

**Adults & Safeguarding Committee**  
**2 July 2014**

<b>Title</b>	<b>Implementation of the Care Act 2014</b>
<b>Report of</b>	Dawn Wakeling, Director Adults & Communities and Karen Ahmed, Later Life Lead Commissioner
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	Appendix A – Gap Analysis Appendix B – Road Map to 2015 Appendix C – Care Act Financial Impact
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## Summary

In May 2014, the Care Bill received Royal Assent and became the Care Act 2014. Some elements come into effect from April 2015, others come into effect from April 2016. Implementation depends heavily on the detail in the 2015 regulations and guidance which are currently out for consultation and will be presented to Parliament in October 2014.

The changes coming into effect in April 2015 which impact directly on the London Borough of Barnet include:

- A duty to provide prevention, information and advice services.
- A national minimum threshold for eligibility for both service users and carers.
- The entitlement for carers to assessment, support services and review equal to that of the service user
- The right for people who pay for their own care to receive advice and support planning.
- A universal system for deferred payments for residential care.

The changes coming into effect from April 2016 which impact directly on the London Borough of Barnet include:

- A cap on the costs that people have to pay to meet their eligible needs.
- A 'care account' giving people with eligible social care needs an annual statement of their progress towards reaching the cap, whether their care is organised by the local authority or not.
- Extending the financial support provided by the local authority by raising the means test threshold for people with eligible needs.

A gap analysis indicates that Barnet has good foundations in place in many of the key requirements. Nevertheless, there is likely to be a substantial increase in demand for assessment and support planning from people who currently pay for their own care and carers. This will have a financial impact on the Adults and Communities Budget and has cashflow implications for Corporate Finance.

The Committee is invited to form a Task and Finish Group to enable leadership on key issues relevant to the impact of the Care Act.

## Recommendations

- 1. That the Committee place on record their understanding of the requirements of the Care Act and note the gap analysis.**
- 2. That the Committee comment on and agree the actions proposed in 2.7 – 2.12 to ready the Council for the new requirements of the Care Act 2014.**
- 3. That the Committee consider whether a working group be established to assist Officers by providing Member leadership and direction to enable further proposals to be brought back to this Committee.**
- 4. That the Committee consider what lobbying position they would like to adopt in the light of the impact that the Care Act will have in Barnet.**

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

- 1.1 On the 14 May 2014, the Care Bill received Royal Assent and became the Care Act 2014 (hereafter "Care Act"). The Care Act comes into effect on 01 April 2015 except the funding reform elements, which are scheduled to come into effect on 01 April 2016. Implementation depends heavily upon regulations and guidance for detail. Consultation of the 2015 regulations and guidance is taking place and will be presented to Parliament in October 2014 with consultation on the 2016 regulations and guidance scheduled to take place at a later stage.
- 1.2 The Care Act legislates to provide social care protection and support to the people who need it most, and to take forward elements of the government's initial response to the Francis Inquiry, to give people peace of mind that they will be treated with compassion when in hospital, care homes or their own home. The Care Act brings together existing care and support legislation into a new, modern set of laws which builds the system around people's outcomes and well-being.
- 1.3 The Care Act aims to reform the care and support system into one that:
  - Focuses on people's well-being and support to help them remain independent for as long as possible.
  - Introduces greater national consistency in access to care and support.
  - Provides better information to help people make choices about their care.
  - Gives people more control over their care.
  - Improves support for carers.
  - Improves the quality of care and support.
  - Improves the integration of different services.
- 1.4 The Care Act sets out new duties on local authorities to provide information and advice; along with preventative services that reduce the need for formal social care support. It brings in a national eligibility threshold for care and support for users and carers; along with new rights for portability of care when a service user moves to a new area. It provides increased rights for carers, with national eligibility thresholds for carers and a right to review for the first time. It introduces a cap on the costs that people will have to pay for care. These have been set at £72,000 for older people and £0 (zero) for those who have eligible social care needs when they become 18. There will also be another level for adults of working age, which is still to be announced. The Care Act sets out a Universal Deferred Payment scheme, for those with assets below £23,250, so that people will not have to sell their home in their lifetime to pay for residential care. It should be noted that some duties enshrine existing good practice into primary legislation, such as the provision of preventative services, whilst others are new, for example, the right for carers to assessment, support and review.

