

	<h2>Adults &amp; Safeguarding Committee</h2> <h3>2 October 2014</h3>
<b>Title</b>	<b>Implementing the Care Act 2014</b>
<b>Report of</b>	Dawn Wakeling, Adults & Communities Director
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	Appendix A – Department of Health: The Care Act 2014 – consultation on draft regulations and guidance – London Borough of Barnet response
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<h2>Summary</h2>
<p>The Adults and Safeguarding Committee received a report on the implementation of the Care Act on 2 July 2014. This report contained a summary of the financial impact modelling undertaken for the Council.</p> <p>This report provides an update on progress made towards meeting the statutory requirements of the Care Act, updates the financial modelling and seeks to inform members of the policy decisions required.</p>

<h2>Recommendations</h2>
<p>That the Committee:</p> <ol style="list-style-type: none"> <li>1. Note the progress made towards meeting the statutory requirements of the Care Act.</li> <li>2. Note the update on the financial impact modelling.</li> <li>3. Note the timing and number of decisions required to be taken.</li> </ol>

## **1. WHY THIS REPORT IS NEEDED**

- 1.1** This paper identifies the major policies needing decisions of the Adults & Safeguarding Committee based on the Care Act and its draft regulations and guidance for implementation in 2015. There may also be other policy decisions which cannot be determined until final guidance is issued and analysed. Officers are unable to say at this time what the policy implications are from the regulations and guidance for implementation in 2016 as these have not yet been published. There is a suite of operational policies, which cover areas such as Safeguarding, Direct Payments, Personal Budgets and Ordinary Residence that will also need to be refreshed.
- 1.2** The Department of Health's consultation on the draft regulations and guidance for implementation in 2015 ended on 15 August 2014 and LBB has submitted a response. The Department of Health intends to publish the final documents in October 2014 and the draft regulations will be laid before Parliament at the same time. The draft regulations and guidance for implementation in 2016 are scheduled to be published in October 2014.
- 1.3** Barnet-specific financial impact modelling was completed in July 2014. Since then, the Deferred Payments modelling has been refined and LBB has undertaken additional financial analysis as part of a national exercise. A further iteration of modelling is scheduled to be delivered in October 2014 and this will form the basis of LBB's budget planning. At that point there will also be a greater degree of certainty about the impact and the funding available from central Government.
- 1.4** The Department of Health is consulting on the funding formulae for implementation of the Care Act in 2015/16. The consultation closes on 9th October 2014. There are three distinct formulae to consider:
- Cap (on care costs) Additional Assessment Relative Needs Formula - additional assessments for the cap (plus capacity building and local awareness) and paid as a Department for Communities and Local Government revenue grant.
  - Deferred Payment Allocation Relative Needs Formula - new demand resulting from the introduction of the new deferred payments scheme and paid as a Department for Communities and Local Government revenue grant.
  - Social Care in Prisons - meeting care and support needs in prisons and paid as a Department of Health revenue grant.
- 1.5** There are choices in the formulae presented for the Cap Additional Assessment Relative Needs Formula and Deferred Payment Allocation Relative Needs Formula. LBB is currently preparing a response to this consultation.

## **2. REASONS FOR RECOMMENDATIONS**

### **2.1 Update on Progress**

2.1.1 The Council has responded to the consultation on the draft regulations and guidance and a copy of Barnet's response is attached as Appendix A.

2.1.2 The Adults and Safeguarding Committee has established a Care Act working group made up of Cllr. Cohen, Cllr. Longstaff, Cllr. Rajput and Cllr. Rawlings, supported by Karen Ahmed (Later Life Lead Commissioner) and Dawn Wakeling (Adults and Communities Director).

2.1.3 The implementation is being managed through seven work streams and implementation plans are now in place for:

- Demand Analysis and Modelling: forecasting what the total impact of the Care Act on the Council's finance and resources will be;
- Prevention, Information & Advice: refreshing and updating prevention, information and advice initiatives and catalogues;
- Carers: ensuring that LBB carers' services are compliant with Care Act regulations;
- First Contact, Eligibility, Assessment and Support Planning: ensuring readiness for national eligibility criteria, developing and implementing new approaches to assessment and support planning, ensuring sufficient capacity and effective risk mitigation arising from the likely increased take up of assessment due to the funding reforms and creating a first contact service that is able to manage demand efficiently and effectively and enable costs to be reduced;
- Finance: delivering a universal deferred payment offering and making any necessary changes to charging and debt collection processes.
- Marketplace: updating existing and developing new policies and processes related to market shaping and provider failure;
- Communications, Workforce Development and Governance: developing and delivering internal and external communications related to the Care Act, delivering a comprehensive workforce development plan and staff training to prepare the social care workforce and co-ordinating public consultation and corporate decision making.

