



Preparing for Implementation of the Care Act 2014

SUMMARY

- 1.1 The Care Act 2014 is the most significant reform of social care legislation in more than 60 years, putting people and their carers in control of their care and support. The Care Act has created a single, modern law that makes it clear what kind of social care people should expect.
- 1.2 The Care Act reforms the law relating to social care and support for adults and carers, safeguarding and care standards. It also promotes the integration of care and support with health services. It takes into account the findings of the Dilnot Commission's Report into the funding of care and support, and the Francis Inquiry into failings at the Mid Staffordshire NHS Foundation Trust.
- 1.3 **Why the act is necessary**
The legislative framework for adult care and support in England is outdated. It focuses on crisis intervention rather than prevention and early intervention. It is focused on the provision of services rather than supporting the system to be centred around the health and wellbeing of people and carers. The current legal framework contains many gaps and is confusing for those who deliver and manage the service, and for individuals receiving services or trying to understand their own entitlements.
- 1.4 **Policy objectives** The primary intended objective of the act is to modernise the legal basis for adult care and support in England. This should make the law easier to understand and apply, and should bring greater clarity, consistency and equality of access to care and support. The intended effect is also to improve the outcomes and experience of care, and secure a more effective use of public and community resources by improving the personalisation of services, giving people more choice and control over how their desired outcomes are achieved. The level to which the new legislation can achieve the intended policy objectives above, in the context of the funding cuts imposed by central government on local authorities, is questionable.
- 1.5 **Timescales**
Most of the new duties and responsibilities are planned to take effect from April 2015. The first requirements are related to duties on information and advice (including advice on paying for care), duty on market shaping, assessments (including carers' assessments), national minimum threshold for eligibility, personal budgets, care and support plans, safeguarding and universal deferred payment agreements.

Reforms to the way care is funded and paid for are planned to come into effect from April 2016.

1.6 Impacts

The most significant changes being introduced in 2015/16 are the improved legal rights and increased support for carers.

Other main impacts relate to:

- increased demand for services due to improved information
- the right for self-funders to request the Council to arrange care on their behalf
- the number of self-funders who will come forward to have their care needs assessed and reviewed and a care account started
- loss of income as a result to changes to service user capital thresholds (2016/17).

1.7 Financial impacts

The impacts of the funding reforms are currently being modelled nationally. A first stage common view of the likely national impact is expected after models have been submitted at the end of August 2014. Some impacts cannot be fully determined until regulations have been finalised following consultation. Revised regulations will be issued in October 2014. The Care Act reforms are being introduced at a time of significant growing need and reductions in spending.

1.8 Derby City Council has used national and regional financial models to estimate the additional cost of implementing the Care Act in Derby.

The Lincolnshire Model estimates the cost of the financial reforms and also the cost of additional assessments, and support for carers which starts from 1 April 2015.

Using the Lincolnshire model, the estimated additional cost to Derby City Council from April 2015 and for each subsequent year is:

Y0 2015/16	Y1 2016/17	Y2 2017/18	Y3 2018/19	Y4 2019/20	Y5 2020/21
£996,776	£5,326,318	£3,989,809	£3,110,869	£2,783,752	£2,609,267

1.9 The model predicts significant additional cost to the authority. The Government to date has not published how the additional costs are to be funded into the future. They are using the above model and the Surrey model, described at 4.4 to derive a quantum sum nationally prior to making a determination. It is recognised that the most significant long term financial impact will be due to the funding reforms. However, it is difficult to predict with any level of confidence the cost of the reforms as the main elements depend on how many and how quickly people present for services.

Taking the estimates from the Lincolnshire Model, the estimated additional cost to the authority of the next three years of the Medium Term Financial Plan is £10.3m phased as detailed in the table above. The trend after year 5 is continued reduction to circa £2.1m in year 10. The initial spike is due to current full cost people presenting for assessment due to the significant change to the financial thresholds.

1.11 Benefits

The government considers there are likely to be benefits to local authorities through better coordination, more proactive, preventative measures and planning of care and support functions. Benefits should be delivered by preventing crisis and escalation of

need through improving information, personalisation and assessment of carer need.