- 1.5 The Care Act introduces new duties on local authorities in the event of a financial failure of a local social care provider. Local authorities will be responsible for meeting the needs, on a temporary basis, of all people placed with a provider, including those placed by a different council or those funding their own care. This is a change from the current system, where local authorities usually take responsibility only for those they have placed. Secondly, it introduces the right to independent appeal against decisions on social care needs made by local authorities. This gives people who are not content with the result of their social care assessment, their assessed eligibility level, personal budget or support plan, the right to appeal the local authority's decision through an independent process.
- 1.6 The Care Act extends the financial support provided by the local authority by raising the means tested threshold for people with eligible needs. The threshold for residential care, where the value of someone's home is counted will rise to £118,000, representing an increase of £94,750 above the current threshold. For community based care, where the value of someone's home is not counted, the threshold will be £27,000, representing an increase of £3,750 above the current threshold.
- 1.7 Further details of many aspects of the legislation are to be set out in the supporting Regulations and Guidance. Consultation on the Regulations and Guidance to cover the April 2015 changes (i.e. excluding funding reform) started on 6 June 2014 and will end on 15 August 2014. A second consultation is scheduled to start in November 2014 and end in January 2015. This will focus on the changes expected to come into force in April 2016 (i.e. the cap on care, changes to the means test threshold and the care account).

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The Adults and Communities Delivery Unit has carried out an analysis of the local authority's current status against the Care Act's requirements and of relevant work in progress that also meets the requirements of the Care Act.
- 2.2 The gap analysis indicates that there are good foundations in place in many of the key requirements: information and advice, safeguarding, prevention, carers and market shaping are already being addressed by Adults and Communities. Further key programmes such as Health and Social Care Integration and IT replacement are also underway and have been identified as important in meeting the requirements of The Care Act. The gap analysis is presented in Appendix A.
- 2.3 The Care Act provides for new services to be given to people who pay for their own care, from 2015, prior to the implementation of the cap on care costs in 2016. These services include:
- help to benefit from independent financial advice,
  - help to prepare a support plan, and
  - arranging their care and support on their behalf.

Adults and Communities has been working to identify the potential additional demand arising from the Care Act. The impact could be felt firstly in 2015 when people may choose to ask for help in arranging care and then in 2016 when people are likely to come forward to start their care account. Work is underway with local care homes to identify the total number of their residents who have arranged their own care and may be entitled to state support under the new system. Adults and Communities, working with Finance, has identified an estimated 750 self-funders in residential care and over 12,000 who use community services. As at 13 June 2014, LBB has 110 residential and nursing homes and 72 home care agencies within its boundaries. This illustrates that, depending on demand, the local authority will have to engage with a significant number of people and providers with whom it does not currently engage. Local demand modelling has also been carried out to identify people living in their own homes who do not receive care who may come forward. This indicates that up to 6,000 extra people are likely to come forward to request a service user assessment and that there will be 4,710 additional support plans from those assessments. It also indicates that up to 9,620 people are likely to come forward requesting a carers' assessment.

- 2.4 Whilst it is not possible at this stage to predict with precision the demand changes that these reforms will bring and there still remain a number of uncertainties regarding the application of the legislation, a preliminary financial impact assessment of the costs of these additional assessments and care and support plans has been made. This builds on previous analysis and learning from elsewhere. It should be noted that there will be other potential costs relating to infrastructure and support costs, such as IT, systems development, training and communications which are still in the process of being assessed. These will increase the cost impact in both the low volume and high volume scenarios set out below.
- 2.5 The implementation of the Care Act will have a significant impact on the Adults & Communities budget. The Government has a clear protocol in respect of new burdens and provision of funding to meet these, so it is hoped that the Care Bill will not result in additional costs for the Council. However, the allocation set aside by the Government for 2015/16 is £1.7m, which compares to the modelled financial impact set out below:

<b>Financial Impact</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
Low estimates	£830,812	£4,749,954	£4,622,685
High estimates	£3,839,576	£21,219,715	£21,092,446

The large difference between the high and low estimates is due to the assumptions made. The actual impact is unlikely to be at either of the extremes as they form the boundaries of a continuous range. The assumptions cover for example:

- The numbers of carers coming forward for assessment and the proportion of those who will be eligible for support.

- The number of people funding their own care, the proportion of those who come forward for assessment and the proportion of those who will be eligible for support.

Appendix C details the basis for these impacts. They are based on experience within the service and the models and approaches used in other local authorities. This is clearly a position that will be subject to change over coming months as more is known about the financial impact and the expected government support. In June, Policy and Resources Committee agreed that the difference between these would be treated as a risk for 2015/16 and would be funded from reserves and contingency if necessary. The financial impact could be significantly higher in 2016/17.

