

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

To: Adult Social Care and Health Cabinet Committee – 14 January 2016

Subject: **CARE ACT 2014 - IMPLEMENTATION UPDATE**

Classification: Unrestricted

Past Pathway of Paper: None

Future Pathway of Paper: None

Electoral Division: All

Summary: This paper provides an update on the implementation of the Care Act. It follows the last report which was considered by the Adult Social Care and Health Cabinet Committee on 10 July 2015. This report focuses on the main duties that Kent County Council is obliged to discharge as they relate to adults with care and support needs, carers, in addition to deferred payments, safeguarding and other duties which are mentioned below.

Recommendation: The Adult Social Care and Health Cabinet Committee is asked to **NOTE** and **COMMENT** on the key implementation issues highlighted in this report.

1. Introduction

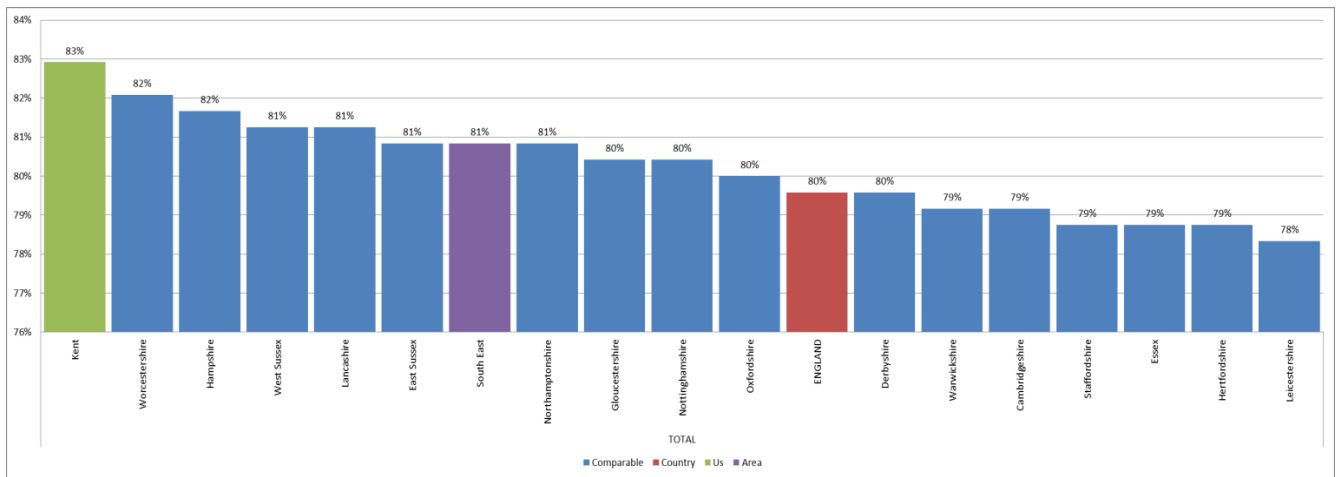
- 1.1 The Care Act 2014, along with the Mental Health Act 1989 and the Mental Capacity Act 2005 form the legislative pillars for adult social care. Collectively these pieces of legislation set out the general and specific responsibilities that local authorities are obliged to address.
- 1.2 The Care Act 2014, however, is now the principal legislation which defines the statutory responsibilities of local authorities and the discretionary powers available to councils with adult social care responsibilities. The Care Act 2014 (and associated regulations) describes the specific criteria for entitlement for care and support by adults with social care needs (including prisoners) and carers.
- 1.3 The Directorate Management Team (DMT) is the senior officer group that has day-to-day operational oversight of the assessment, provision or arranging (commissioning) of services used by eligible residents and carers. The existing directorate activity and budget monitoring processes are the means by which senior management keep oversight of the implementation.
- 1.4 The purpose of this report is to update the Committee on the implementation of the Care Act 2014 from April 2015, when the legislation came into force, until now.