2.1.4 The Department of Health (DH) in collaboration with the Local Government Association (LGA), Association of Directors of Adult Social Services (ADASS), the County Councils Network and London Councils has initiated further work to support councils in understanding their local costs. Key decisions about implementation will be made by the national Care and Support Reform Programme Board.

2.1.5 To support this process, DH, LGA and ADASS have taken steps to integrate modelling from all local authorities into a national risk assessment. A single model, known as the Lincolnshire model, has been adopted for this exercise. It focuses on three key cost areas covering 2015 only:

- Early assessments towards the cap on care costs,
- Carers assessments,

- Carers support.
- 2.1.6 Barnet has completed the Lincolnshire model and used it to refine the local cost model which covers all aspects of the Act.
- 2.1.7 The First Contact, Eligibility, Assessment and Support Planning workstream is developing proposals for a cost-effective business process which will meet the increase in demand and deliver the eligibility, assessment and support planning requirements. The business case envisages a new approach to assessments to enable LBB to deliver a significantly greater number of assessments by:
- A new range of assessment models.
  - Increased self-assessment.
  - More assessments at the first contact service.
  - Third party assessors for simple/straightforward assessments.
- 2.1.8 New IT tools and processes have been set out and will be developed by the Investing in IT Project. Full proposals will be presented to Committee for approval at a future meeting.
- 2.1.9 The Finance workstream has drafted a Universal Deferred Payment Policy. This is now out for public consultation until 21 October 2014. The consultation documents and online survey are available on Barnet's Citizen Space: ([http://engage.barnet.gov.uk/adult-social-services/consultation-on-deferred-payments-scheme/consult\\_view](http://engage.barnet.gov.uk/adult-social-services/consultation-on-deferred-payments-scheme/consult_view)).
- 2.1.10 A public internet page aimed at all social care users and carers has been prepared and will be launched in September 2014. This will provide an overview of the changes arising from the Care Act, Easy Read Care Act information, Frequently Asked Questions and a dedicated email address for questions.
- 2.1.11 DH, LGA and ADASS are undertaking the second of a series of Care Act stocktakes to inform the LGA's understanding of council's concerns. This survey builds on the first stocktake in Spring 2014, which clearly highlighted IT, workforce, funding and communications as key areas requiring further work. In response to this a number of tools and support materials have been developed by the National Care Act Programme team, with further support also in development.

## **2.2 Policies and Key Decisions**

- 2.2.1 The policy and key decisions so far identified as needing consideration by the Committee are detailed below together with the meeting dates proposed for the forward plan. These decisions have been developed jointly by the statutory director and the Council's legal team, HBPL.

Report Title	Brief Description	Public Consultation Required
<b>Adults and Safeguarding Committee - 4 December 2014</b>		
Young Carers & Transitions Paper	FOR NOTING: A paper describing the new duties for young carers and people transitioning to adult social care arising from the Care Act 2014	No
Adult Social Care Deferred Payments Policy	FORMAL POLICY FOR ADOPTION: Updates the current Deferred Payments Policy to meet the requirements of the Care Act 2014.	Yes
<b>Adults and Safeguarding Committee - 19 March 2015</b>		
Remodelling Adult Social Care to meet Care Act requirements and pressures	FORMAL DECISION: A paper proposing changes to the ASC process that will enable it to comply with the Care Act 2014	Yes
Market Failure Policy	FORMAL POLICY FOR ADOPTION: A new policy arising from the Care Act 2014 formalising the new duties of the council where a care provider fails.	
Market Shaping Paper	FORMAL Decision: A paper proposing how council can develop a sustainable social care market place to meet the new duties of the Care Act 2014.	
Information & Advice Policy	FORMAL POLICY FOR ADOPTION: Stating Barnet's approach to Information & Advice and Advocacy services in relation to the requirements of the Care Act 2014	
Prevention Policy	FORMAL POLICY FOR ADOPTION: Stating Barnet's approach to preventative services in relation to the requirements of the Care Act 2014	
Care and Support Contributions Policy	FORMAL POLICY FOR ADOPTION: Replaces the current Fairer Contributions Policy with a new policy in line with the requirements of the Care Act 2014. Potentially minor changes covering charges for Self Funders, Carers and preventative services.	
Adult Social Care Eligibility (Cared for People) Policy and Adult Social Care Eligibility (Carers) Policy	FORMAL POLICIES FOR ADOPTION: Adopts the following changes introduced by the Care Act 2014: <ul style="list-style-type: none"> <li>○ The new National Eligibility Criteria.</li> <li>○ The changes to the definition of Ordinary Residence.</li> <li>○ The new duties of the council in relation to people who move in or out of the Borough.</li> </ul>	
<b>Adults and Safeguarding Committee – later in 2015</b>		
Adult Social Care Contributions Cap & Care Accounts Policy	FORMAL POLICY FOR ADOPTION: Formally adopts the Contributions Cap & Care Account introduced by the Care Act 2014 and describes how it will be applied in LBB.	6 weeks public consultation.
Adult Social Care Appeals and Complaints Policy	FORMAL POLICY FOR ADOPTION: Revisions to the appeals and complaints policy to take account of the independent complaints procedure being introduced by the Care Act 2014.	

