

<b>11<sup>th</sup> September 2014</b>		<b>ITEM: 5</b>
<b>Health and Wellbeing Board</b>		
<b>Care Act Implementation</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Non-key	
<b>Report of:</b> Ceri Armstrong, Strategy Officer, Adults, Health and Commissioning		
<b>Accountable Head of Service:</b> n/a		
<b>Accountable Director:</b> Roger Harris, Director of Adults, Health and Commissioning		
<b>This report is Public</b>		

## **Executive Summary**

The Care Act received Royal Assent in May 2014. The Act is the first overhaul of social care legislation for more than 60 years, building on a 'patchwork' of Acts.

A report was presented to the Board's July meeting which outlined key elements of the Care Act.

This report updates the Board on progress being made to implement the Act's requirements against higher risk areas and allows the Board to receive the assurance it needs that those risk areas are being managed.

There are a number of the areas of the Act that impact on the health and social care system. These are not picked up within the main body of the report, but contained within the appended Department of Health presentation.

### **1. Recommendation(s)**

- 1.1 For the Board to note progress being made to implement the requirements of the Care Act so that the Council is compliant with the relevant sections from April 2015.**

### **2. Introduction and Background**

- 2.1** In July, a report was brought to the Board on the Health and Social Care Transformation Programme. This included a summary of the arrangements that have been put in place to deliver health and social care transformation –

including the Care Act. The report also summarised the Care Act's key changes.

- 2.2 Since the July Board meeting, the Care Act Implementation Project Group has continued to meet. This report provides the Board with an update on progress to date.

### **3. Issues, Options and Analysis of Options**

- 3.1 The Care Act Implementation Project Group (Project Group) has now completed a readiness assessment against each section of the Care Act's draft guidance and regulations. This has allowed the Project Group to assess where the Council is at most risk of non-compliance and to discuss what steps can be taken to reduce or avoid this risk.

- 3.2 Through the work of the Project Group, elements of the following areas have been highlighted as high risk:

- Promoting Wellbeing;
- Preventing, reducing or delaying needs;
- Information and advice;
- Assessment and eligibility;
- Personal budgets; and
- Sections of the draft Guidance relating to Carers.

Whilst the above areas are considered 'high risk', progress is being made as detailed below:

#### **3.3 Promoting Wellbeing**

The principle is aimed at dealing with specific circumstances of the individual to include their needs, goals and wishes. The concern with this section of the Act is that the concept is extremely broad. Practitioners will be expected to be able to apply this concept when undertaking assessments and ensure key questions are asked in order to elicit information that will address the criteria. A partnership approach to assessments is part of the wellbeing process and all agencies will be expected to focus on providing best care to the individual rather than concentrating on what services are to be provided by particular agencies.

Proposed actions to address the concerns raised with this section include practitioner training and also ensuring that the way assessments are carried out include the main headings from the guidance. The Public Health team are also reviewing this section and shadowing a social worker to identify whether any further work is required over and above that already identified.

#### **3.4 Preventing, reducing or delaying needs**

This section of the Act aims to prevent individuals from needing care and support, reducing or delaying the care and support they need, and also preventing individuals from reaching crisis point. Like the wellbeing principle,

the duty to prevent, reduce or delay needs is woven in to the fabric of the Act and its guidance.

To an extent, the requirement of this section of the Act will be met by the Whole System Redesign Group which is focusing on how best to reduce unplanned admissions. This includes early recognition and management of conditions to avoid individuals reaching crisis point. How we provide low level information, advice and support is also key to delivering the requirements contained within this section.

Actions being taken forward include the development of a business case for a Timely Intervention and Prevention service. Other actions include the review and development of our information and advice offer, the work of the Health and Social Care Whole System Redesign Group, and also existing strengthening communities work. Key risks to achieving the aims of this section will include: whether the initiatives implemented are able to reduce the number of people reaching crisis point and poor health; and the ability in times of financial constraint to free up the resource required to invest in preventative and low-level support initiatives.

