision will need to be taken by the Cabinet Member. The legal advice is that as there will be in effect no change to what and how we charge, “the arguments in favour of a need to consult are less clear”, however, “it may be safest to implement a shorter period of consultation in view of the vulnerable adults who may be directly affected”. Further discussions are taking place with Legal over this issue.

4. Consultation on draft regulations and guidance

4.1 KCC submitted our formal response to the consultation on the draft regulations and guidance (for the 2015 changes) by the deadline of 15 August 2014. This can be viewed at the following link:

<http://knet/ourcouncil/Documents/Care%20Act%20consultation%20response%20full.pdf>

4.2 The draft regulations and guidance for the 2016 changes (i.e. cap on care costs and increased capital threshold) will only be released towards the end of this year. This is seen as an issue in that we do not yet have details of how these major reforms will be implemented.

5. Update on the Independent Living Fund (ILF) closure

5.1 Although the closure of the ILF is not as a direct result of the Care Act, the two issues are related and so an update on this issue is provided at Appendix 1.

6. Recommendations

6.1 Recommendations: The Cabinet Committee is asked to:

- A) **NOTE** progress on the implementation plan in readiness for April 2015 changes.
- B) **NOTE** and **COMMENT** on the latest costs estimates and the forecast of additional activity.
- C) **NOTE** and **COMMENT** on the legal advice regarding eligibility and charging.
- D) **NOTE** that the response to the consultation was submitted by the deadline.

7. Appendices:

Appendix 1 – Update on the Independent Living Fund closure

8. Background documents:

Care Act 2014
Draft Statutory Regulations 2014
Draft Statutory Guidance 2014

9. Contact details:

Michael Thomas-Sam, Strategic Business Adviser to SC (Senior Responsible Officer)
01622 696116
Michael.thomas-sam@kent.gov.uk

Chris Grosskopf, Policy Manager, Policy & Strategic Relationships, (Programme Policy Lead)
01622 696611
Christine.grosskopf@kent.gov.uk

Maureen Stirrup, Business Change Team Manager (Programme Manager)
0300 333 5377
Maureen.stirrup@kent.gov.uk

Anthony Kamps, Finance Business Partner (Finance Lead)
01622 694035
Anthony.kamps@kent.gov.uk

Relevant Director:
Andrew Ireland, Corporate Director Social Care, Health and Wellbeing
01622 696083
Andrew.ireland@kent.gov.uk

Appendix 1 - Update on the Independent Living Fund Closure

1. Background

1.1 The Independent Living Fund (ILF) was first set up in 1988. The ILF consists of:

The Independent Living (Extension) Fund – pre 1993 applicants (Group 1). This group will often also be getting some support from their local authority but this was not part of the eligibility criteria for the pre 1993 applicants so some will have no involvement with KCC. There are currently **21 people** in this group in Kent.

The Independent Living (1993) Fund – post 1993 applicants (Group 2). This group will all be receiving a minimum of £200 per week from KCC. By June 2010 when the ILF closed to new applicants (confirmed in December 2010) the minimum local authority contribution had to be £320 per week. There are currently **146 people** in this group in Kent.

Applicants had to be between 16 and 65 when they first applied for help under the scheme. However payments continue post age 65 if started before.

1.2 Following a delay due to a Judicial Review, the ILF is now due to close on 30 June 2015. From 1 July 2015 responsibility to meet the support needs of the ILF users will be devolved to Local Authorities. It should be noted, however, that the decision is subject to another legal challenge.

2. Transfer Programme

2.1 The ILF has worked closely with local authorities and organisations representing disabled people to develop a code of practice to support users and local authorities with the transfer arrangements. This was put on hold following the initial legal challenge but was reinstated from 6 March '14 and joint visits with the local authority resumed. To date almost all ILF recipients in Kent have been visited to discuss the transfer arrangements, most of these being joint visits with KCC.

2.2 In addition to these joint visits, all ILF users will need to be reassessed to determine what level of support KCC can provide after the ILF portion of their funding ceases. By the end of this process there should be a clear understanding of how their eligible support needs will be met immediately following the transfer on 1 July 2015.

3. Financial arrangements

3.1 The ILF has confirmed that the net expenditure in 2014/15 will be devolved to the local authority for 15/16. As at July '14 this amounted to approximately £2.2 Million (net of client contributions which will be lower once there is only one KCC charge). The ILF has stated that the devolved funding will be allocated to the local authority, however not ring-fenced to Adult Social Services. Discussions are underway to determine if this funding can be ring-fenced locally. Funding arrangements from 2016 have not yet been confirmed but the ILF has indicated that KCC will need to bid for this funding in the future.