- 2.6 Further modelling will come through in October 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.
- 2.7 Following a period of mobilisation, a project has been formally initiated to implement the changes required by the Care Act in order to ensure that the LBB is compliant with the legislation. The Care Act Implementation Project (hereafter "The Project") has been established in line with the Local Government Association (LGA) guidance on implementation of the care and support reforms.
- 2.8 The Project will work with wider LBB services (such as Finance, Customer Services, Children's Service and Housing) and partner organisations to deliver a strategic approach which mitigates the demand and financial pressures that will continue to be faced by adult social care; to ensure that the policy implications of the changes to adult social care are fully addressed and to put in place the staff resources and financial capacity required to provide:
- enhanced services to carers and people who fund their own care
  - start-up costs associated with operating a Universal Deferred Payment scheme
  - changes to social care funding
- 2.9 The Project's approach is to focus on delivering products to fill the gap between LBB's current status and the requirements of The Care Act. The Project will adopt an inclusive approach to ensure that service users, carers and staff are involved in validating direction and participating in development. Progress will be monitored against the actions and milestones set out in the project plan and will be managed in accordance with the principles of LBB's Project Management methodology.

2.10 The Project has six active workstreams to ensure readiness for the April 2015 requirements:

- **Demand Analysis and Modelling:** to ensure that the demand and financial impacts are quantified and understood. This will provide detail on the key impacts of (a) self-funders new right to help with support planning and arrangement of care and support services and (b) carers new rights to assessment, support services and review.
- **Prevention, Information and Advice:** to ensure the full range of services are in place to delay and reduce the need for funded social care support and improve outcomes through prevention, information and advice services.
- **Carers:** to prepare for the introduction of new carers entitlements, review current offer/services for carers and ensure that the offer is consistent with the ethos and requirements of The Care Act.
- **Eligibility, Assessment and Support Planning:** to ensure readiness for national eligibility for users and carers; to develop new approaches to assessment and support planning in order that there is sufficient capacity to deal with the likely increased take up of assessment due to the funding reforms; to develop the initial point of access to adult social care to ensure compliance with The Care Act that incorporates access to assessment, targeted prevention, enablement, intervention processes, supports self-directed support, personal budget management and, where required, fully managed care services.
- **Universal Deferred Payments:** to prepare for the introduction of deferred payments, to have a system ready for April 2015.
- **Communications, Co-ordination and Change:** to communicate with publicly funded staff regarding the impact of The Care Act and the changes being made to meet its requirements; to co-ordinate and deliver training to staff to ready them for April 2015; to co-ordinate policy changes across the Project; to raise awareness and inform the public on the changes being introduced in line with national communications and liaising with neighbouring authorities.
- Additional workstreams will be added to manage changes regarding market shaping, market failure, the capped charging system, and care accounts.

2.11 The Project is in the process of completing initiation and some workstreams are already in delivery. Several key resources are in place including a project manager, project support, workstream leads and working groups. A Roadmap is presented in Appendix B to illustrate the journey to April 2015.

- 2.12 Successful implementation for April 2015 will ensure that LBB is able to fulfil its legal duties and be better placed to cope with demand within the available financial resources. In order for this to happen, the Project will have to implement effective and efficient processes and procedures, maximise the use of self-service, and utilise community capital to mitigate the demand and financial pressures that will continue to be faced by adult social care. There will be:
- A revised preventative offer,
  - Enhanced information and advice services,
  - Revised processes for assessment of service users and carers to meet new national requirements,
  - National eligibility criteria focussing on the ability to achieve relevant outcomes,
  - A comprehensive carers offer,
  - Simpler assessment and support planning tools,
  - A universal deferred payments scheme.
- 2.13 Along with the Care Act the Government has issued a significant volume of statutory guidance and regulations setting out specific requirements related to the main elements of the primary legislation. The Government is consulting on these for a period for ten weeks starting on 6 June 2014. This provides an opportunity to comment on the implications of the proposed guidance and regulations as well as consider the impact for LBB of implementing the requirements at a local level.
- 2.14 The Committee is asked to consider whether a working group be established to assist Officers by providing Member leadership and direction to enable further proposals to be brought back to this Committee.
- 2.15 The Committee is also invited to consider what lobbying position it would like to adopt on key issues, including accessing sufficient resource to meet new statutory responsibilities. There is a window of opportunity for lobbying before funding for the reforms is allocated in the next spending round (late Autumn 2014). LBB's position would be supported by the demand and financial impact modelling which has been undertaken to date and will be enhanced over the next few months. It is suggested that lobbying might take place through the following routes:
- Engage through London Councils to lobby our position
  - Create closer links with similar Local Authorities (who are in similar positions to LBB in relation to their self funder population) to lobby on the market place equalisation issue
  - Members to lobby local MPs for recognition of the unfunded impact
  - Utilise existing links with ADASS and LGA working groups to feed in LBB's perspective
  - Engage in as much of the consultation as possible from end May onwards
- 2.16



### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The legal framework of the Care Act sets out several new statutory duties for local authorities. LBB is required to fulfil these duties. The scope and focus of the Project has been developed in line with guidance issued by the National Care and Support Reform Programme and learning from other Councils.

### **4. POST DECISION IMPLEMENTATION**

- 4.1 The Project will continue to deliver according to its aims and approach in line with the controls set out in the project plan.

### **5. IMPLICATIONS OF DECISION**

#### **5.1 Safeguarding**

- 5.1.1 The Care Act sets out several requirements for local authority adult safeguarding which puts it on a statutory footing for the first time and enshrines in law much of the good practice adopted by local authorities, building on the 'No Secrets' statutory guidance. In the Care Act, local authorities remain the lead agency for adult safeguarding. Adult Safeguarding Boards become statutory bodies, with the local authority, the NHS and the Police as the key statutory partners. The Adult Safeguarding Board is required to publish an annual report detailing its work over the previous year; and its forward work programme. LBB already has an independently chaired Adult Safeguarding Board, with membership from the Police, the NHS, and the local authority. The Barnet Adult Safeguarding Board already publishes an annual report and its forward work programme, which is reviewed by this Committee as well as the Health and Well-being Board. The Care Act also requires local authorities to make safeguarding enquiries where it is suspected that a vulnerable adult may be at risk of any form of abuse. It also requires local authorities to conduct safeguarding adults reviews (hereafter "SAR" - the replacement term for serious case reviews) in circumstances where there is the need to learn lessons following incidents of harm or death of a vulnerable adult. Both these requirements set current good practice into law. LBB has in place systems to make safeguarding enquiries, including for vulnerable adults who are not known to Adults and Communities Delivery Unit. LBB already has a system for determining whether to initiate a SAR, led by a joint sub-group of the Adults and Children's Safeguarding Board.

## 5.2 **Corporate Priorities and Performance**

5.2.1 The 2013/14 Corporate Plan objectives: “Support families and individuals that need it – promoting independence, learning and well-being”; and “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” accord with the underpinning principles set out in the White Paper. LBB’s future plans for adult social care will need to be within the policy and legal framework set out in the Care Act and its supporting Regulations and Guidance.

5.2.2 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 planks 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.

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

5.3.1 It is clear that the reforms will have a significant financial impact on social care locally. It is likely that there will be additional costs in the following areas:

- Providing more carers assessments
- Providing more carers services
- Providing more assessments for those funding their own care
- Arranging support for those funding their own care

Whilst the Universal Deferred Payment scheme is likely to be cost neutral, it will involve some of the local authority’s capital being tied up in secured loans. There will also be a loss of income as a result of the cap on the costs that people will have to pay for care.

5.3.2 The preliminary financial impact assessment carries a significant number of caveats and assumptions. The full analysis is presented in Appendix C. This analysis focuses on increased demand for assessment, care and support costs, the impact of other financial aspects will be presented to the Committee in October.

5.3.3 The potential financial implications for the first three years on the Adults and Communities Budget are presented here:

<b>Low Estimate</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
Carer Assessments	£360,750	£295,200	£295,200
Carer Packages Costs	£396,897	£324,779	£324,779
Residential & Nursing Assessments	£7,164	£143,275	£143,275
Residential & Nursing Care Package Costs	£7,172	£2,656,823	£2,656,823
Community Based Assessments	£50,589	£1,011,770	£1,011,770
Community Based Care Package Costs	£8,240	£136,918	£136,918
Deferred Payments	£0	£0	£0
Existing Clients - Residential	£0	£0	£0
Existing Clients - Community Based	£0	£181,189	£53,920
<b>Financial Impact</b>	<b>£830,812</b>	<b>£4,749,954</b>	<b>£4,622,685</b>

