

---

Meeting Health and Well-Being Board

Date 27 June 2013

**Subject Social Care Funding**

Report of Adults and Communities Director

Summary of item and decision being sought

This report summarises the implications of the Care Bill 2013-14 for the Health and Well-Being Board. The Bill is currently undergoing scrutiny in the House of Lords. A report to Cabinet 18 April 2013 noted the impact of the reform to the law relating to care and support for adults and the policy statement on Care and Support Funding Reform, presented to Parliament on 11 February 2013, setting out the implications (refer to Appendix) for Barnet based on empirical data and modelling where appropriate.

---

Officer Contributors Dawn Wakeling, Adults and Communities, Director  
Rodney D'Costa, Head of Social Care Commissioning – Adults and Communities

Reason for Report To update the Health and Well-Being Board on reforms to social care and related funding

Partnership flexibility being exercised n/a

Wards Affected All

Contact for information Dawn Wakeling 020 8359 4290,  
[dawn.wakeling@barnet.gov.uk](mailto:dawn.wakeling@barnet.gov.uk)  
Rodney D'Costa, 020 359 430  
[Rodney.d'costa@barnet.co.uk](mailto:Rodney.d'costa@barnet.co.uk)

## **1. RECOMMENDATIONS**

- 1.1 That the Health and Well-Being Board notes the forthcoming changes to the statutory framework within which Adult Social Care is delivered.
- 1.2 That the Health and Well-Being Board notes the new responsibilities and modelled implications of the social care reforms on the Council, as set out in this report.
- 1.3 That the Health and Well-Being Board notes the potential financial impact of the reforms (refer to Appendix) along with the contribution of wider Council services and partner organisations in mitigating the impact.
- 1.4 That the Health and Well-Being Board notes the benefits of closer integrated working with the local NHS in addressing future demands on social care and, in line with the recommendation from Cabinet 18 April 2013, is asked to consider how its work programme supports the social care reforms.

## **2. RELEVANT PREVIOUS DISCUSSIONS AND WHERE HELD**

- 2.1 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. Committee endorsed Officers undertaking further work to assess the potential impact of these policy changes on Barnet.
- 2.2 Cabinet 18 June 2013 received a report on the impact of the White Paper, Caring for our Future, and the draft Care and 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

## **3. LINK AND IMPLICATIONS FOR STRATEGIC PARTNERSHIP-WIDE GOALS (SUSTAINABLE COMMUNITY STRATEGY; HEALTH AND WELL-BEING STRATEGY; COMMISSIONING STRATEGIES)**

- 3.1 The reforms align with the objectives in Barnet Council's 2013/14 Corporate Plan - "supporting families and individuals that need it - promoting independence, learning and wellbeing"; 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".
- 3.2 The Health and Well-Being Strategy also echoes many themes of the new policy framework with its emphasis on promoting independence and wellbeing whilst ensuring care is provided when needed.

## **4 NEEDS ASSESSMENT AND EQUALITIES IMPLICATIONS**

- 4.1 The White Paper set out that age discrimination in health and social care became unlawful from October 2012. This is in line with the duties incumbent on all public bodies through the Equalities Act 2010. Adult Social Care works within the Council's policy framework for equalities and offers services to users within this framework. Relevant positive action is undertaken 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.
- 4.2 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 supports or services. However, it does require the Council to have a transparent and fair rationale for different approaches or supports offered to different age groups, just as it already does for current positive action in place, such as providing interpreters.
- 4.3 However, there is a general risk from this prohibition applicable to all councils, 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.
- 4.4 In order to ensure Barnet Council remains compliant with this requirement, new policies and strategies will need to give consideration to 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.

## **5. RISK MANAGEMENT**

- 5.1 Whilst the overall direction set out in the White Paper is positive for users and carers, with an emphasis on choice, control, prevention and planning ahead, this report identifies some potential risks for the Council in implementing its requirements. These include the resource and financial implications of providing enhanced services to carers; also to people who fund their own care; the potential start-up costs associated with the deferred payments scheme; and the demand implications of social care funding changes both in terms of direct care costs and social care staffing and infrastructure costs.
- 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 the council in failing to meet these new statutory requirements.
- 5.3 These changes need to be considered in the context of key financial and

demand risk factors already known concerning social care. These are demographic growth, particularly among older people and younger adults with complex disabilities; and increasing complexity of need among adult social care service users. Additional new risks include the new duties to provide services to carers and to people who fund their own care.

5.4 The Council is already addressing identified risk demand factors through the development of strategies, some of which are likely to be statutory responsibilities in the future. These include close working with public health to deliver a strong focus on prevention and early intervention, such as improved information and advice, increased use of telecare and enablement; joint working between Barnet Homes and Adult Social Care to develop housing which supports independent living; and the development of integrated services between the NHS and social care.

5.5 However, even with an increased focus on demand management, the combined impact of demographic change and the new policy and statutory requirements present a significant challenge that will require a sustained and robust council wide response with continued engagement with key partners. This will need to involve developing suitable accommodation that ensures people remain independent; supporting carers to continue caring; encouraging people to plan in advance for their care needs; and promoting well-being and independence and community inclusion. Only such a strategic approach can mitigate the demand and financial pressures that will continue to be faced by adult social care.