2.2.2 Public consultation will be undertaken on policies where required. Public consultation on the proposed Deferred Payments Scheme started on 9 September 2014 for 6 weeks. The new proposed scheme together with the outcome of the consultation and the equalities impact assessment will be put to members at their 4 December 2014 meeting for a decision.

## 2.3 Financial Modelling

2.3.1 The financial model presented to the Committee in July has been updated and refined in order that the Council can identify a single amount to use in its long term financial planning. It is anticipated that new burdens money will be allocated to the Council in order to meet Care Act demand. At the time of writing, the Council are being consulted on the allocation for 2015/16 which is between £1.767m and £1.887m for assessments and deferred payment. An additional £847k has been allocated to the Council through the Better Care fund for the cost of the Care Act. It is anticipated that in 2016/17 a higher amount of funding will be allocated to the Council to manage the increase in demand.

2.3.2 The model below illustrates the council's best estimate of the costs likely to arise as a result of the Care Act. The assumptions used in this modelling have been further refined by the Council's Finance Team and triangulated against the Lincolnshire national modelling tool and other resources. It should be noted that the modelling is still based on a number of assumptions and it is therefore possible that actual costs may be higher or lower. A review of future demand going forward will be modelled and presented to Committee in October 2014.

2.3.3 The Barnet modelling is presented in the following table:

	Medium Volume (£k)							
	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23
Carer Assessments	1,055	1,055	1,055	1,055	1,055	1,055	1,055	1,055
Carer Packages Costs	1,161	1,161	1,161	1,161	1,161	1,161	1,161	1,161
Residential & Nursing Assessments	44	292	292	292	292	292	292	292
Residential & Nursing Care Package Costs	0	6,908	6,908	6,908	9,331	11,755	11,755	11,755
Community Based Assessments	669	4,462	4,462	4,462	4,462	4,462	4,462	4,462
Community Based Care Package Costs	24	771	771	771	1,585	1,585	1,585	1,874
Deferred Payments	0	0	0	66	132	199	199	199
Existing Clients - Residential	0	0	0	0	107	107	91	0
Existing Clients - Community Based	0	181	54	25	7	0	4	0
<b>Financial Impact</b>	<b>2,953</b>	<b>14,830</b>	<b>14,702</b>	<b>14,740</b>	<b>18,133</b>	<b>20,616</b>	<b>20,603</b>	<b>20,797</b>

2.3.4 Current modelling has shown that Barnet can expect between 30 and 44 deferred payment applications a year once changes to the Care Act are implemented. Based on current government estimates of arrangement and administration costs, once the scheme is fully utilised the arrangement and administration costs for deferred payments will be between £24k and £36k per year.

37 clients p.a. and average deferral of £36k p.a. (£k)	2015/16	2016/17	2017/18
Cashflow implications of Deferred Payments	£1,038	£3,477	£4,372

### 3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 None

### 4. POST DECISION IMPLEMENTATION

4.1 When the DH publishes the final version of the regulations and guidance in October 2014, officers will revise local policies accordingly. At the same time, the draft regulations and guidance for implementation in 2016 will be published for consultation and officers will be analysing this and preparing a response.