<b>High Estimate</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
Carer Assessments	£721,500	£295,200	£295,200
Carer Packages Costs	£793,794	£324,779	£324,779
Residential & Nursing Assessments	£103,158	£515,790	£515,790
Residential & Nursing Care Package Costs	£103,282	£9,564,565	£9,564,565
Community Based Assessments	£1,821,186	£9,105,930	£9,105,930
Community Based Care Package Costs	£296,656	£1,232,263	£1,232,263
Deferred Payments	£0	£0	£0
Existing Clients - Residential	£0	£0	£0
Existing Clients - Community Based	£0	£181,189	£53,920
<b>Financial Impact</b>	<b>£3,839,576</b>	<b>£21,219,715</b>	<b>£21,092,446</b>

5.3.4 The expected cash flow implications of the deferred payment scheme are presented below. For Adults & Communities (A&C) the deferred debt would be accrued every year until the debt was recovered. There would be implications for A&C if less than 100% of the debt was recovered and this has been factored in.

	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
Financial Impact of Deferred Payments	£662,236	£1,324,471	£1,986,707

- 5.3.5 It is worth noting that the Local Government Association along with other representative bodies, continues to lobby central government on the costs of the reforms, based on the view that the funding made available to meet the costs of the reforms will not cover their full impact. London Councils' 2013 analysis estimated that the cost of the social care funding reforms alone (i.e. the cap on care costs and changes to capital limits) will cost London authorities £1 billion per annum. The additional impact in London is related to regional variations in costs of care. Prices for care tend to be higher in London than elsewhere, meaning that people will reach the cap levels earlier than in other areas.
- 5.3.6 LBB has also received notification of a provisional allocation for 2015-16 for Adult Social Care new burdens of £1.719m; the final allocation will be known in 2014/15. Any shortfall in national funding would require the authority to fund this gap in 2015/16 from reserves and/or contingency.
- 5.3.7 Adults and Communities is also in the process of considering whether there will be further financial risk from two other key factors. The first is whether the 2015 eligibility criteria will increase the number of service users who are entitled to access state funding for care. The draft eligibility thresholds published in June 2014 are intended to equate to substantial and critical under Fair Access to Care Services criteria (FACS), the current eligibility thresholds for state adult social care. FACS contains four levels of need: low, moderate, substantial and critical. Around 80% of Councils set their eligibility thresholds at substantial and critical, with smaller numbers meeting moderate needs as well and very small numbers meeting critical needs only. However, it is considered by some experts that the new criteria will extend the thresholds into the level of moderate need. If this were the case, then both the best and worst cases above would deteriorate. The second area being analysed is the impact of the cap on care costs on care market prices. Historically, councils have purchased care at a lower rate than those who pay for their own care, as a result of large scale purchasing and a commercial approach. There is the potential risk that the increased transparency of pricing required to operate the capped costs system could lead to increased prices for residential and nursing care in particular as the different prices paid by councils and individuals converge. Neither of these risks appear in the cost impact analysis presented in this report and will be presented at a future date.

#### **5.4 Legal and Constitutional References**

- 5.4.1 The current social care legislation evolved over a number of decades and in a piecemeal manner. As with the Equality Act 2010, the Care Act consolidates several pieces of legislation and replaces over a dozen different pieces of legislation with one Act of Parliament. The new legislation is designed 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.

- 5.4.2 The Care Act gives effect to the policies set out in the White Paper Caring for our future: reforming care and support, implements the changes put forward by the Commission on the Funding of Care and Support, chaired by Andrew Dilnot, and meets the recommendations of the Law Commission in its report on Adult Social Care to consolidate and modernise existing care and support law. The Care Act also gives effect to those elements of the Government's initial response to the Mid-Staffordshire NHS Foundation Trust Public Inquiry that require primary legislation.
- 5.4.3 The Care Act contains five parts. Part 1 sets out the legal framework for the provision of adult social care in England, including the general responsibilities of local authorities and the provisions for assessments, charging, establishing entitlements, care planning and the provision of care and support. This includes provision to create a cap on the costs of care and for local authorities to enter into deferred payment agreements. There is a new requirement to establish a Safeguarding Adults Board. This puts into primary legislation for the first time, the local authority's duties in respect of adult safeguarding.
- 5.4.4 Part 2 relates to Care Standards. There is a requirement to introduce a duty of candour on providers of health and social care registered with the Care Quality Commission (hereafter "CQC"). There are a number of provisions in relation to the role of CQC, including ensuring that it is more autonomous and independent from the Secretary of State.
- 5.4.5 Part 3 deals with Health and sets up two new non departmental health bodies.
- 5.4.6 Parts 4 and 5 deal with technical matters to ensure proper operation of the legislation.
- 5.4.7 The responsibilities of the Adults and Safeguarding Committee are contained within Annex A of the Constitution - Responsibility for Functions.
- 5.4.8 The Adults and Safeguarding Committee is responsible for those powers, duties and functions of the Council in relation to Adults and Communities.
- 5.4.9 The functions of the Adults and Safeguarding Committee includes:
- 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.
  - Developing fees and charges for those areas under the remit of the Committee for consideration by Policy and Resources Committee.
  - Ensuring that the local authority's safeguarding responsibilities are taken into account.
  - Approving any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.
  - Discussing of transformation schemes not in service plans but not outside the local authority's budget or policy framework

