

# CHESHIRE EAST COUNCIL

## REPORT TO: ADULT SOCIAL CARE SCRUTINY COMMITTEE

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**Date of Meeting:** 27 Sept 2012  
**Report of:** Lorraine Butcher, Strategic Director - Children, Families & Adults  
**Subject/Title:** Briefing Paper on the White Paper 'Caring for our future: reforming care and support' (July 2012)  
**Portfolio Holder:** Cllr Janet Clowes

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### **1.0 Report Summary**

- 1.1 On 11 July 2010<sup>2</sup> the Government published its White Paper on the future of Adult Social care in England together with a draft 'Care and Support' bill covering its implementation. This report summarises and analyses the implications of the key proposals contained within the White Paper.

### **2.0 Decision Requested**

- 2.1 To consider the implications of the proposals for the future of Adult social care in Cheshire East

### **3.0 Reasons for Recommendations**

- 3.1 The White Paper contains many proposals, some far-reaching, all of which will have an impact on how we deliver social care within CEC. Although the implementation of all the main proposals is not planned until April 2015 we need to start planning for the changes now and also to acknowledge that there are a number of intermediate initiatives proposed for the intervening period

### **4.0 Wards Affected**

- 4.1 All

### **5.0 Local Ward Members**

- 5.1 All

### **6.0 Policy Implications including - Carbon reduction - Health**

- 6.1 The White Paper contains several new policy proposals together with the imposition of new duties on local authorities. Since the paper is currently subject to public consultation and scrutiny these cannot be confirmed as actual

at the present time – however the key points are highlighted in section 10 onwards

## **7.0 Financial Implications (Director of Finance and Business Services)**

Until the proposals are confirmed it will not be possible to quantify precisely the financial implications for the council. However there are a number of general comments to make:

- 7.1 The government will transfer £300m from the NHS to councils from 2013-15 to implement measures in the White Paper that carry a cost and to further develop integrated services with the NHS. This supplements about £2.7bn in funding transfers from the NHS to councils for social care from 2011-15.
- 7.2 The King's Fund has calculated that a funding gap of £1.2bn a year could open up between 2011-15 due to the government's 28% real terms cuts to council budgets over this period. Councils have already taken almost £2bn out of social care budgets since 2011 - mostly through efficiency savings - and have warned that services will be cut without additional resources
- 7.3 The paper does not make any proposals for an increase in funding for social care although it does acknowledge the increasing demands placed upon the system by our growing and ageing population. The vision of moving towards a more person-centred system within a reducing cost-envelope will require a major shift in public expectations
- 7.4 We are already experiencing locally the pressures of our ageing population. This is compounded by increasing complexity of need as medical advances support those with more profound disability to live longer. Such pressures are already stretching budgets to unprecedented levels meaning that we are starting this implementation from an already challenging position
- 7.5 The paper deferred any decision on the introduction of the Dilnot proposals capping personal lifetime expenditure on care, although Government did commit itself to supporting the principles Dilnot outlined. However on Aug 16<sup>th</sup> the Government reversed this position and confirmed that an announcement is due this autumn, with the Dilnot proposals inserted into the draft Care and Support Bill, and the precise funding solution will be unveiled in the 2014 spending review
- 7.6 It is not totally clear how many of the proposals will become mandatory or will remain discretionary, however the items that are likely to impose an extra cost burden include:
  - The recruitment of 'Principal Social Workers'
  - The obligation to provide services to carers
  - The loss of income resulting from the provision that payments from the Armed Forces Compensation Scheme will, from October 2012, not be required to be used to pay for social care arranged by the public sector
  - Increased safeguarding obligations
  - Retraining for social care staff