2. Policy context

- 2.1 The Care Act has reformed the legal framework for adult social care. The reform has introduced new rights and entitlements, for example carers. It has also introduced new responsibilities for local authorities, for example market shaping duties and, in some areas the law has strengthened existing requirements such as those relating to care planning and information and advice.
- 2.2 The Committee may also recall that the Care Act clarified responsibilities of the Safeguarding Adults Board and the board accountabilities were put on a statutory footing for the first time.
- 2.3 The implementation of the Care Act, by necessity, requires the development and promotion of a change in culture within the local authority, but also more generally in key partner organisations. One practical way in which the change in culture can be demonstrated is the shift to focusing on individuals' strength (often referred to as asset-based approach), rather than taking a 'deficit' model approach.
- 2.4 Embedding the changes in day-to-day practice so that adults (with care and support need) and carers (with support) experience the effect of being empowered as espoused in the Care Act is a priority for senior managers and team managers alike. The transformation programme development plan, and particularly activities to do with ensuring that we are able to sustain the changes in operational practice is one of the top objectives of the Adults Transformation Portfolio Board.
- 2.5 The Department of Health has announced that it will publish a revised Care Act Statutory Guidance. The council will respond and update all relevant policies and guidance as necessary.

3. Implementation Update

- 3.1 *Meeting duties relating to adults with care and support needs*
 - 3.1.1 The Care Act has consigned the previous 'moderate' eligibility criteria to history. The only basis for determining whether an individual is eligible for support from Kent County Council (KCC) is through the application of national minimum eligibility criteria which apply right across England. In 2014/15, KCC carried out a total of 38,656 adult social care assessments (including reviews) out of which 37,072 were deemed to have met the eligibility threshold. In comparison, since April 2015 to end of November 2015, KCC has conducted 16,061 assessments (including reviews) with 15,536 found to be eligible based on the new eligibility criteria.
 - 3.1.2 These figures show that the number of assessments has decreased this year. This reflects the successful implantation of the transformation programme where more people's needs are met at the point of contact. Current national performance information focusing on quality of life for people shows that the council is showing an improving position which is also very comparable with other councils.

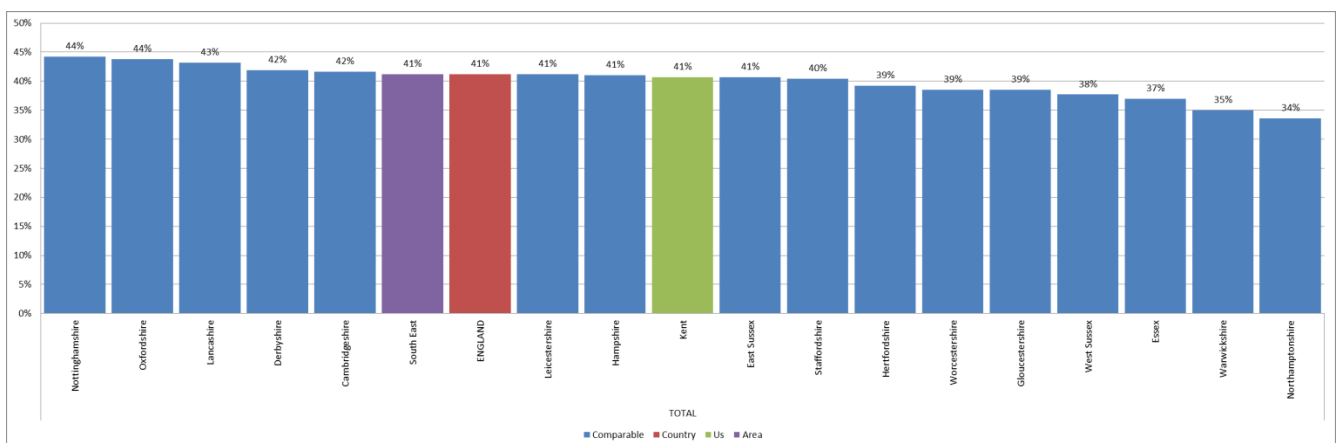


3.1.3 Work is under way to develop detailed options for self-assessment as part of the broader transformation programme and may link to the wider corporate online services.

