Health and Wellbeing Board 20 July 2016

Report of Director of Adult Social Care, City of York Council.

Progress in York with implementation of the Care Act 2014

Summary

1. This paper aims to update the Health and Wellbeing Board on York's implementation of the Care Act 2014. An earlier report submitted to the Health and Wellbeing Board meeting on 22 October 2014 (Agenda Item 11 of that meeting) set out the key elements of the Care Act and highlighted the new duties and responsibilities for local authorities and their partners.

2. Work to implement the Care Act in York began in 2014 and has continued since the Act took effect in April 2015. This paper describes areas where progress is being made as well as areas where further work is required. It also notes the principal changes that have occurred nationally since April 2015.

Background

3. The report submitted to the Health and Wellbeing Board in October 2014 described some of the main requirements of the first phase of the Care Act from April 2015:

- a duty to provide universal information and advice
- requirements for assessments of need
- a national eligibility criteria
- requirements for support planning
- the right to direct payments
- carers will be on the same footing as those whom they care for
- responsibility to provide support to prisoners with eligible needs
- market shaping – preparation to sustain a robust provider market which promotes choice and control and manages market failure.

In addition to these requirements, the Care Act also imposes a duty on local authorities to reduce, prevent or delay needs for care and support among adults in their areas.

4. The second phase of the Care Act will require the development and implementation of:

    - The "care cap" – a limit on the amount of money an individual will be required to contribute to the cost of his or her care over a lifetime and

    - A "care account" – an individual account that will track the financial contribution made by an individual to pay for his or her care.

    As part of phase two, the "capital threshold" is to be lifted from its current level of £23,250. This is the savings that an individual receiving care in a registered care home can retain; above this threshold the individual pays the full cost of care.

5. Phase two of the Care Act was scheduled to be implemented in April 2016. In July 2015 the government announced that implementation had been deferred to 2020.

6. Statutory guidance to accompany the Care Act was issued in October 2014. A refreshed edition of this guidance was issued on 10 March 2016. Many of the amendments to the original guidance are described as "minor detail amendments/clarification only" but more substantial amendments have been made e.g. to reflect postponement of the funding reform and new legislation in relation to domestic abuse. Many of the substantial changes are to Chapter 14 on Safeguarding.

    The statutory guidance will continue to be updated online and is available at https://www.gov.uk/guidance/care-and-support-statutory-guidance

Main/Key Issues to be considered

7. The October 2014 report to the Health and Wellbeing Board recommended that the Board:

    - Advocate and strengthen the joint working arrangements across York.

- Promote and engage fully in the development and implementation of the legislative requirements.

- Support the protection of care and the implications of the Care Act through the Better Care Fund programme.

8. All three of these recommendations remain relevant in July 2016. In particular – in relation to the first recommendation - it is important to recognise that the title of the legislation is the Care Act, not the *Social* Care Act. Its relevance to other organisations is clear from the structure of the Act itself:

    - Part 2 is about care standards, including those in the NHS

    - Part 3 is about Health, including Health Education and the Health Research Authority

    - Part 4 is about health and social care and in particular integration of the two

9. Part 1 of the Care Act – entitled *Care and Support* and starting with a section on *General responsibilities of local authorities* - includes two section (6 and 7) that impose duties on local authorities and their partners to cooperate with each other.

10. Progress with the implementation of the Care Act has been monitored through a series of six stocktakes (three before the implementation of the Act itself in April 2015 and three since then). The most recent stocktake, number 6, was issued on 20 June 2016 with a required response date of 15 July. Stocktake 6 addresses a number of areas related to the implementation of the Care Act. This is discussed in the Analysis Section below.

11. As noted above (paragraph 5), the implementation of the financial changes introduced by the Care Act was deferred in July 2015 from April 2016 to 2020. The two stocktakes since then have focused on Part I of the Care Act implemented in April 2015.

12. As part of a review of our implementation of the Care Act in York, a high-level action plan has been developed to ensure that progress is maintained. This includes:

    - Lead managers have been designated for key areas of Care Act implementation.

- A governance structure has been implemented whereby regular time is set aside in Departmental Management Team meetings for reports from the lead managers.

- Workshops with staff are being planned for the autumn to review the first 18 months of the Act and refresh understanding of the requirements of the legislation including the updated statutory guidance.