A refreshed financial impact model will be delivered in October which takes account of the final version of the regulations and guidance

### 5. IMPLICATIONS OF DECISION

#### 5.1 Corporate Priorities and Performance

5.1.1 Successful implementation of the Care Act will help to support and deliver the following 2013/16 Corporate Plan priority outcomes:

- “To sustain a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health”.
- “To promote a healthy, active, independent and informed over 55 population in the borough so that Barnet is a place that encourages and supports residents to age well”.
- “To promote family and community well-being and encourage engaged, cohesive and safe communities”.

5.1.2 The Health and Well-being Strategy 2012-15 echoes many themes of the new policy framework with its emphasis on promoting independence and well-being whilst ensuring care when needed. The reform agenda links directly with three of the main strands of the strategy: Well-being in the community; How we live; and Care when needed. In particular, ‘Care when needed’ identifies plans for developing increased independence for older people, improving support for residents in care homes and improving support for carers.

## **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.1.3 It is clear that the Care Act will have a significant financial impact on social care locally as detailed in the previous report to Committee and this report. Modelling is continually being refreshed to identify the impact of this.

### **5.2 Legal and Constitutional References**

5.2.1 The Care Act is an overarching piece of legislation which brings together legislation, practice and case law which has developed over the decades. It has put on a statutory footing for the first time good practice such as the establishment of adult safeguarding boards and has repealed legislation which has been determined as incompatible with the European Convention on Human rights. It is intended to be less complex and easier to apply for practitioners within the local authority, their legal advisers and, in the case of legal challenges, the Courts. However, it does have a significant impact on existing policies as highlighted in this paper.

5.2.2 The responsibilities of the Adults and Safeguarding Committee are contained within the Council's Constitution - Section 15 Responsibility for Functions (Annex A). Specific responsibilities for those powers, duties and functions of the Council in relation to Adults and Communities including the following specific functions:

- Promoting the best possible Adult Social Care services.

5.3.3 The Adults and Safeguarding Committee is responsible for the following:

- Working with partners on the Health and Well-being Board to ensure that social care interventions are effectively and seamlessly joined up with public health and healthcare, and promote the Health and Well-being Strategy and its associated sub strategies.
- Ensuring that the local authority's safeguarding responsibilities are taken into account.

### **5.3 Risk Management**

5.3.1 The Care Act sets out a number of new statutory requirements and duties and hence provides a legal basis for challenges where duties are not met. A successful implementation of the Care Act mitigates against the likelihood of this risk.

### **5.4 Equalities and Diversity**

5.4.1 An Equality Impact Assessment will be carried out on all new policies, services and processes proposed for implementation as a result of the Care Act Implementation Project.

### **5.5 Consultation and Engagement**

5.5.1 The requirement for public consultation is addressed within this document.



## 5.7 BACKGROUND PAPERS

- 5.7.1 Special Safeguarding Overview and Scrutiny Committee on 24 September 2012 received a report on the 3 key adult social care policy documents published in July 2012: Caring for Our Future (White Paper); the draft Care and Support Bill; and the Government's interim statement on funding reform for Adult Social Care. The Committee endorsed Officers undertaking further work to assess the potential impact of these policy changes on Barnet. [Adult Social Care and Health \(1.1\)](#)
- 5.7.2 Cabinet on 18 April 2013 received a report describing the main impact of the White Paper, Caring for our Future, and the draft Care & Support Bill, both published in July 2012; and of the policy statement on Care and Support Funding Reform, presented to Parliament on 11 February 2013. The report set out the implications for Barnet based on empirical data and modelling where appropriate. [Social Care Funding Reform and the Draft Care and Support Bill: Implications for the London Borough of Barnet \(3.1\)](#)
- 5.7.3 Health and Well-being Board on the 27 June 2013 received a report which summarised the implications of the Care Bill and a further report on 21 November 2013 to update the Board on progress made locally to prepare for the implementation of the new legislation. [Social Care Funding Care and Support Bill Update \(1.1\)](#)
- 5.7.4 The Safeguarding Overview and Scrutiny Committee on the 10 April 2014 received a report setting out the main points from the forthcoming changes to social care legislation as set out in the Care Bill, the implications for Barnet and the approach being taken to prepare for the new requirements. [The Care Bill Update Report \(2.1\)](#)
- 5.7.5 The Adults and Safeguarding Committee received a report on the implementation of the Care Act on the 2 July 2014. [The Implementation of the Care Act](#)
- 5.7.6 The Adults and Safeguarding Committee received a report on the Consultation on the Statutory Guidance on the 31 July 2014. [Response to Consultation on the Care Act Guidance](#)