Improved information, advice and cooperation between organisations will help people to navigate the system more easily and with greater freedom, flexibility and choice. This will improve the outcomes and experiences of people who use care and support services, carers and their families.

RECOMMENDATION

- 2.1 To note the requirements of the Care Act 2014.
- 2.2 To note the significant additional financial and operational impacts as a result of the Care Act.

REASONS FOR RECOMMENDATION

- 3.1 The Care Act 2014 contains core legal duties and powers for adult social care and partnership health organisations.
- 3.2 Derby City Council will need to meet the legal obligations placed on it by Part 1 of the act and regulations which come into effect in April 2015. Financial reforms will come into effect in April 2016.

SUPPORTING INFORMATION

- 4.1 Many areas of the Care Act are a consolidation and modernisation of the legal framework and do not represent a change in policy. These are:
 - Promoting wellbeing
 - Preventing, reducing or delaying needs
 - Information and advice
 - Market shaping and commissioning of adult care and support
 - Charging and financial assessment (2015-16 only)
 - Personal Budgets
 - Direct payments
 - Integration, cooperation and partnerships
- 4.2 Areas of the Care Act which are substantial policy reforms and represent the most significant costs to local authorities are:
 - Assessment and eligibility
 - Continuity of care
 - Assessment and provision of support for carers
 - Access to independent advocacy
 - Care and support for people in prison and approved premises
 - Safeguarding adults from abuse and neglect
 - Provisions relating to Deferred Payments

- Provisions relating to oversight of the care and support provider market and responsibilities for continuity of care in the case of provider failure
- Implementation

Reform of the funding system for care and support – 2016/17

Additional requirements include:

- extended means test
- capped charging system
- care accounts

See Appendix 2 for an overview of key areas in the Care Act.

4.3 Financial Impacts

There is a commitment to form a common view jointly across the Association of Directors of Adult Social Services/Department of Health/Local Government Association of the national and local costs of implementing the Care Act reforms to enable planning to take place. Two financial models – the Surrey Model and the Lincolnshire Model - have been developed for use and are currently being reviewed by an independent social care expert from the London School of Economics. They are also independently reviewing some of the results.

Derby City Council has run both the Surrey Model and the Lincolnshire Model to establish the cost parameters for implementing the Care Act reforms.

4.4 The Surrey model illustrates the impact of financial elements relating to the proposed changes to capital threshold and introduction of a cap on the lifetime cost of care. It is very complex however its strengths are that:

- it includes a number of different scenarios
- it recognises that care paths vary – with some people spending time being supported in the community before moving into residential or nursing care
- Local authorities can input their own data.

Using the Surrey model, the estimated additional cost to Derby City Council of implementing the Dilnot financial reforms in April 2016 and for each subsequent year is:

	Y1 2016/17	Y2 2017/18	Y3 2018/19	Y4 2019/20	Y5 2020/21
Lowest estimate	£2,034,726	£2,379,584	£2,715,646	£4,127,469	£5,159,871
Highest estimate	£2,978,381	£3,599,004	£4,573,170	£6,153,679	£7,021,803

The model predicts a rising cost to the authority of the funding reforms which is £5.1m per annum in Y5 in the optimistic forecast and £7m in the pessimistic forecast.

- 4.5 The Lincolnshire Model estimates the cost of the financial reforms and also the cost of additional assessments, supporting carers and loss of income which starts from 1 April 2015.

Using the Lincolnshire model, the estimated additional cost to Derby City Council from April 2015 and for each subsequent year is:

Y0 2015/16	Y1 2016/17	Y2 2017/18	Y3 2018/19	Y4 2019/20	Y5 2020/21
£996,776	£5,326,318	£3,989,809	£3,110,869	£2,783,752	£2,609,267

Taking the estimates from the Lincolnshire Model, the estimated additional cost to the authority of the next three years of the MTFP is £10.3m phased as detailed in the table above. The trend after year 5 is continued reduction to circa £2.1m in year 10. The initial spike is due to current full cost people presenting for assessment due to the significant change to the financial thresholds.

