

**From: Graham Gibbens, Cabinet Member for Adult Social Care and Public Health**

**Andrew Ireland, Corporate Director for Social Care, Health and Wellbeing**

**To: Adult Social Care and Health Cabinet Committee - 2 May 2014**

**Subject: NEW LEGAL FRAMEWORK FOR ADULT SOCIAL CARE**

**Classification: Unrestricted**

**Past Pathway of Paper: Social Care, Health and Wellbeing DMT 9 April 2014**

**Adults Transformation Board 23 April 2014**

**Future Pathway of Paper: None**

**Electoral Division: All**

**Summary:** The Care Bill which is currently going through its Parliamentary stages will establish a new legal framework for care and support services. The new law marks the biggest change to care and support law in England since 1948, and it will replace over a dozen pieces of legislation with a single consolidated modern law.

**Recommendation:** The Cabinet Committee is asked to note the main provisions of the new law consider and comment on the proposed outline implementation plan ahead of the detailed plan being approved by the Adults Transformation Board.

## **1. Introduction**

- 1.1 The Care Bill is shortly to become an Act (Royal Assent is expected in May 2014), with the provisions coming into force in two stages - April 2015 and April 2016. Draft regulations and guidance will be issued for a 10 week consultation period from end of May 2014. The final regulations and guidance will be issued in October 2014. The changes to be implemented will overhaul and modernise the complex system of care and support that has evolved over the last sixty years. The changes will have significant implications for Kent residents and Kent County Council.
- 1.2 The Care Bill Preparation Programme is a separate programme within the Adults Transformation Change Portfolio set up under 'Facing the Challenge'. Whilst the preparations for the Care Bill warrant a separate stand-alone programme, there will be strong links to the other programmes in the portfolio to ensure that they are "Care Bill proof".
- 1.3 This paper presents an overview of the main provisions of the Care Bill, an outline of the key implications along with the summary implementation plan for consideration and comment by the Cabinet Committee.

1.4 A detailed programme plan will be submitted for approval by the Adults Transformation Board in June 2014.

## 2. Financial Implications

2.1 The authority will need to manage the implications associated with the national minimum eligibility criteria, cap on the care costs, duty to provide support services to carers, potential impact on the market for care etc.

2.2 The Government has announced that it will make £493 million available nationally for the implementation. The allocations for 2014/15 and 2015/16 are £23 million and £470 million respectively. Depending on the allocation formula used Kent may receive £575,000 and £11.7 million for the two years. The funding is set aside for new burdens under the Care Bill such as early assessments & reviews, deferred payments, building capacity, information campaign and IT systems. Further announcements are expected in the next Spending Review starting from 2016/17.

## 3. Facing the Challenge Policy Framework

3.1 It is acknowledged within 'Facing the Challenge' that the Care Bill will introduce significant changes to the adult social care system in 2015 and 2016.

3.2 The policy objectives of 'Facing the Challenge' which promotes prevention and service integration which put people more in control of their lives are consistent with the care and support reform programme.

## 4. Overview of the Care Bill (What will change)

4.1 **National minimum eligibility criteria** - there will be a new qualifying threshold for adults with care and support needs and for carers with support needs. It is anticipated that this will be set at a level equivalent to the 'Substantial' threshold although the precise definition will only be confirmed in regulations. Councils will be able to provide services above the minimum threshold if they so wish. This will come into force from April 2015 and it will apply to all councils in England.

4.2 **Carers rights** – they will have the same right to services as adults with care and support needs. Under the existing legal framework carers only have a right to assessment but not support services. This is a major change and it will come into force from April 2015.

4.3 **Prevention, integration, personalisation and diversity of provision of services duties** – local authorities must promote a diverse and high quality market of care and support services (including prevention services) for people in their local areas. In addition local authorities must ensure there is adequate provision of good quality information, advice and independent advocacy. These provisions come into force from April 2015.

4.4 **Universal Deferred Payment** – the scheme will extend the current Deferred Payment scheme whereby people in permanent residential care (including

nursing) with property can delay payment of some of their care home fees, subject to certain conditions. This will come into force from April 2015.

- 4.5 **Cap on care costs** - there will be a total cap on care costs for people in receipt of residential and non-residential services. The cap for people of state pension age and over will initially be £72,000. There will be a lower cap for people of working age and people who turn 18 with eligible needs will receive free lifetime care to meet their eligible care and support needs. The total reasonable amount determined by the local authority to meet eligible needs will count towards the cap regardless of whether the person pays all of this or only contributes a proportion of the cost (following a means-test). People in care homes will still be responsible for their living costs (e.g. food, energy bills and accommodation), if they can afford to pay them. The contribution to living costs will be around £12,000 a year. These changes will come into force from April 2016.
- 4.6 **Means-test:** there will be significant changes to the financial support available to people under the new means-test capital limits. People will receive help with their care home costs if they have up to £118,000 (including the value of their home). Currently people with more than £23,250 have to pay full cost of their care without any state support. Where the value of the home is not taken into account because a partner or dependent is living in the home, financial help will be available to those who have up to £27,000. This will also apply to people receiving non-residential care. These changes will come into force from April 2016.
- 4.7 **Transition** - local authorities will be under a legal duty to cooperate, and to ensure that all the right services work together to ensure transition for children to adult care and support is right for young people. Local authorities must also consider whether children are likely to have care and support needs on turning 18 and they must continue to provide support during the assessment process until adult care and support is in place or it is decided that adult care and support is not required. This will come into force from April 2015.
- 4.8 **Delegation of local authority functions** - councils will have power to authorise a third party to carry out specified care and support functions with the exception of promoting integration with health, cooperating, making direct payments, deciding which service should be charged for and safeguarding adults at risk of abuse or neglect. This will come into force from April 2015.
- 4.9 **Other provisions** - include statutory responsibility to establish a Safeguarding Adults Board, requirement to meet some care needs of prisoners, provision for appeals against decisions taken by councils, obligation to maintain registers of sight-impaired adults (with the power to maintain other registers) These will come into force from April 2015.