3.2 Meeting duties relating to carers with care and support needs

3.2.1 The Committee is aware that the Care Act for the first time has put carers on the same statutory footing as adults with care and support needs. Carers deemed to be eligible after meeting the requirements of the national carers' eligibility criteria may be entitled to support in their own right, irrespective of whether the person they care for is eligible for care and support. In 2014/15, KCC carried out a total of 19,216 carers' assessments out of which 18,255 were deemed to have met the eligibility threshold. In comparison, since April 2015 to end of November 2015, there have been 17,906 carers' assessments with 17,189 found to be eligible based on the new national eligibility criteria.

3.2.2 These figures show that the number of assessments has increased this year, with the stronger focus on carers. Current national performance information focusing on satisfaction for carers shows an average performance for Kent.

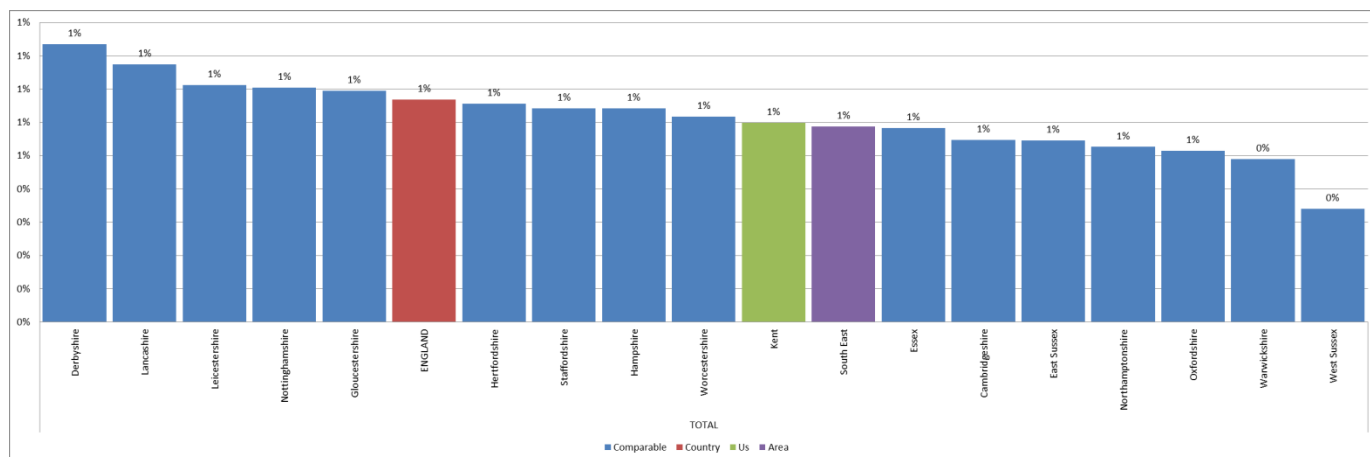


3.3 Meeting duties relating to deferred payments

3.3.1 Deferred payments means a person with a property, moving into a care home on a permanent basis, can enter into an agreement with the local authority. Under this agreement the council will pay the care home fees on behalf of the person until such time as the property is sold. The deferred amount is paid back to the local

authority. KCC agreed a total of 109 deferred payment agreements in 2014/15 with a total gross value of £1,159,062. The total gross value of new deferred payments loans made by KCC between April 2015 and 30 November 2015 was £414,298.79 based on 40 deferred payment agreements. The total gross value of all current agreements (existing and new) stood at £1,143,138.07.

3.3.2 The national position for admissions to residential and nursing care can be found below. It should be noted that Kent's performance has improved significantly over the last few years. We were once one of the highest local authorities for admissions in the country.