- 4.6 Local authorities are being encouraged to use these models and share and compare their results to inform the local, regional and likely national impact by the end of August.
- 4.7 Derby City Council has also developed a simple model to estimate the new support costs and additional new assessments for carers. Using this model, the estimated additional cost to Derby City Council from April 2015 and for each subsequent year is:

Y0 2015/16	Y1 2016/17	Y2 2017/18	Y3 2018/19	Y4 2019/20	Y5 2020/21
£1,579,750	£1,862,700	£2,332,500	£2,794,050	£3,093,500	£3,077,000

See appendix 3 for summary of estimated financial costs.

- 4.8 There is a need to understand local information in order to be able to plan. To inform the models, work has been carried out to estimate the number of self-funders with eligible needs who will come forward to register their spend on care with their local authority to start their care account in 2016/17. The estimated numbers are:

- 578 in Residential Care
- 540 receiving Home Care

The degree and speed at which the people contained in the above figures present will determine the size of the cost envelope for the authority.

4.9 **Operational impacts**

The Care Act will have a significant bearing on the costs of the delivery of social care in 2015/16:

- increased Assessment and Review Costs due to increased volumes
- processes and practices will need to be reviewed to ensure that the Council is compliant with the new legislation and they will enable us to deliver the changes

required

- starting the assessment of self-funders in order for them to take advantage of the financial protection offered by the care cap being introduced in April 2016.

4.10 Implementation Grant

All Local authorities will receive a grant of £125,000 from the Department of Health for use in 2014/15 only. This is to make adequate provision for programme management and participate in the national Care Act implementation stocktake programme.

4.11 Workforce

The introduction of the Care Act will require change to workers' roles and practice to meet the new legal expectations. The Act highlights the need for a specific focus on local authorities, due to their new duties and statutory responsibility for workforce development across the whole social care workforce in their locality, to ensure sufficient workforce capacity exists to meet the requirements of the reforms.

4.12 Social care employers in the independent and voluntary sector also need to consider the impact of the reforms on their workforce.

4.13 A portfolio of training is already being planned which will include one hour team briefings, half-day sessions and e-learning modules which will be delivered in late autumn. There are approximately 400 staff in DCC Adult Social Care who would require an overview and approximately 100 Team Managers, Social Workers and professional staff who would require a more detailed briefing.

4.14 Policy

The Care Act has implications for a number of areas which will require corporate policy to be reviewed to ensure the local authority is compliant with the Act and to make the requirements explicit in strategy documents:

- Duty to Co-operate between the local authority and other relevant authorities
- Sharing of information
- Deferred payments
- Charging for services
- Recovery of charges
- Delegation to a third party to carry out certain functions.

This work will require the support of the corporate Policy Team.

4.15 Information about the consultation on draft regulations and guidance is available at: <http://careandsupportregs.dh.gov.uk/>

OTHER OPTIONS CONSIDERED

5.1 None

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s) Other(s)	Janie Berry Toni Nash Liz Moore
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For more information contact: Background papers: List of appendices:	Perveez.Sadiq@derby.gov.uk http://careandsupportregs.dh.gov.uk/ Appendix 1 – Implications Appendix 2 - Overview of key themes of the Care Act 2014 Appendix 2 - Summary of estimated financial costs
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IMPLICATIONS

Financial and Value for Money

- 1.1 The Care Act 2014 introduces new duties from 1 April 2015 and reforms the way care is funded from 1 April 2016. The impacts of the funding reforms are currently being modelled nationally. The financial implications have been modelled locally and the results are contained in Appendix 3. It should be stressed that these are indicative figures and are based on a number of assumptions which may change as more accurate information becomes available. The models will continue to be refined and approved by finance colleagues prior to any final report. The Lincolnshire model estimates an impact on the MTFP of £10.3m over the next three years.

The government proposes to provide funding to cover the costs of implementation. A first stage common view of the likely national impact is expected after models are submitted at the end of August 2014.

Legal

- 2.1 The Care Act 2014 consolidates existing legislation and introduces new duties and powers that place a statutory duty on the council to meet people's eligible needs. The Care Act puts carers on the same legal footing as those they care for. A new focus on preventing and delaying needs also applies to:
- those who do not have eligible needs
 - carers.