### 3.5 Information and Advice

Like chapters on wellbeing and preventing, reducing and delaying needs, the role of information and advice is woven throughout the Act and central to the Council's ability to meet a number of the Act's requirements. For example, local authorities must establish and maintain a service for providing people in their areas with information and advice relating to care and support for both adults and carers. The information and advice available is also seen as a key part of the preventing, reducing and delaying needs requirements – the duty relates to the 'whole population' – not just those with eligible care and support needs.

As part of the Council's Corporate Transformation Programme, agreement has been given to purchase an information and advice system. The system will provide a repository for the Council's care and support information and advice requirements. The Council is also working with Thurrock Coalition to ensure existing information and advice is reviewed and to identify any gaps. A key part of the work will be ensuring accessibility to information and advice. An initial 'kick off' workshop has been arranged for the 4<sup>th</sup> September.

### 3.6 Assessment and eligibility

The Act establishes a national minimum eligibility standard. Whilst this is set at substantial and critical – which is where the Council currently sets its eligibility criteria – there is some concern that the definition of substantial may lead to the Council providing greater levels of support. The Government has stated that Council's will be recompensed for any additional costs, but possible increased costs and increased numbers of assessments linked to any change in criteria is a risk.

No further action can be taken until the final guidance and regulations have been published in October.

### 3.7 Personal budgets

Every individual eligible for care and support will have a personal budget. This is linked to the Dilnot changes, where no one will pay in excess of £72k towards the cost of their eligible care needs. The Council will need to develop a Resource Allocation System (RAS) to meet the Act's requirements. The RAS will enable an individual to complete a self-assessment attached to which will be an indicative budget linked to eligible care needs.

The Council, through its Corporate Transformation Programme, has purchased a system through which the RAS will be developed. Practitioners will need support to use the new system as there is an expectation that they will support an individual to complete the self-assessment. There are a number of risks related to this section of the Act. These include the ability to integrate the RAS system with other social care systems; the possibility that we may need to apply the new system to existing care packages – which will lead to capacity issues and possible increased costs; and the increased number of challenges the Council may see if the indicative budget is different from the final budget assessed by the practitioner. The use of a RAS will be a key shift in how the Council assesses care needs and charges, and thought will need to be given to how it should best be communicated.

### 3.8 Carers

It is extremely welcoming that carers, within the Care Act, receive a standing equal to that of the person they care for. The Council already meets the majority of requirements contained within the Act and its guidance in relation to carers – having recently commissioned Cariads to provide an information and advice service. The key risk for the Council in relation to the Act's requirements is the potential for an increased demand for assessments and the capacity to be able to meet that demand. There is also some concern that an individual's expectations of what the Council will be mandated to deliver in response to completed assessments might need managing.

The Council has a carers' lead who is working closely with both carers and the provider to identify how the requirements of the Act can and should be met. As there is not one section within the Act relating to carers, the lead officer has assessed the Act in its entirety and has identified actions that need to take place in each section of the guidance as appropriate – e.g. information and advice, wellbeing, preventing, reducing, delaying needs etc. We are currently unaware as to whether carers will have a separate eligibility criteria.

3.9 The Project Group will continue to oversee the implementation of the Act's requirements and is utilising the £125 Care Act Implementation Grant to help to minimise any high risk areas.

3.10 The Association of Directors of Adult Social Services in conjunction with the Local Government Association has set up a number of regional programmes

to assist local authorities with their planning. The Council is well represented on the programme's many work streams which allows access to best practice and problem solving. The Council attended a regional event in July where the Department of Health delivered a presentation on its consultation of part one of the Care Act's draft regulations and guidance. This is attached at appendix 1 and provides a useful and concise summary of the non-Dilnot elements of the Act – i.e. those parts of the Act we will need to be compliant with from April 2015.