## **6. LEGAL POWERS AND IMPLICATIONS**

6.1 The current social care legislation has evolved over a number of decades and in a piecemeal manner. The current legislation is complex and sometimes confusing and the Courts have commented on these difficulties in several cases. As with the Equality Act 2010, the draft Care and Support Bill sets out to consolidate several pieces of legislation and will replace over a dozen different pieces of legislation with one Act. The new legislation is designed to be less complex and easier to apply for practitioners within the council, their legal advisers and, in the case of legal challenges, the Courts.

6.2 The Equality Act 2010 introduces the term protected characteristics in respect of groups of people who are offered protection under the Act, and age is a protected characteristic s149 of The Equality Act 2010 introduced the public sector equality duty requiring public organisations to have due regard to

1. Eliminate unlawful discrimination, harassment and victimisation
2. Advance equality of opportunity between people who share a protected characteristic and those who don't and
3. Foster good relations between people who share a protected characteristic and those who do not.

Discrimination in respect of service provision for groups of a particular age is then already unlawful.

## **7. USE OF RESOURCES IMPLICATIONS- FINANCE, STAFFING, IT ETC**

7.1 The White Paper and Care Bill set out a number of additional requirements for councils and has provided a high level impact assessment as to the resource required to meet them. The Policy Statement on Funding Reform estimates that the implementation of the cap on care costs and the changes to the means test threshold will cost an additional one billion pounds nationally per year. However, it is currently unclear how these additional requirements and costs will be funded at a national level and how funding will be given to councils. It is anticipated that more information will be issued by the Department of Health (DH) in the future.

7.2 This section of the report, section 9 and the appendix of the Cabinet Report 18 April 2013 set out the various proposals alongside an assessment of the impact based on local empirical data and modelling work. It is clear that the reforms will have a significant impact on social care locally.

However, it should be noted that it is not possible at this stage to predict with precision the demand changes that these reforms will bring. However, where it is known that it is likely to be an impact, this has been indicated, along with scenarios illustrating potential costs and volumes. The potential impacts described in this report should be considered in this context and will be refined as more information becomes available. Further work is required to understand the full impact of these proposals and prepare for implementation through a dedicated programme of work.

7.3 Based on those elements of the proposed changes that were able to be modelled (carers' assessments and services; service users' care and support plans and deferred payments) and based on scenarios set out in this report and the appendices, the headline potential additional costs could be £11.6m annually. This excludes any potential funding from Government to Councils for implementing the changes and is an estimate based on information currently available. Actual implementation costs could vary depending on any changes to the published reform proposals, actual take up of the schemes by residents and the pace of take up.

7.4 The White Paper states there will be an additional £300m funding for social care to local authorities via the national NHS commissioning board for integrated care in 2013/14 and 2014/15. From previous funding allocations, for Barnet, this can be assumed at a level of £1.8m over two years. However it is unclear as to whether this will be recurrent funding. This is welcome given the financial implications of the White Paper. However, Barnet adult social care continues to experience high levels of demand pressures arising from demographic change. Given this context, the Adults and Communities Delivery Unit is working to manage demand and cost and it will be important that it continues to do so. Nationally the King's Fund has calculated that a funding gap of £1.2bn could open up between 2011-15

due to the government's 28% real term cuts to council budgets reflecting Barnet Council's own analysis of the financial implications of growing needs for children's and adults social care. The additional responsibilities that the White Paper and Funding Reforms will confer and the funding levels required have been based on current budgets and not reduced future budgets. It will be important that this level of financial risk for the Council is quantified through the Finance and Business Planning process at the appropriate time.

- 7.5 The government estimates that the costs of its social care funding reforms, i.e. the cap on care costs and changes to capital limits, will cost £1 billion per annum. Based on this, it is assumed that funding is likely to be made available to local authorities to meet the additional costs of implementing the reforms. However, no announcements have been made about this and further details will be shared when known. Assuming that Barnet share of the total funding from government specific grants remains at 0.6% this equates to £6m.
- 7.6 The potential additional financial pressure on the authority as a result of these changes to social care is significant. The additional annual cost of implementing the proposals could be in excess of £10m per annum, and if government funding to support this falls short by, say, 25% this will result in a significant shortfall for the authority. Any shortfall in national funding would require the authority to re-prioritise resources from other areas, earmark additional business rate or Council Tax income or identify other measures to balance the budget.

## **8. COMMUNICATION AND ENGAGEMENT WITH USERS AND STAKEHOLDERS**

- 8.1 There will be a legal duty to commission and provide preventative services and information and advice. Barnet Adult Social Care currently provides a range of information and advice services: Social Care Connect (an on-line directory); a wide range of information leaflets; internet information; specially commissioned advocacy services; 'My Care My Home', a dedicated service for people funding their own care including access to independent financial advice; "Care place", a web based tool giving information on care provision across Barnet and other boroughs in the West London Alliance. Healthwatch will have a key role to play in supporting and signposting local residents who may wish to access local health and social care services.
- 8.2 Whilst there has been a duty to offer direct payments to certain classes of service users since 2003 there will be a duty in law for the first time to inform users about rights to direct payments (DPs) and what needs could be met by DPs. Barnet Adult Social Care already advises service users and carers about DPs and actively promotes their use.

## **9. ENGAGEMENT AND INVOLVEMENT WITH PROVIDERS**

- 9.1 Local authorities will be required to take on the leadership role in situations of social care provider failure. More details of this will be published and council duties will be set out in legislation.
- 9.2 The following duties will be set out for local authorities that will require them to work with providers:
- Ensuring that adult social care and housing work together effectively in the area of adaptations and home repairs;
  - Promoting diversity and quality in care and support provision: through our Market Position statement we are engaging with the provider market to ensure that we plan services for our diverse populations;
  - Promoting the integration of services: the Council already has integrated care with the NHS for mental health and learning disabilities, community equipment and voluntary sector commissioning. The Council, with partners, has established a formal health and social care integration programme, reporting to the Health and Well-Being Board.