## 5.5 Risk Management

- 5.5.1 Whilst the overall direction set out in the Care Act is positive for users and carers, there are some potential risks for LBB in implementing its requirements. These are particularly around the resource and financial implications of providing enhanced services to carers, to people who fund their own care, the deferred payments scheme changes to the means test threshold, and new national eligibility criteria.
- 5.5.2 A number of new statutory requirements and duties are set out in the new policy and legislative framework and there would be risk for LBB in failing to meet these new statutory requirements.
- 5.5.3 The demographic challenges and increasing complexity of need faced by adult social care are already being addressed through a focus on prevention and early intervention, with improved information and advice, better access to Telecare and enablement for adult social care as key mitigating strategies. However, with an increased focus on an integrated care and accommodation approach, a local authority wide response will need to be developed that plans for a range of private and social housing that is able to meet different people's needs and requirements, and maximises the opportunity provided by recent changes to the Housing Revenue Account. This approach would mitigate the demand and financial pressures that will continue to be faced by adult social care.
- 5.5.4 The Project will develop a risk management strategy in line with the Corporate Risk Management Framework.

## 5.6 Equalities and Diversity

- 5.6.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
  - advance equality of opportunity between people from different groups
  - foster good relations between people from different groups

The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services



- 5.6.2 On 1 October 2012, new provisions in the Equality Act came into force banning age discrimination in health and social care. This is in line with the duties incumbent on all public bodies through the Equalities Act 2010. Adult Social Care works within LBB's policy framework for equalities, offers services to users within this framework, and undertakes relevant positive action to ensure social care is accessible to groups with different equalities characteristics; for example, producing easy-read information for people with learning disabilities and offering interpreters for service users.

- 5.6.3 Age discrimination should be considered broadly: younger people may perceive that older people receive more favourable treatment from services as well as older people perceiving that they are less favourably treated. The prohibition does not mean that all age groups should therefore be offered identical support or services. However, it does require the local authority to have a transparent and fair rationale for different approaches or support offered to different age groups, just as it already does for current positive action in place, such as providing interpreters.
- 5.6.4 However, there is a general risk from this prohibition applicable to all local authorities, which may face an increased level of potential legal challenge from individual users or groups, using this prohibition as its basis. Nationally, there have been legal challenges based on equalities legislation: for example, the 2011 challenge to Birmingham City Council on its proposed change to adult social care eligibility criteria.
- 5.6.5 In order to ensure LBB is compliant with this requirement, consideration will need to be made of existing social care supports specific to different age groups, along with wider universal services, to ensure there is a transparent and fair approach to the offer to social care users based on age. This will be addressed through the Eligibility Impact Assessments to be carried out on the new policies, services and processes proposed for implementation as a result of the Care Act Implementation Project.

## 5.7 Consultation and Engagement

- 5.7.1 The Project will adopt a co-production approach, by engaging with, amongst others, Partnership Boards (five in total covering older people, physical and sensory impairment, learning disabilities, mental health and carers), Barnet Centre for Independent Living and the Experts by Experience Group (a group of social care service users and carers).

## 6. BACKGROUND PAPERS

- 6.1 Special Safeguarding Overview and Scrutiny Committee on 24 September 2012 received a report on the three 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 \(1.1\)](#)  PDF 141 KB
- 6.2 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 \(3.1\)](#)  PDF 123 KB

- 6.3 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](#) PDF 190 KB  
[Care and Support Bill Update \(1.1\)](#) PDF 92 KB
- 6.4 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 \(2.1\)](#) PDF 152 KB