Consultation

13. There has been ongoing consultation with and involvement of partners within and outside of City of York Council.

Options

14. The analysis below shows that good progress has been made to ensure compliance with the detail of the Act. Inevitably, given the scale of change associated with the Act, there is progress to be made, not only to achieve compliance with the detail of the legislation, but also to embed the spirit of the Act in the way we operate.

15. Increasingly the relevance of the Act in shaping our work will be on ensuring the outcomes intended are fully seen by York's residents and that the approach, culture and behaviours of our workforce promote these outcomes. To this end, it is suggested that the Care Act now be considered to be a fully integral part of how we operate across the system and not seen as a separate project. Progress will be seen and monitored through the component directorate and service plans within agencies, and as part of the overall monitoring across the Health and Wellbeing Strategy

16. Alternatively, the Health and Wellbeing Board may wish to request continued updates specifically related to compliance with the Act. This is not recommended, however, as it would present compliance as something separate to our key objectives and operating principles.

Analysis

17. Stocktake 6 is intended to be the final national review of progress towards implementation. It is expected that the Stocktake process will be re-started if Phase 2 of the Act is to be implemented in 2020.

18. At the time of writing, work is still underway to complete this Stocktake. However, several key points have emerged to date:

    a. Overall confidence in embedding the statutory requirements in business processes.

    b. Recognition that there remains work to do to embed the practice and culture that underpins the spirit of the Act.

    c. That there has been a marginal increase in the number of assessments reaching the eligibility threshold.

    d. Prevention, including information and advice, is generally effective, but could be better coordinated and joined up across the organisation and with partners.

    e. Partnership and Integration arrangements are developing but this has yet to produce a range of jointly commissioned and delivered services.

19. These key findings support a view that much has been achieved, but we are still to realise the full benefits of the approach which the Care Act enshrines in legislation.

Strategic/Operational Plans

20. Across the health and social care system, the Care Act now represents a significant part of the strategic and operating framework, relevant to the work of all contributing organisations. For this reason, it should be reflected in the performance monitoring arrangements in each organisation and in the system-wide strategies, namely the Health and Wellbeing Strategy and Sustainability and Transformation Plan.

21. The Adult Social Care strategy and directorate plan has recently been redrafted, setting out the high-level principles for the directorate to work to. These directly read across to the Care Act, describing our key objectives as Preventing, Reducing and Delaying the need for care, and those who require ongoing support, managing it in a person-centred way.

22. By directly referencing the language of the Care Act, these strategic documents will continue to support its implementation and the realisation of the better outcomes it identifies.

Implications

23. There are no direct implications as a result of the recommendations in this paper, although as a key piece of legislation, the Care Act will continue to provide the parameters for our work in these areas.

- **Financial** – no direct implications
- **Human Resources (HR)** – no direct implications
- **Equalities** – no direct implications
- **Legal**– no direct implications
- **Crime and Disorder** – no direct implications
- **Information Technology (IT)** – no direct implications
- **Property**– no direct implications

Risk Management

24. As implementation of the requirements of the Act has progressed, the risk of non-compliance has been replaced with general operational risks around the delivery of services. For this reason, the risks related to the Care Act will be mainstreamed into the risk management approach across the service.

25. There remains an outstanding financial risk in respect of phase 2 of the Care Act, should it be implemented in 2020. By placing a cap on the costs of care incurred by an individual, a greater burden may be placed on local authorities for people whose costs go beyond this level. As a city with a higher than average proportion of self funders (those who pay for their own care), there is potential for a significant increase in costs over the years following the implementation as people who wouldn't previously been financially eligible for support reach the care cap threshold. The Council will continue to monitor the Government's policy approach to this and will highlight to the Health and Wellbeing Board (in addition to Executive) an assessment of the impact.

Recommendations

26. The Health and Wellbeing Board are asked to:

- Agree to the future monitoring of progress through the performance management arrangements across the health and social care system.

Reason: To ensure the Act is considered a fundamental part of our system's approach to care in both detail and spirit of the Act.

- Receive a further report at the point that Phase 2 is confirmed to be implemented, highlighting the potential impact.

Reason: To allow the Health and Wellbeing Board to understand the impact of Phase 2 across the health and social care system.

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Report Approved | X | **Date** *06/07/16*

Wards Affected: **All** | X |

For further information please contact the author of the report

Background Papers: None