## 10. DETAILS

- 10.1 The following paragraphs set out the background to the government's policy agenda. The report to Cabinet 18 April 2013 (Appendix) contains an assessment of the impact of the proposals, based on local empirical data and modelling work undertaken by a small working group.

In July 2012, the government published the following key documents:

- *Caring for Our Future: Reforming Care and Support (White Paper).*
- *The draft Care and Support Bill.*
- *Caring for Our Future: progress report on funding reform.*

This was followed by the publication in February 2013, of the government's *Policy Statement on Care and Support funding Reform and Legislative Requirements.*

- 10.2 The White Paper, *Caring for our Future*, describes a vision of a new role for local authority adult social care. In the new system, the local authority becomes a system leader, as opposed to a provider of care management and service provision, reflecting the direction of the Council as a Commissioning Council. In the new policy, local authorities are expected to concentrate on needs assessment, supporting social capital, promoting Direct Payments, ensuring good information and advice and developing the care market. The Care and Support Bill is in pre-legislative scrutiny and will be introduced to Parliament sometime in 2013.
- 10.3 The strategic and business plans of the Council for adult social care are in line with many of the White Paper themes. The Council's policies for adult social care and older people have for some time focused on prevention through schemes such as the Ageing Well programme and the

neighbourhood model of older people's day support; new on-line information resources; promoting and increasing direct payments; enhancing support to carers; and building social capital through schemes like the Supporting Independence Fund and the development of the Barnet Centre for Independent Living (BCIL).

10.4 The focus on commissioning and system leadership for local authorities in national policy has strong synergy with the vision of the Commissioning Council and the creation of enhanced strategic capacity to develop cross-cutting approaches to issues that affect people with social care needs and population change.

10.5 **The key themes of the White Paper: Promotion of social capital and prevention**

This includes central and local government promotion of a range of initiatives to help reduce the need for formal care. It is proposed that there is the setting up of a national health and social care volunteering fund, national pilots of social impact bonds and promotion of time banks, enabling people to find ways of giving their time whilst they are able in exchange for care when needed. The White Paper established a £200m housing fund to be used to develop extra care schemes for older people and an aim to increase the use of telecare in social care.

10.6 **Better information and advice**

The Department of Health has established a national website containing information on social care providers, which will be added to over time. It also plans to establish national comparison and feedback sites for social care services. The White Paper requires local authorities to provide on line information about local services and how to access them. To assist councils to develop on line information, start-up funding of £32.5m will be made available.

10.7 **Dignity, standards and workforce**

There will be a new code of conduct and minimum training standards for care workers. The government will appoint a national chief social worker for adults (alongside a chief social worker for children's services) and recommends principal social workers in local adult social care. The Council has identified a designated post in the Adults and Communities Delivery Unit to act as principal adult's social worker. Work will start to develop a national social care evidence base, led by the National Institute for Clinical Excellence and a new system of national care audits will be implemented. There will be measures to improve the quality of personal assistants (carers directly employed by service users) and registered managers of care homes; and to increase entrants to social care as a career.

10.8 **New entitlements for service users and carers**

The Care Bill draws together existing social care law into a single statute and replaces out-dated legal aspects. Both the Care Bill and White Paper set out a range of new entitlements.



- 10.8.1 The right to a personal budget and direct payments will be enshrined in law for the first time. It should be noted that Barnet residents already have this legal right through the 'Right to Control', where Barnet is one of 7 local authorities piloting this approach to offering direct payments of specific social care, employment and housing funding to service users.
- 10.8.2 Access to statutory social care will be through nationally determined social care eligibility thresholds from April 2015, removing local authority discretion to set their own Fair Access to Care thresholds. At the moment, the vast majority of councils set their threshold at Substantial and Critical (from the four levels of Low, Moderate, Substantial and Critical). It is likely that the effect of this will be to prevent councils from moving thresholds to Critical only.
- 10.8.3 Service users will have a right to continuity of care after a move to a new area and care cannot be stopped pending a new assessment by the new host authority. Councils can still conduct their own assessment but will need to put in writing the reasons for a different outcome to the user. This will mean that councils may pay for care longer after a user has moved; or that the receiving council has to take up the cost of care earlier than is the case in the current system. The aim of this change is to prevent disruption of care for users and should reduce debate between councils about residence requirements and care entitlements.
- 10.8.4 The documents set out significant changes to Carers' entitlements. They are to receive extended assessment rights and for the first time, a legal entitlement to support services and review. The entitlement in law to support is new and could have significant financial implications in terms of meeting these needs. However, it is possible that it could in some cases lead to reduced care costs for some service users, as carers should in theory be more supported to carry on their caring role. The impact of this new entitlement is significant. In 2011/12, the council carried out 2,424 carers' assessments but did not provide services to all of them. In addition, the new entitlements are likely to encourage more carers to come forward for support.
- 10.8.5 Carers' needs are to be considered as equal to the needs of the service user. For the first time, a national eligibility threshold for carers will be set. The threshold for this is not yet known.
- 10.8.6 The White Paper states that people who fund their own care will be entitled to assessment, support planning and care management from the local authority. Under current legislation, anyone can request a community care assessment but not care planning and management and in practice many people with financial resources make their own care arrangements. The combination of this new entitlement with the cap on care costs, which incentivises people to come forward for an assessment to start their record of care costs, is likely to create significantly increased demands for assessment and care planning. This is traditionally done by social workers

within local authorities, although more recently independent and voluntary agencies now offer support planning services.