## 5. Key implications

- 5.1 The true costs of the reform have not been fully worked out and there is concern that Government may not fully fund the cost of the implementation thereby raising the issue of affordability for local authorities.

- 5.2 The reforms are likely to lead to a significant increase in the number of people coming forward for care and financial assessments. This will require that the necessary capacity (workforce and systems) is in place and that any decisions relating to the delegation powers have been taken.
- 5.3 There is the potential for an impact on the market price for care as many more self-funders and former self-funders may have their care arranged by the local authority.
- 5.4 On the positive side, the reforms do provide opportunities for more prevention and early intervention work, thus supporting the wider transformation agenda.
- 5.5 There are significant challenges in ensuring that the public understand the reforms. It is considered that the communication from Central Government has so far not sufficiently explained how the new system will work and more importantly how individuals will be affected.

## 6. Outline Implementation Plan

- 6.1 The Adult Transformation Board will oversee the Care Bill Programme and set the direction of the programme, approve decisions and ensure that the programme is implemented successfully. Work is currently underway to develop detailed project plans for each area of work, which will then feed into a wider programme plan drawing together the interdependencies between projects. The outline plan is set out as Appendix 1. The plan will be completed following the publication of the draft regulations, expected by the end of May

## 7. Conclusions

- 7.1 The Care Bill will establish new legal framework for adult social care and it will fundamentally change the system to be more proactive and responsive compared to the current arrangements. It will place prevention, personalised care, service quality and integration as core principles. There are key risks such as affordability, implementation readiness, capacity issues and communication that require careful management. However, the Adults Transformation Programme (about to enter Phase 2) and the Integrated Care and Support Pioneer Programme provide us with firm basis for managing the changes.

## 8. Recommendations

**Recommendation:** The Cabinet Committee is asked to note the main provisions of the Care Bill consider and comment on the Outline Implementation Plan.

### 8.1 Appendix1:

Care Bill Programme Outline Implementation Plan.

## 9. Background Documents - none

## 10. Contact details

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### Care Bill Programme Outline Implementation Plan

The following separate projects have been established within the Care Bill Programme:

#### **Communications:**

To ensure all stakeholders including Members, staff, service users, providers, other partners and the public are kept informed about the forthcoming changes and how KCC will be implementing them.

Completion date: Ongoing

Project Lead: Andrew Bose, Communications Account Manager for Social Care.

#### **Workforce Capacity Planning and Training:**

To ensure that workforce planning identifies the necessary capacity and all relevant staff receive the appropriate training prior to the implementation of the Care Bill provisions and that the Adult Social Care Competency Framework fully reflects the new legal duties and powers.

Completion date: March 2015 & October 2015 (for April 2016 changes).

Project Lead: Andrea Cahill, Professional Development Adviser, Social Care.

#### **Commissioning:**

To ensure that the duties regarding preventative services, information and advice, independent advocacy, the facilitation of independent financial advice and oversight of care markets are implemented. In addition, depending on decisions taken regarding the new delegation powers, there may be other services to be commissioned.

Completion date: March 2015

Project Lead: Emma Hanson, Head of Commissioning for Community Support Social Care; Christy Holder Head of Commissioning for Accommodation Solutions Social Care.

#### **Policy and practice:**

To ensure the implementation of the new eligibility rules, the Care Account and cap on care costs, transition, ordinary residence issues and sight registers.

Completion date: February 2015 & October 2015 (for April 2016 changes).

Project Lead: Janice Grant, Policy and Standards Manager, Social Care.

#### **Financial Assessment, Charging**

To ensure the new charging frameworks, extended means-test, Deferred Payments and the finance elements of the care costs cap are implemented.

Completion date: November 2014 & October 2015 (for April 2016 changes);

Project Lead: Andrea Hanson, Assessment & Income Client Services Manager, Strategic and Corporate Services.

**Financial Modelling**

To ensure that KCC has a full understanding of the total costs involved in implementing the Care Bill. This will inform budget planning and lobbying activities.

Completion date: June 2014

Project Lead: Anthony Kamps, Finance Business Partner, Strategic and Corporate Services; Ademola Solanke, Principal Accountant (Projects), Strategic and Corporate Services.

**Safeguarding:**

To ensure the operation of the Adults Safeguarding Board, the Serious Case Review and Safeguarding policies and procedures fully meet with the requirements in the Bill.

Completion date: November 2014.

Project Lead: Nick Sherlock, Head of Adult Safeguarding, Social Care.

**IT and Information Systems:**

To ensure that all current systems (including SWIFT, Oracle etc.) are fully geared up for the changes to be implemented and that any new systems are developed and/or procured in the required timeframe.

Completion date: December 2015.

Project Lead: Linda Harris, ICT Applications Team Manager, Strategic and Corporate Services.