Significant legal advice will be required as the requirements of the Care Act 2014 are implemented and this remains ongoing to respond to any future challenges of provision of service.

Personnel

- 3.1 There are no specific implications in this report, although it is envisaged that additional resources will be required to cover a spike to undertake the increased volume of assessments, particularly from self-funders who will come forward to have their care needs assessed and reviewed to start a care account. The staffing implications will become clearer as further scoping work is carried out, and there may be implications for both the Adults Health and Housing directorate and other services such as Business Support.

IT

- 4.1 The Care Act funding reforms for deferred payments and to increase the capital threshold for residential care should be easily accommodated within existing social care case management and finance systems. Management of the cap on care costs for an individual in their Care Account, which will be introduced in April 2016, will require an extension to existing case management and social care finance systems. IT suppliers – including the provider of Derby's new social care management system which will be implemented from 9 March 2015 - have been

involved in national consultation. Suppliers are currently estimating the development effort required to implement the Care Act and what additional costs (if any) would be passed on to customers.

Equalities Impact

- 5.1 Carers play a significant role in disabled people's lives and are protected under the Equality Act by association with disabled people. In addition older people are also protected by the Equality Act. The revised arrangements will have a positive impact on disabled people, older people and carers including young carers.

Health and Safety

- 6.1 There are no specific implications.

Environmental Sustainability

- 7.1 There are no specific implications.

Asset Management

- 8.1 There are no specific implications.

Risk Management

- 9.1 The implementation of the Care Act is being managed as a programme which follows risk management principles. A Risk Register has been established. Key risks are:
- Uncertainty about additional demand from self-funders
 - Uncertainty about additional demand from carers
 - New national eligibility threshold
 - Total implementation costs

Corporate objectives and priorities for change

- 10.1 The Care Act supports the Council's overall objective to promote the health and wellbeing of its citizens.

Reference to the Care Act may need to be made more explicit in key strategy documents.

Overview of key themes of the Care Act 2014

Promoting Wellbeing

Central to the Care Act is the concept of wellbeing. Local authorities will now have a duty to consider the physical, mental and emotional wellbeing of the individual needing care. In exercising the promotion of individual wellbeing a local authority must have regard to factors such as an assumption that the individual is best placed to judge their own wellbeing, the importance of participation, regard to all an individual's circumstances, and the importance of achieving balance between the individual's wellbeing and that of any friends or relatives involved in their care.

Preventing, reducing or delaying needs

The Care Act creates a new focus on preventing and delaying needs for care and support, rather than only intervening at crisis point. Local authorities will have a new duty to provide preventative services to maintain people's health and prevent, reduce and delay the need for care and support. This applies to people who have eligible needs, those who do not have eligible needs and carers.

Information and Advice

Local authorities will have to offer information and advice to help everyone understand what support they will need to help them plan for the future. Local authorities will need to ensure that information is provided so that the public can:

- know how the care and support system works
- access services that help prevent their care needs from becoming more serious
- access good information to help them make informed choices about their care and support
- have a range of good care providers to choose from
- know how to access independent financial advice
- know how to raise concerns over the safety or wellbeing of someone with care needs.

Market shaping and commissioning

Local authorities will be required to promote the diversity and quality of local services, so that there is a range of high quality providers in all areas. This includes local authorities fostering an effective care and support workforce.

Local authorities will have their responsibilities around market provision strengthened and they will need to ensure and oversee the financial stability of a number of care providers who are the most important and the most difficult to replace. There will also be new responsibilities in place if care providers should fail where local authorities will have temporary responsibility to ensure both residential care and domiciliary care continues if a provider fails, regardless of who pays for the care.

Assessment

Assessments must be outcome focused and the duty to assess applies "regardless of the adult's financial resources". A needs assessment must be carried out, involving the individual, carer and any other person they choose, where it appears that an adult may have needs for care and support. It will include:

- whether the individual has care and support needs
- what those needs may be, and their impact on wellbeing and outcomes

- whether other factors, including the person's own resources and networks, could play a role in their achieving the outcomes they want
- whether the needs are eligible, such as to place a duty on the local authority to meet them
- what information on community services will help meet their needs
- whether preventive interventions might reduce, delay or remove needs.