## 10.9 **New requirements on local authorities**

In addition to the care entitlements described above, there will be the following new requirements on local authorities:

- 10.9.1 There will be a legal duty to commission and provide preventative services and information and advice, although the level and nature of these services is not prescribed. Barnet adult social care currently provides a range of information and advice services: Social Care Connect (an on-line directory); a wide range of information leaflets; internet information; specially commissioned advocacy services; '*My Care My home*', a dedicated service for people funding their own care including access to independent financial advice; '*CarePlace*', a web based tool giving information on care provision across Barnet and other boroughs in the West London Alliance. The Council has recently commissioned Healthwatch which will have a key role to play in supporting and signposting local residents who may wish to access local health and social care services.
- 10.9.2 There will be a duty in law for the first time to inform users about rights to direct payments (DPs) and what needs could be met by DPs. This, like the new right to a personal budget, is in effect an update of the legal framework to reflect current best practice. Barnet adult social care already advises service users and carers about direct payments and actively promotes their use.
- 10.9.3 There will be a duty to open up council community buildings for local use, as part of the DH drive to promote social capital and prevention. This has synergy with work already being carried out by the Council to map community assets.
- 10.9.4 Local authorities will be required to take on the leadership role in situations of social care provider failure, such as the national situation with a care provider with significant financial problems, Southern Cross. More details of this will be published and council duties will be set out in legislation.
- 10.9.5 The White Paper states that "crude" commissioning of home care "by the minute" is to be banned. Barnet Council has three current home care contracts on a geographical basis with three home care providers, each worth around £3m per year, plus a specialist home care enablement service. Each home care service user has a plan of activities to be carried out with outcomes to be achieved, as part of their support plan. Contracts are monitored for quality on a regular basis. However, support is generally procured in time slots of 15 minutes. Barnet's approach combines a focus on outcomes and quality with a time based approach. It is not clear from the White Paper if all contracting on a time basis is to be banned or if it applies to more rudimentary approaches that focus on time alone. However, adult social care will adjust its approach if needed to ensure adherence to the requirements whilst maintaining a value for money.

- 10.9.6 There will be a duty to ensure that adult social care and housing work together effectively in the area of adaptations and home repairs. Barnet already has a strong approach in this area. Capital funding is allocated to the Disabled Facilities Grant (DFG) and there is close working between Barnet Homes, Environmental Health (EH) and Barnet adult social care on a single streamlined process for DFGs, with a dedicated Occupational Therapist working alongside EH staff.
- 10.9.7 The council has also identified priorities within the Housing Revenue Account Business Plan that will help adult social care to meet the support needs of residents; this is expected to deliver additional wheelchair adapted housing, dementia mixed extra care sheltered housing and homes suitable for older residents.
- 10.9.8 There will be a duty to promote diversity and quality in care and support provision. Currently this is already discharged in a variety of ways, for example: monitoring equalities data to ensure that services meet the needs of our diverse population; the personalisation agenda where all support plans are individualised to ensure people's race, disability, and gender are taken in account. Equality Impact Analysis is also used to assess the impact of all proposed changes to policies, procedures and practices and monitor their implementation. Through our Market Position Statement we are engaging with the provider market to ensure that we plan services for our diverse populations.
- 10.9.9 There will be a duty to promote the integration of services. The Council already has integrated care with the NHS for mental health and learning disability services, community equipment and voluntary sector commissioning. The Council, with partners, has established a formal health and social care integration programme, reporting to the Health and Wellbeing Board. This includes NHS Barnet CCG and the main NHS and social care providers working in Barnet. The programme will implement new integrated services, delivering improved outcomes for residents and financial benefits. The programme board has recently approved two projects. The first will deliver a community approach to frail elderly care; bringing together acute and community health, GPs and social care into multi-disciplinary care teams. These teams will work across 20 GP practices to support the frailest older people in the community, helping to prevent deterioration and promote wellbeing. This model has been trialled successfully in other London boroughs and evidence suggests it can prevent admissions to acute hospital or residential care, delivering cost savings. Preventing residential admissions will help manage the impact of the social care reforms as home based care is less costly than residential care. The intention is to extend the model across the borough, refining the model based on learning from the pilot phase. The second project will work with residential care homes in the borough to improve quality. This will assist with the mitigation of the social care reforms as it will assist all homes in meeting desired quality standards and support the Council's

maximum usual price, as opposed to higher price rates, ensuring better value for money in care costs.

#### 10.10 **Safeguarding**

The Care and Support Bill sets out a continued leadership role for councils in adult safeguarding. Adult Safeguarding Boards will become statutory bodies, in the same way as Children's boards, with a defined core membership of the Council, NHS and Police. Councils will be required to publish an annual strategic plan and an annual report, which Barnet Council already does. Councils will have a legal duty to make safeguarding enquiries or ask others to do so. Previously, the council role in adult safeguarding was set out in statutory guidance as opposed to primary legislation. This change strengthens the role of councils in adult safeguarding and gives councils a clearer footing on which to work.

- 10.10.1 The government has also consulted on a new power of entry for social workers to make safeguarding enquiries. This would only apply in a very limited number of situations where there is evidence that access to the adult at risk in order to make those enquiries is being prevented by a suspected abuser.