3.4 Meeting duties relating to prisoners with care and support needs

3.4.1 The Care Act has placed responsibility on the local authority for the assessment and provision of care and support for prisoners in custodial settings. The current Kent prison establishment capacity is about 3,600.

3.4.2 Ten council staff have received dedicated training from the National Offender Management Service (NOMS) which has ensured they have the appropriate security clearance and personal safety knowledge to enter prison establishments to carry out assessment of prisoners. A single point of contact has been established in Swale and to date 50 assessments have been completed which covering referrals from all prison establishments in Kent. Most of the assessments have resulted in advice and guidance or the provision of equipment (including sensory types) with appropriate training on their use. Care is being provided to one highly dependent prisoner at present. There are significant behavioural management needs in this particular case which results in a high cost package of care.

3.4.3 The council has developed an excellent working relationship with NHS England and NOMS in the work so far within prisons. There is recognition that to date much of the work has focused on people with physical needs, to this end work is in progress to deliver a training workshop early in the New Year to further raise awareness of learning disability and autistic spectrum conditions with the appropriate prison staff.

3.5 Meeting duties relating to information, advice and advocacy

3.5.1 As mentioned earlier, information, advice and advocacy is one of the areas that the Care Act has strengthened the existing responsibilities placed on local authorities. The Committee should note that the council is required to provide information and advice to all local residents not just those supported out the public purse. This

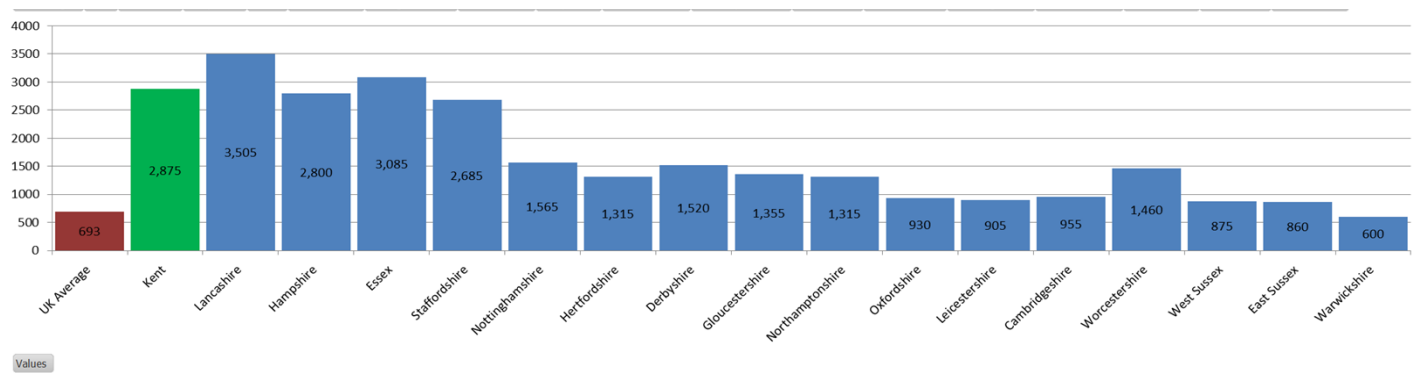
means that when requested, the council must provide information for people who pay for their own care and support (self-funders). There is comprehensive information for the public on a range of care and support and other related matters online with hard copy information made available in many public places. Work continues to improve the general level and timeliness of information as part of Phase 2 of the transformation programme. This will also link more fully into corporate development plans. Evidence indicates that good information and advice is essential in helping to manage their needs and this is more beneficial where people are assisted at an earlier stage.

3.5.2 Individuals have a right to statutory advocacy if they meet criteria laid down by the Government so that they can receive help during the assessment and care planning process or indeed during safeguarding investigations. The total number of general advocacy referrals in 2014/15 was 1,400. The number of people for whom statutory advocacy was arranged from April 2015 to September 2015 was 207, amounting to 1,336 hours of advocacy support.