- 3.11 The Government has stated that local authorities will be recompensed for any additional costs arising from the implementation of the Care Act. This is a potential risk for the Council – particularly in terms of the cost pressures that will arise from the implementation of the Dilnot changes (from April 2016). The Government is currently consulting on how costs to Councils of the 2015 requirements will be assessed and met. The Government has already stated that implementation costs are expected to be met through the Better Care Fund – which is not new money and relies upon the CCG releasing funding currently attached to contracts. The Council itself, along with a number of other local authorities across the country, is carrying out detailed financial modelling to ensure that there is no gap between the Government's assessment and the local assessment.

#### **4. Reasons for Recommendation**

- 4.1 To assure the Board of steps being taken to implement the Care Act's requirements and to minimise risk areas.

#### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 The contents of this report have been informed by statutory guidance and by readiness assessments carried out by members of the Council's Care Act Implementation Project Group. The Project Group contains broad representation from the Council, health providers, Thurrock CCG, and Voluntary and Community Sector – via Thurrock Coalition.
- 5.2 The development and delivery of various statutory requirements will be carried out in consultation with a broader group of stakeholders – e.g. information and advice requirements are being developed in conjunction with Thurrock Coalition.
- 5.3 An Engagement Group is one of the Council and Thurrock Clinical Commissioning Group's Health and Social Care Transformation Programme arrangements. The Group has broad representation from the voluntary and community sector and is being kept fully informed and involved with regard to the Programme's various projects – including the Care Act.

#### **6. Impact on corporate policies, priorities, performance and community impact**

6.1 The implementation of the Care Act compliments the Council's corporate priority 'improve health and wellbeing'. Implementation is a key priority for the Council and is a critical element of the Health and Social Care Implementation Programme.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Sean Clark**  
**Head of Corporate Finance**

The Care Act brings significant financial implications, the extent to which are in the process of being assessed. The full cost of the Care Act is unlikely to be known until the statutory requirements become live. This is due to the complexity and assumptions behind understanding the true costs of the Act for the Council.

The Government is currently consulting on funding allocations for new adult social care duties for 2015/16. This exercise will be repeated for the funding cap responsibilities that will become statutory as of April 2016.

No additional cost pressures have been added to the MTFs based on the Government's assertion that additional cost burdens arising from the Care Act will be met via the New Burdens grant. This has been recognised in various budget reports as a risk.

### **7.2 Legal**

Implications verified by: **Roger Harris**  
**Director of Adults, Health and Commissioning**

The Care Act, Guidance and Regulations contain statutory requirements that the Council will need to comply with from April 2015 and from April 2016 (charging). Legal implications are considered within the body of the report and we will be working with legal to assess the full implications prior to April 2015.

### **7.3 Diversity and Equality**

Implications verified by: **Rebecca Price**  
**Community Development Officer**

The Care Act 2014 seeks to provide a modern and up to date legal framework for all vulnerable adults. Its focus is to ensure that safeguarding, producing better outcomes and well-being are at the core of all adult social care activity. Some specific requirements e.g. the need to produce a register of people with visual impairments are targeted at specific groups.

The Council has established a Care Act Implementation Project Group to analyse and oversee the implementation of the Act's requirements. The Project Group contains broad representation from the Council, health providers, Thurrock CCG, and Voluntary and Community Sector – via Thurrock Coalition. An Engagement Group has also been established and is one of the Council and Thurrock Clinical Commissioning Group's Health and Social Care Transformation Programme arrangements. The Group has broad representation from the voluntary and community sector and is being kept fully informed and involved with regard to the Programme's various projects – including the Care Act.

The Council will develop its plans to meet the requirements of the Care Act over the next 6 months and will work closely with both the Project and Engagement Groups to identify equality and diversity implications arising from the implementation of the Act in Thurrock with a view to mitigating the potential for negative impact.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None identified.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Health and Social Care Transformation Programme Report to July 2014 Health and Wellbeing Board;
- Care Act Implementation Programme Section Assessments; and
- Care Act Draft Guidance (July 2014).

9. **Appendices to the report**

Appendix 1 – Department of Health presentation: 'a consultation on draft regulations and guidance for part one of the Care Act 2014'.

**Report Author:**

Ceri Armstrong

Strategy Officer

Adults, Health and Commissioning