#### 10.11 **Care and Support Funding reform**

The government has accepted the two principles of the Commission on the Funding of Care and Support (Dilnot Commission). The Policy Statement published on 11<sup>th</sup> February 2013 states the government's intention to introduce a cap on lifetime care costs for eligible social care needs, which has been set at £72,000. The costs of meeting all a user's eligible needs will count towards the cap, not just their financial contribution to their total support plan costs (under the current system). Users would be expected to pay additional costs if they chose more expensive services or services for other than eligible needs. Users would still be required to pay living costs in residential care of £12,000 per year ('board and lodging'). The second accepted principle will lead to a rise in the capital means test threshold to an £118,000 upper capital limit for residential and nursing care from 2017, changed from £23,250 currently, and a £17,500 lower capital limit, changed from £14,250 currently. The DH has indicated that, subject to legislation, implementation is planned for 2016. There are also plans to introduce a care account system, which will give those purchasing social care regular statements of their spend against the cap threshold, enabling them to know when they have reached the cap level. The cap will be index linked and regulations will be introduced to allow the secretary of state to alter the levels of the cap and the capital limits.

#### 10.12 **Deferred Payments**

The government has announced that it plans to legislate to introduce a national system for deferred payments for residential care from April 2015. Deferred payments mean that users or their spouses/partners do not need to sell their home in their lifetime to pay for care. The local authority will be required to fund the costs of the care and will later be refunded from the estate of the service user (after the death of the spouse if there is one).

Details of how the scheme will work have not been published. The DH plans to work with the care sector in 2013/14 to finalise the scheme. Barnet has a large number of owner occupiers among its older population and this scheme will potentially be attractive to significant numbers of residents

## **11. BACKGROUND PAPERS**

- 11.1 Cabinet Report 18 April 2013 – Social Care Funding Reform and the draft Care & Support Bill: Implications for the London Borough of Barnet
- 11.1 Caring for our future: reforming care and support (White Paper)  
<http://www.dh.gov.uk/health/2012/07/careandsupportwhitepaper/>
- 11.2 Draft Care and Reform Bill  
<http://www.dh.gov.uk/health/2012/07/care-and-support-bill-comment-online/>
- 11.3 Caring for our future: progress report on funding reform  
<http://www.dh.gov.uk/health/2012/07/scfunding/>
- 11.4 Department of Health: [Policy Statement on Care and Support Funding and legislative requirements, 11 February 2013](#)

Legal – SC  
CFO – JH

## **Appendix 1: Summary Assessment of the impact of the Care Bill for London Borough of Barnet**

### **Background**

1. In July 2012, the Department of Health (DH) published the White Paper 'Caring for our future: reforming care and support'; and accompanying Draft Care and Support Bill which sets out the vision for a reformed care and support system.
2. London Borough of Barnet (LBB) has recognised that the proposed reforms will have broad reaching financial and cultural impacts on the way we commission services and our relationship with customers. There are circa 65 commitments, policy ideas and provisions in the White Paper, Draft Care and Support Bill and Impact Assessment published by DH. Of those circa 30 are likely to have a direct impact on the work of local authorities.
3. Paragraph 5 (Table) sets out an assessment of the impact of 32 of these measures on the basis that they include:
  - New / revised duties for local authorities (there are 19 in all).
  - Other commitments, not drafted into legislation, where there is a requirement on local authorities to deliver.
4. There are a number (circa 35) of other commitments made in the White Paper which are to be delivered by others (for example the Department of Health) but may have an impact on the way we operate services locally – for example activities to strengthen and support the social care workforce and the introduction of quality standards. This Appendix does not consider the impact of these commitments.

### **Summary of impacts**

5. The Table below set out the impact (financial and otherwise) of the Care Bill for LBB. The main theme is that Councils will not be required to do anything radically differently; however, it presents an opportunity to look afresh at how services are commissioned.

TABLE

Provision in the White Paper / Care Bill	Current situation	Implications
1. Establishment of a <b>national minimum threshold for eligibility</b> for care and support (Clause 13)	a) LBB eligibility threshold is currently set at substantial & critical.	i) In the absence of information to the contrary, it is assumed that national levels are unlikely to be set below substantial. That being the case it is <b>unlikely that this element alone will have an impact.</b>
2. New duty to carry out needs <b>assessment for carers</b> (Clause 10)	a) Currently there is a legal duty to inform carers about their right to an assessment. A carer can have an assessment irrespective of whether the cared-for person is in receipt of a service; however, the carer's right to a service is dependent on the cared-for person being FACS-eligible. An Authority has a duty to consider whether they will provide services to the carer and has power to provide services under the Carers and Disabled Children's Act 2000. In 2011/12, 2,432 carers were assessed at an estimated cost of £20 per assessment (calculation based on empirical sampling in ASCH Directorate). A number of individuals did approach the council for an assessment but this was refused on the grounds that they were not providing substantial / regular care (the cared for person needs to be at the FACS threshold, Substantial and Critical).	<p>i) The main difference from the current rules is that carers do not have to be providing a substantial amount of care regularly to be entitled to an assessment. Based on the 2011 census, there are 32,000 carers in Barnet. It is estimated that 2,000 carers in Barnet are 75 years or older and 5,000 provide 50 hours or more of care per week (<i>source: Carers Strategy LBB 2012</i>).</p> <p>ii) It is unlikely that every carer in Barnet will request an assessment; however it is likely that the numbers requesting them will increase. As a proxy estimate, Barnet Carers Centre (BCC) hold a register of 5,209 carers (Dec 2012), so this may be an indication of the numbers of carers in Barnet currently likely to seek an assessment if the rights were extended this year. If 5,000 carers a year were to request an assessment this <b>could potentially cost us in the region of £100,000</b> based on the £20 calculated cost.</p> <p>iii) Population changes in Barnet over the next decade are likely to have an impact on the total number of carers in Barnet, and therefore the numbers seeking assessment are also likely to increase for this reason.</p> <p>iv) Importantly, the Care Bill gives local authorities new powers to delegate some of their care and support functions to other organisations, for instance, the assessment process or care planning. It may be possible to outsource the assessment of carers to an external provider at a lower cost.</p>