3.6 Meeting duties relating to safeguarding

3.6.1 The Kent and Medway Safeguarding Adults Board has overseen all the necessary policy, process and procedural changes as a result of the Care Act. This has included a new policy on self neglect. The system of practice audits is continuing with the opportunity to learn from best practice and casework information appropriately disseminated. Furthermore, the routine and regular report to the Cabinet Member for Adult Social Care and Public Health and indeed, to this Committee, offer another layer of scrutiny in respect of assessing how well safeguarding alerts and investigations are being managed. The Committee will be interested to know that Debbie Stuart-Angus has been appointed as the independent Chair of the Safeguarding Adults Board.

3.6.2 The number of safeguarding referrals in 2014-15 is shown below and are dependent on the size of the Council.



3.7 Meeting duties relating to market shaping and commissioning

3.7.1 Local authority responsibility for promoting the quality of services has been enhanced through the relevant provisions of the Care Act, including the responsibility for shaping the market. A response to one of the key requirements is set out in the strategy known as Market Position Statement (MPS). The council has developed two MPS for residential and non-residential care settings respectively. The Director of Commissioning has the lead responsibility for this area assisted by the Heads of Commissioning. Together, these senior officers hold regular meetings

with the private and voluntary sector providers, Care Quality Commission and relevant NHS bodies.

3.8 *Meeting duties relating to the workforce*

3.8.1 The need for changes in culture and the provision of quality services both depend on a suitably trained workforce with the required skills to deliver good care and support services. As mentioned above, embedding the required changes in daily practice is regarded as a top priority.

3.8.2 The directorate has developed a comprehensive organisational development plan which is the basis for ensuring good practice is maintained throughout the services. To this end, a bespoke Care Act knowledge and skills assessment tool has been developed to help inform and advise managers as to how the new legislation is being reflected in practice. The tool will measure the understanding of the Care Act across teams and also inform the training and development plan for 2016/17. Attention is not focused only on council staff as the majority of the social care workforce is employed in the private and voluntary sector.

4. Financial Implications

4.1 There are no financial implications associated with this report.

5. Equalities Implications

5.1 There are no equalities implications associated with this report.

6. Legal Implications

6.1 These are detailed in section 1.1 and 1.2 of the report.

7. Management and Programme Oversight

7.1 The Directorate Management (DMT) has taken on the full responsibility for overseeing how performance in embedding practice is progressing, following the move to the implementation of the Care Act. DMT is assisted in this role by the Care Act Programme Delivery Group (CAPDG) which has been re-fashioned to support the embedding work across the county to ensure that the new legislation is fully reflected across the business.

7.2 The CAPDG has worked with a cross county practitioner group to explore how the changes are truly reflected in practice within teams and also in service delivery. The outcome of this exercise has informed the Care Act embedding plan.

7.3 The performance and finance functions are using existing activity and budget monitoring processes to track changes in service delivery and budget changes. It is intended that ongoing monitoring of the implementation will be fully integrated into the established processes, including future reporting on the implementation.

8. Conclusion

- 8.1 This report seeks to update the Committee on the key implementation activities. The Committee is also asked to note the intent to report on future Care Act activities as part of the routine directorate performance report.

7. Recommendations

7.1 Recommendation: The Adult Social Care and Health Cabinet Committee is asked to **NOTE** and **COMMENT** on the key implementation issues highlighted in this report.

8. Appendices

None

9. Background documents

Care Act 2014

<http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

Statutory Regulations 2014

<https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation>

Care and Support Statutory Guidance 2014

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315993/Care-Act-Guidance.pdf

10. Contact details

Lead Officers:

Michael Thomas-Sam

Strategic Business Adviser to SC

03000 417238

Michael.thomas-sam@kent.gov.uk

Steph Smith

Head of Performance and Information Management

Social Care, Health and Wellbeing

03000 415501

Steph.smith@kent.gov.uk

Lead Director:

Andrew Ireland

Corporate Director of Social Care, Health and Wellbeing

03000 416297

Andrew.ireland@kent.gov.uk