Eligibility

If the eligibility criteria are met, there is a duty to meet needs where a person's financial resources are below a set limit; if they request the authority to make arrangements (even if they don't qualify on financial grounds) or if, regardless of finances, they don't have the capacity to make the arrangements they need and no one else can do it on their behalf. Eligibility for care must be identified using the new national framework for eligibility to care and support which will be consistent across England.

Independent Advocacy

There is a right to independent advocacy for those needing most support to engage with key processes such as assessment.

Carers

The Care Act gives carers new rights to support that put them on the same footing as the people they care for. All carers will be entitled to an assessment. If a carer is eligible for support for particular needs, they will have a legal right to receive support for those needs, just like the people they care for.

Charging and Financial Assessment

The Care Act sets out a clear approach to charging and will help people to understand what they have to contribute towards their care and support costs. After an assessment and if the individual does not have to contribute the full cost of a package of care, but does have to contribute towards costs, the accompanying regulations to the Act will state how much funds an individual must have after the local authority has charged.

Deferred Payment Agreements

Every local authority will have to offer a deferred payment scheme, meaning no one should be forced to sell their home during their lifetime in order to pay for their residential care. There will be a duty for the local authority to pay care home costs before reclaiming the costs through the sale of a property after the individual has passed away. Local authorities will be able to charge interest to cover their costs.

Care and support planning

The local authority must prepare a care and support plan (or a support plan in the case of a carer) that sets out the detail of how the person's needs will be met. This will link back to the outcomes that the adult wishes to achieve in day-to-day life as identified in the assessment process. This process is central to the provision of person-centred care and support that provides people with choice and control over how to meet their needs.

Personal Budgets and Direct Payments

The Care Act puts personal budgets on a legislative footing for the first time, which people will be able to receive as a direct payment if they wish. The Care Act places a duty on the local authority to provide all individuals and carers with a support or care plan.

Safeguarding

The Care Act makes the safeguarding enquiry function a statutory responsibility of the council. Local Authorities will have a legal requirement to put in place a multi-organisational Safeguarding Adults Board – SAB. The SAB must publish a plan and review it annually. The local authority must investigate, or arrange an investigation, where they believe anyone is at risk of neglect or abuse regardless of whether care or support is provided.

Integration, co-operation and partnerships

The Care Act promotes integration between Adult Social Care, health and housing services to improve outcomes for people and communities. It supports a commitment to make joined-up health and care the norm by 2018. There is a duty on local authorities to carry out their care and support functions with the aim of integrating services with those provided by the NHS or other health-related services, such as housing

Transitions

The Care Act allows for 'transition assessments' to take place in advance of a young person's 18th birthday. The intention is to provide young people and their families with information and advice so that they know what to expect in the future and can prepare for adulthood. The Act also puts into place a duty for any services in place prior to age 18 to be continued to be funded without a gap until adult services are in place.

Continuity of care

There is a new guarantee to ensure continuity of care when people move between areas, to remove the fear that people will be left without the care they need. Guidelines will be provided to ensure that there is an appropriate and clear process for anyone receiving care who wishes to move between local authority areas. There will be a duty for authorities to ensure that care provision for eligible people is equitable. There are new protections to ensure that no one goes without care if their providers fail, regardless of who pays for their care.

Reforms to the funding system – 2016/17

The Care Act introduces a cap on the costs that people will have to pay for care, based on the Government's response to the report of the Dilnot Commission. On top of this the means testing level will increase so that government help starts far earlier than before, meaning people with modest wealth will be eligible for state help towards that cap. Where the individual has reached the cap on care costs, the local authority may not charge towards the cost of meeting the care and support needs. People will still be required to contribute to their general living costs.

Self funders

These changes to the way social care is funded, aimed at reducing uncertainty about the total cost of care that an individual will incur, will for the first time require local authorities to establish a closer relationship with people who self-fund their care. There are three main reasons for this:

- the legal obligation to promote the health and wellbeing of the entire population
- if self-funders are not well informed about preventative support services and care options this may result in the earlier loss of independence
- once the funding reforms are introduced, self-funders who are eligible for support will want to register their spend on care with their local authority to start their care account.