Provision in the White Paper / Care Bill	Current situation	Implications
3. New duty to <b>meet a carer's eligible needs</b> for support (clause 19)	<p>a) The carers' budget for 2012/13 is circa £1m. This includes support to carers delivered through a contract with Barnet Carers Centre as well as funding for services signposted and paid for by care workers. In 2011/12, 606 carers received a service (mainly respite care and carers direct payments). This cohort comprises carers who provide substantial and regular care. Currently right to support is dependent on the level of care needs of the person they are caring and not the level of need of the carer. It is not anticipated that this will change.</p>	<p>i) The provisional 2013/14 budget for Barnet based carers is £1.2m. Subject to any changes in the national eligibility threshold for carers i.e. if this is set below the levels at which LBB currently provides support, <b>this poses a potential financial risk.</b></p> <p>ii) An increase in the numbers of carers and / or complexity of need coming to us for an assessment will add to this risk. Based on current activity and budget the unit cost for carers' services is £1,650 (£1m/606 carer services). Projecting on the assumption of an additional 5,000 carers who all require services (see aforementioned figure in Table 2a(ii) results in a projected spend of £8.2m.</p>
4. Enablement of everyone to request assistance from their local authority with the <b>development of a care and support</b> plan for their eligible needs	<p>a) In 2011/12, there were 11,227 assessment and review events. Each event results in the creation or review of an existing care and support plans with an estimated staff cost of between £40 and £100 per plan.</p> <p>b) The Joint Strategic Needs Analysis (JSNA) estimates that in 2012, there were approximately 67,500 adults living in Barnet with health and /or care needs. As stated above current estimates place the number of carers at around 30,000. This means the total pool of potential customers requiring an assessment could be as high as 97,500.</p>	<p>i) The Care Bill includes a new single duty to assess users (clause 9) and provide a care and support plan for both users and carers – including a personal budget (clause 23 and 24). It also includes principles which frame how local authorities must carry out their care and support functions to include the “well-being” principle and power for the Secretary of State to make regulations as to how an assessment is carried out. Subject to legislation, the Government has proposed a £72k cap on care costs. This is likely to mean that more people will be incentivised to request a care and support plan in order to track their expenditure against the cap.</p> <p>ii) By way of illustration, using the baseline of £1m (11,000 assessment and review events at a cost of £100 each) the potential resource implications are:</p> <p>22,000 events – additional £1m  50,000 events – additional £4m  97,500 events – additional £9m</p>



Provision in the White Paper / Care Bill	Current situation	Implications
		<p>iii) It is also possible that changes to the process of how an assessment is undertaken and how a care and support plan is developed may need to be made. For example the White Paper includes an ambition that individual's skills, talents and goals are properly taken into account as part of the assessment. Cost implications of this are not yet clear. As previously noted the additional costs may be mitigated through working with an external partner.</p>
<p>5. Offer <b>deferred payment arrangements</b> on a universal basis, and charge interest on these arrangements</p>	<p>a) Barnet does currently have a deferred payment scheme, although usage is not significant. There are 78,350 owner occupied houses in Barnet which is 57.6% of all households. For all Outer London boroughs the percentage is 58.9% and national is 63.5%.</p> <p>b) Based on all service users who have been financially assessed (3,378 in 2011/12), 10% (354) have been identified as self-funders (split 54 for residential and 300 for community-based services). Simple projections suggest that population will increase by 10% over the next 5 years with a pro rata increase in self-funders. The number of self-funders will also be affected by the "offer" from LBB and the wider local social care market place.</p> <p>c) Depleted funders – In 2011/12, 26 users in residential or nursing care presented to Panel with depleted funds, compared to 27 in</p>	<p>i) Local authorities are still awaiting more details regarding the universal deferred payments scheme, implemented from April 2015 subject to legislation. LBB has assessed the likely impact of deferred payments based on residential placements; however it is possible that the scheme may apply to meeting the costs of care in the community as well.</p> <p>ii) If we use the number of current residential self-funders (54) as a proxy for the number of customers who may approach LBB for a deferred payment <b>the scheme is estimated to cost up to £14m in total and assuming both care and "hotel" cost elements with the Council not breaking-even until year 6 (based on no increase in take up year on year).</b></p> <p>Notes:</p> <ul style="list-style-type: none"> <li>• This is based on local data available regarding average stay in residential placements, average client contribution and residential placements based on LBB's maximum usual price (MUP)</li> <li>• This is a prudent estimate and the impact can be compounded by increased take up, having to pay more than the MUP or not being able to fully recover costs from the estate. Central government has stated that there will be funding available to assist in the up-front cash flow required; however, in the long run the expectation is that the scheme is self-funded</li> </ul>

