

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
3 March 2015

Subject: **CARE ACT – CONSULTATION ON THE APRIL 2016 CHANGES**

Classification: Unrestricted

Past Pathway: Not applicable

Future Pathway: Corporate Management Team - 24 March 2015
Adults Transformation Board – 25 March 2015

Electoral Division: All

Summary: This report provides an update on the consultation on the regulations and guidance for the Care Act reforms that are due to be implemented in April 2016. This involves the cap on care costs, the increase in the capital thresholds (particularly for people in residential care) and the proposals for an independent appeals system.

Recommendations:

The Adult Social Care and Health Cabinet Committee is asked to:

- a) **NOTE** the actions being taken in order to respond to the consultation by the deadline.
- b) **DISCUSS** any of the issues raised in the report.

1. Introduction

1.1 The Care Act 2014 received Royal Assent in May 2014. It is being implemented in two stages, starting in April 2015 with the introduction of the new legal framework. The majority of the reforms will come into effect in April 2015 but the key 'Dilnot' reforms (cap on care costs and raising of the capital threshold), new rights for self-funders in relation to care homes and the new appeal rights will not be instituted until April 2016 (subject to final decisions by the Government).

2. Timing of the consultation on the 2016 changes

- 2.1 The consultation document on the proposed 2016 changes was released on 4 February 2015, two months later than initially expected. As a result it has not been possible to provide the Cabinet Committee with the draft response as this would have to have been submitted for publication before key meetings had taken place and feedback obtained from officers and Members.
- 2.2 The deadline for the responses is 30 March. In order to ensure the response takes into account the views of Members, a meeting is being arranged for mid-March and Cabinet Members will be invited to comment on the draft response. In addition, Members are invited to send any comments to the officers named at the end of this report. The consultation documents can be viewed at the following link:
<https://www.gov.uk/government/consultations/care-act-2014-cap-on-care-costs-and-appeals>
- 2.3 In advance of the Member engagement, relevant operational, commissioning and policy officers will be engaged to ensure an informed response is prepared.

3. Key points from the consultation

- 3.1 **Cap on care costs:** for people aged twenty-five and above, it is proposed that this is set at £72,000. Some people will reach the cap before they have actually spent £72,000 as what a person contributes to the cost of their eligible care is means-tested. It is the total reasonable cost (if the local authority was paying) for meeting the eligible needs that counts towards the cap, not just a person's contribution.
- 3.2 It is proposed that people who develop their care and support needs under the age of twenty-five will receive free lifetime care for their assessed eligible needs. In other words, the cap will be zero for this group.
- 3.3 **Changes to the upper capital threshold:** for people living in the community and for those in residential care whose property is disregarded (e.g. because their spouse/partner still lives in it) this is being increased from £23,250 to £27,000. For everyone else in residential care, it is increasing from £23,250 to £118,000.
- 3.4 The lower capital threshold is also increasing from £14,250 to £17,000 in all settings. Capital below this amount will be completely disregarded. People who have capital between the lower and upper thresholds will be expected to contribute from that capital based on a "tariff income" formula (expected to be £1 per week for every £250 between the two limits).

- 3.5 **First-party top-ups in residential care:** it is proposed that all residents in residential care will be able to top-up out of their own resources, provided it is determined that this is sustainable and will not prove to be a risk to the local authority. Currently residents can only top-up out of their own resources in fairly limited circumstances and most top-ups have to be provided by third parties.
- 3.6 **New appeals system:** the appeals policy is at an earlier stage of development than the other reforms and therefore the consultation does not contain draft regulations or guidance. Rather, views are sought on the need for a new system and on the policy proposals.
- 3.7 The proposal for the appeal system is for it to be a three stage process:
- an early resolution internal stage, followed by, if necessary,
 - an independent review stage and
 - a new decision taken by the local authority, taking into account the independent reviewer's recommendation
- 3.8 It is proposed that there will be a right of appeal against all individual decisions concerning assessment, eligibility, care planning, direct payments, personal budgets, independent personal budgets, deferred payments, transition from children to adult care and independent advocacy. Views are sought on whether all of these areas should be included in the scope of the appeals system and also whether, in addition, charging should be included.
- 3.9 Views are sought on the experience and background of the independent reviewer, who should appoint them, how to ensure there is no conflict of interest (for example, should there be a three year gap if the individual was previously employed by the local authority?) and how they should carry out their role.
- 3.10 The consultation document states that the administration of a new appeals system would be funded by the Department of Health.

4. Financial Implications

- 4.1 These are being analysed and will inform the consultation response. This will be made available to the Committee once drafted.

5. Legal Implications

- 5.1 These are being analysed and will inform the consultation response. This will be made available to the Committee once drafted.

6. Equalities Implications

- 6.1 These are being analysed and will inform the consultation response. This will be made available to the Committee once drafted.

7. Recommendations

7.1 The Adult Social Care and Health Cabinet Committee is asked to:

- a) **NOTE** the actions being taken in order to respond to the consultation by the deadline.
- b) **DISCUSS** any of the issues raised in the report.

Report authors:

Christine Grosskopf
Policy Manager
Policy and Strategic Relationships
Tel: 03000 416 181
chris.grosskopf@kent.gov.uk

David Firth
Policy Officer
Policy and Strategic Relationships
Tel: 03000 416 089
david.firth@kent.gov.uk

Background documents:

Care Act 2014

Consultation documents for the 2016 changes – see above link