Care Act - Financial Implications - Appendix 3		v0.4 18/07/2014					
Lincolnshire Model v2		Pre Dilnot 2015/16	Yr 1 2016/17	Yr 2 2017/18	Yr 3 2018/19	Yr 4 2019/20	Yr 5 2020/21
Dilnot Financial Impact	OP Asset Threshold Cost		£1,602,684.83	£1,029,329.65	£692,301.81	£459,023.84	£345,432.34
	Residential Self Funder Post Cap Cost		-	-	-	-	-
	Non Residential to Residential Self Funder Post Cap Cost		-	-	-	-	-
Additional Assessment Cost	Assessment Staff	349,284.27	698,568.55	349,284.27	174,642.14	176,388.56	178,152.44
	Residential Financial Assessments	22,649.54	45,299.07	22,649.54	11,324.77	11,438.02	11,552.40
	Brokerage Costs	84,841.76	169,683.51	84,841.76	42,420.88	42,845.09	43,273.54
Additional Carers Cost	Carers Assessments and Packages	540,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00
Loss of Income	Loss of Existing OP Non Residential Income		234,265	167,030	105,246	90,576	82,518
	Loss of Existing 18-64 Residential Income		1,028,404	914,207	785,470	736,256	697,434
	Loss of Existing OP Residential Income		390,164	282,509	178,293	151,940	138,867
	Loss of Existing 18-64 Non Residential Income		77,250	59,957	41,170	35,285	32,037
Totals	Total Cost to DCC	£996,775.57	£5,326,318.33	£3,989,808.75	£3,110,868.74	£2,783,752.36	£2,609,266.55
	Total Cumulative Cost to DCC	£996,775.57	£6,323,093.90	£10,312,902.65	£13,423,771.39	£16,207,523.75	£18,816,790.30
	Total Additional Service User Cost	£0.00	£1,602,684.83	£1,029,329.65	£692,301.81	£459,023.84	£345,432.34
	Total Additional Assessment Cost	£996,775.57	£1,993,551.13	£1,536,775.57	£1,308,387.79	£1,310,671.67	£1,312,978.38
	Total Income Lost	£0.00	£1,730,082.37	£1,423,703.53	£1,110,179.14	£1,014,056.85	£950,855.83
Surrey Model v2 - Dilnot Financial Impact only		Pre Dilnot 2015/16	Yr 1 2016/17	Yr 2 2017/18	Yr 3 2018/19	Yr 4 2019/20	Yr 5 2020/21
Dilnot Financial Impact only	Lowest estimate	0	£2,034,726	£2,379,584	£2,715,646	£4,127,469	£5,159,871
	Highest estimate	0	£2,978,381	£3,599,004	£4,573,170	£6,153,679	£7,021,803
The Surrey Model takes a simple approach to inflation in that it does not factor it in any way and it is assumed that all costs/rates/thresholds will move equally with inflation over time							
Derby Model - Carers' costs		Yr 0 2015/16	Yr 1 2016/17	Yr 2 2017/18	Yr 3 2018/19	Yr 4 2019/20	Yr 5 2020/21
	Number of Carers Assessments	2,500	3,000	3,750	4,500	5,000	5,000
	% of Carers identified in Derby census data	10%	12%	15%	18%	20%	20%
	Carers' Support Costs	1,538,500	1,846,200	2,307,750	2,769,300	3,077,000	3,077,000
	Additional cost of new assessments	41,250	16,500	24,750	24,750	16,500	0
	Total Cost to DCC	£1,579,750.00	£1,862,700.00	£2,332,500.00	£2,794,050.00	£3,093,500.00	£3,077,000.00
Note: Overall, the estimates of the Lincolnshire and Surrey models are on the low side for the following reasons: Men and Women have not been separated out in running the models. Women tend to live longer, have less income and fewer assets so the results underestimate the impact for the council The models have used English Longitudinal Study of Ageing - ELSA - data which overestimates wealth, so the results underestimate the impact for the council							