Provision in the White Paper / Care Bill	Current situation	Implications
	<p>2010/11. This is half the number within our system who currently self-funding their residential or nursing care placement. However, these depleted funders will include those users who have previously been recorded on our system as a self-funder, as well as those who have previously been funding their own support privately without any social care involvement whatsoever. No data exists on the numbers of community-based social care users whose funds deplete each year.</p>	
<p>6. Funding of care and support</p>	<p>a) Currently only those service users with declared assets of less than £23,250 and low income receive help from the state with their care costs. There is no cap on care costs.</p>	<p>i) Subject to legislation and consultation on the fine details, the Government proposes the following key changes with implementation in 2017:</p> <ul style="list-style-type: none"> <li>• A cap on care costs of £61k at 2010/11 prices (equivalent to £72k at the point of implementation). This is intended to provide everyone with reassurance that they will have a level of protection if they have high-cost needs</li> <li>• Extended means test – those with property value and savings of £100k or less at 2010/11 prices (equivalent to £118k at the point of implementation) will receive financial support with the Government paying a proportion of their residential care costs on a sliding scale. Note “hotel” costs are excluded</li> <li>• People of working age who develop care needs before retirement age will benefit from a cap that is lower than £72k. People who have care needs before they turn 18 will effectively have their cap set at zero.</li> </ul>

Provision in the White Paper / Care Bill	Current situation	Implications
<p>7. Place a duty on local authorities to provide an equivalent package of care and support for <b>users and their carers who move into their areas</b> until they undertake a new assessment (clause 31)</p>	<p>a) "Sending" authority will provide funding for 6 weeks to allow LBB to carry out assessment, after which LBB will take over funding for community-based service users.</p> <p>b) For residential placements, where a person already funded by the "sending" authority moves to a residential home in Barnet to be near family, they do not become an "ordinary resident" in Barnet and therefore not entitled to be funded by Barnet.</p>	<p>i) The new Bill puts an obligation on "sending" councils, for the first time, to notify the "receiving" council if a person expresses intent to move; the receiving authority must then assess the individual. At present LBB assesses all known customers who move in to the borough, therefore the <b>impact is cost neutral</b>.</p>
<p>8. A range of new duties to support transitions from children's to adults services including power to assess a child's and a child's carers needs as well as the needs of a young carer</p>	<p>a) The power to assess a child's needs is already in place. ASCH assess from 16 years onward (Learning / Physical Disabilities and behavioural problems).</p> <p>b) LBB only deals with Adult customers who meet substantial and critical FACS threshold. For initial or core assessment of the child / young person, the carers needs and capacity to care are addressed.</p>	<p>i) By September 2014, as part of the Children and Families Bill, a single birth to 25 years assessment process will replace the current two-tier system of special educational needs assessment (currently there are SEN statements for children under 16/18 and a separate learning difficulty assessment for young adults, who meet the threshold requirements, aged up to 25). The new single assessment process, will cover education, health and care, ensuring that all of the different local agencies are working together to meet needs of the family. Education, Health and Care Plans will provide the same statutory protection to parents as the statement of SEN to up to 25-years-old in further education – instead of there being a 'cliff edge' when it is cut off at 16/18.</p>
<p>9. Improve access to <b>independent Information Advice and Guidance (IAG)</b> to help people who are eligible for support and plan to choose how their needs could be met.</p>	<p>a) LBB currently provides information, advice and advocacy services and Social Care Connect (Adult Social Care and Health online directory) which is available to all. The costs of these are currently met through ASCH base budget.</p> <p>b) As of 1 November 2012, two new projects</p>	<p>i) Plans are being drawn up to invest approximately one-off £500k s256 monies into improving and increasing this capacity. In addition, ASCH will be implementing an Information, Advice, Advocacy and Brokerage (IAAB) Strategy comprising: IAAB £350k, Peer Support Brokerage £123k, Healthwatch £198k; and Independent Health Complaints Advocacy £85k.</p> <p>ii) Based on informal legal advice circulated nationally, the above is <b>considered sufficient to meet the requirements set out in the Care Bill</b>.</p>

Provision in the White Paper / Care Bill	Current situation	Implications
<p>Make clearer the duty for local authorities to share information with individuals, carers and families</p>	<p>were launched aimed at supporting self-funders and improving information for customers:</p> <ul style="list-style-type: none"> <li>• Advice for self-funders – ASCH is working with “My Care My Home” to offer independent advice to self-funders. This advice service explains the options available to help people stay independently in their own home, but if they decide that a move to a care home is most suitable, they will support people with advice about how to choose a residential home and explaining the role of a local authority. <i>My Care My Home</i> can introduce people to pre-vetted independent financial advisors so they are aware of all of their options for financing their care, and know how to maximise their assets</li> <li>• <a href="http://www.careplace.org.uk">CarePlace</a> website (www.careplace.org.uk) – ASCH is part of the West London Alliance and participates in the website. The site contains information on our local residential care homes, including bed vacancies and costs, which are updated by our providers. This is a useful tool for commissioning and supply management staff not only for locating vacancies, but also for monitoring placements and reporting on their cost. We</li> </ul>	

Provision in the White Paper / Care Bill	Current situation	Implications
	<p>are working on integrating this information into our social care connect website so that it is available to self-funders via the Barnet website</p>	
<p>10. Duty on local authorities to <b>join up care and support with health and housing</b> - where this delivers better care and promotes well being</p>	<p>a) ASCH and its NHS and voluntary sector partners continue to work collaboratively, focusing on early intervention and enablement*, and reducing duplication of processes. (* Note: Enablement is about providing the means for people to do as much as they can for themselves and / or to be independent within their own homes for as long as possible.)</p> <p>b) Examples of joined up work involving ASCH Health and Housing includes the following:</p> <ul style="list-style-type: none"> <li>• Frail Elderly work stream ( for example Dementia and Stroke Pathway)</li> <li>• Move on Team including x2 social workers and x1 community nurse working on Out of Borough placements mainly relating to Norwood-Ravenswood in Berkshire</li> <li>• Disabled Facilities Grants (mandatory and discretionary)</li> <li>• Since April 2011, the Housing Revenue Account has been self-financing. This has generated the capacity for additional headroom borrowing of £39m. As a result, revenue savings of £3.5m have been assumed in Adult Social Care Budgets based on additional HRA Headroom expenditure of up to £21m to deliver supported housing, subject to the development of a full business case. Potential projects include: a retirement village concept comprising 100 units; a 50 unit dementia mixed model of housing; and wheelchair accessible independent accommodation</li> <li>• Right to Control – a partnership involving ASCH, JobCentre Plus and Housing; with a Housing officer currently embedded in ASCH to help move on people from Barbara Langstone House</li> </ul>	
<p>11. Expectation on LAs to <b>maximise potential for spaces and buildings</b> in a community to act as meeting places or centres of activity</p>	<p>a) Commercial Services is currently looking at the council's property portfolio to assess how the community assets can be better utilised. This presents an opportunity for joint working to provide services from existing buildings, but further work is required to fully understand how best to make use of these buildings.</p>	

Provision in the White Paper / Care Bill	Current situation	Implications
12. Help for LAs to write a <b>Market Position Statement</b> (MPS)	a) ASCH is currently on track to produce an MPS within 2012/13. Designed to be “outward facing” and hosted on a micro-site as part of the Council’s website, the MPS is essentially a local authority “statement” that sets out our market messages regarding future care and support i.e. initiatives to shape the local social care and support market . It makes available the evidential background and is expected to stimulate a vibrant and innovative variety of care and support options for the people of Barnet to make use of as and when the need arises.	
13. Rule out <b>"contracting by the minute"</b>	<p>a) LBB currently contracts with three home and support providers at a cost of around £3m per provider per year. Current contractual arrangements are such that homecare for adults in need of care and support is generally procured in 15 minute slots. This is known as “contracting by the minute”. Concerns have been raised that this means providers focus on the time they are with a client, rather than a holistic view of the clients’ needs. Analysis shows that on average, providers spend 88% of the commissioned time with clients. Reasons for this include:</p> <ul style="list-style-type: none"> <li>• Issues in the commissioning process e.g. calculation of need done with minimal information / time or risk aversion</li> <li>• Time and task driven support rather than delivering an outcome focused service, e.g. strict adherence to tasks as outlined within the support plan rather than taking a more holistic and enabling view</li> <li>• Rotas – Workers feeling under pressure, whether perceived or actual, to log out</li> </ul>	i) Moving from “commissioning by the minute” to commissioning for outcomes will mean a change in way we procure services and a culture change in service delivery. <b>The financial impact is very hard to quantify.</b>

Provision in the White Paper / Care Bill	Current situation	Implications
	<p>quickly and get to the next visit</p> <ul style="list-style-type: none"> <li>• Time lost due to activities performed prior to logging in. Providers report staff can often spend several minutes at each visit engaged with the service user before they can log in/out, in an effort to provide a more person centred and caring service</li> </ul>	
<p>14. Duty on local authorities to <b>incorporate preventative practice</b> and early intervention <b>into care commissioning</b> and planning (clause 7)</p>	<p>a) ASCH's Prevention Framework (2009) sets out the approach to preventative services. This includes the Royal Free Hospital NHS Trust's initiative, Post Acute Care Enablement (PACE). The partnership involving RFH and Barnet, Camden and Enfield councils aims to reduce hospital stays provide for a safe return home and ensures that patients get the medical support and assessment they need during recovery.</p> <p>b) LBB's current overall prevention budget for 2012/13 is £3.2m. This includes funding for enablement as well as equipment, adaptations, telecare and other services aimed at promoting independence of adults in need of care and support by keeping them at home, and/or delaying admissions into hospitals as well as expediting exit from hospital.</p>	<p>i) LBB's prevention budget has already been increased to £4.2m for 2013/14 but the new duty is not really about how much we spend on prevention, it is about how we spend it. Both the White Paper and the changes LBB is going through in order to become a "commissioning council" presents an opportunity for to reassess our approach to commissioning care services, to consider what we need to do differently in order to be better at commissioning for outcomes and further incorporate prevention practice and early intervention strategies into our commissioning approach.</p>

Provision in the White Paper / Care Bill	Current situation	Implications
<p>15. Ban on <b>age discrimination in health</b> and social care services from October 2012</p>	<p>a) LBB undertakes equalities impact in its budget and forward planning cycles to ensure proposed policies take into account the potential impact on clients or residents. Estimated personal budgets (via a managed service or direct payment) are underpinned by the FACE overview assessment. There is nothing that considers the customer's age in determining either the points allocation or the price per point applied when estimating personal budgets. The only price differential is due to market conditions that place a premium on the average prices of services for customers with a learning disability.</p>	<p>i) <b>Cost neutral impact.</b></p>