- A new statutory duty to offer deferred payment agreements for social care charges
- 7.7 Community Care Magazine has produced some cost analysis extracted from the Equality Impact Assessments accompanying the paper. These are national figures, based on a number of assumptions with caveats so should be treated with caution:
- Social workers will save 20-45 minutes a week in administration from the reforms to social care law in the draft Care and Support Bill, a saving equivalent to £12.4m in financial terms
  - Social workers will need six days' training over two years in the new legal framework introduced through the draft bill at a cost of £6.3m in direct training costs and £37m in knock-on costs from removing practitioners from the front line
  - The cost of a full community care assessment is £450 in terms of staff time
  - The most costly reform in the draft bill would be providing carers with a right to assessment if they appear to need support and a right to support if they meet eligibility thresholds, with the bill for this rising to an additional £175m a year by 2019-20, £25m in assessment costs and £150m in support costs
  - Putting adult safeguarding on a statutory footing will cost an additional £8.4m a year - £2.4m from the duty on councils to conduct enquiries in suspected abuse/neglect cases and £6m from making safeguarding adult boards mandatory in every area and holding safeguarding adult reviews in serious cases.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 The White Paper contains several new proposals for statutory changes to adult social care which if enacted will impose additional duties on Local Authorities. Since the paper is currently subject to public consultation and House of Lords and Committee scrutiny these cannot be confirmed as actual at the present time – however the key points are highlighted in section 10
- 8.2 It is not clear how many of the proposals will become mandatory and how many will remain discretionary. If the new Act imposes mandatory duties on Local Authorities there will be no additional duty on those authorities to consult prior to implementing changes, however if some of the duties have a discretionary element then the Local Authority will need to consult and undertake Equality Impact Assessments before implementing policy change.
- 8.3 The new Care and Support Act is intended to be a consolidating Act and should it receive Royal Assent it is likely that various sections of the pre-existing statutes will be repealed. Staff will need to be retrained in order to be able to recognise these changes and Local Authority documentation amended to reflect those changes.
- 8.4 Overall the proposals in the new Adult Social Care Bill are positive and have been well received.

- 8.5 The White Paper acknowledges that the current legal framework for social care is opaque, complex and anachronistic. This being further compounded by the fact that the majority of the Personalisation Agenda was introduced via policy documents rather than by statute and with only the minority of those policies having statutory force. This led to confusion and inconsistency in the provision of adult social care. It accepts the majority of the Law Commission's recommendations and proposes rationalising the legislation into one single statute. This should have significant benefits for the Council in reducing future legal challenges particularly in relation to ordinary residence disputes and providing for the development of clearer operational guidance for staff

## **9.0 Risk Management**

- 9.1 To be developed as the proposals are confirmed

## **10.0 Key Points and Timescales**

- 10.1 The key actions which the Government has identified are listed below. The paper states that the Government will work with partners - including carers; people who use services; local authorities; care providers and the voluntary sector – to take the following actions:
- Stimulating the development of initiatives that help people share their time, talents and skills with others in their community.
  - Developing and implementing, in a number of trailblazer areas, new ways of investing in supporting people to stay active and independent, such as Social Impact Bonds.
  - Establishing a new capital fund, worth £200 million over five years, to support the development of specialised housing for older and disabled people.
  - Establishing a new national information website, to provide a clear and reliable source of information on care and support, and investing £32.5 million in better local online services.
  - Introducing a national minimum eligibility threshold to ensure greater national consistency in access to care and support, and ensuring that no-one's care is interrupted if they move.
  - Extending the right to an assessment to more carers, and introducing a clear entitlement to support to help them maintain their own health and wellbeing.
  - Working with a range of organisations to develop comparison websites that make it easy for people to give feedback and compare the quality of care providers.
  - Ruling out crude 'contracting by the minute', which can undermine dignity and choice for those who use care and support.

- Consulting on further steps to ensure service continuity for people using care and support, should a provider go out of business.
- Placing dignity and respect at the heart of a new code of conduct and minimum training standards for care workers.
- Training more care workers to deliver high-quality care, including an ambition to double the number of care apprenticeships to 100,000 by 2017.
- Appointing a Chief Social Worker by the end of 2012.
- Legislating to give people an entitlement to a personal budget.
- Improving access to independent advice to help people eligible for financial support from their local authority to develop their care and support plan.
- Developing, in a small number of areas, the use of direct payments for people who have chosen to live in residential care, to test the costs and benefits.
- Investing a further £100 million in 2013/14 and £200 million in 2014/15 in joint funding between the NHS and social care to support better integrated care and support.

10.2 Appendix 1 gives more detailed chapter-by-chapter extracts of all the proposals. It also highlights those which are likely to have greatest impact in CEC

10.3 The paper indicates the following implementation timeline

Jun 12	2012/13 Health and Social Care Volunteering Fund (local scheme) invites bids to support community-based support, including time-banking schemes.
Jul 12	First stage of the provider quality profile goes live on the NHS and Social Care Information website.
Jul 12	Publication of the draft Care and Support Bill, setting out how we plan to reform care and support law. The draft Bill will be subject to pre-legislative scrutiny.
Summer 12	Expressions of interest invited to pilot direct payments in residential care.
Autumn 12	Consultation on oversight of the care market published.
Autumn 12	Further details about the process for establishing Social Impact Bond trailblazers published.
Sept 12	Code of conduct and minimum training standards for care workers published.
Oct 12	Further details about the £200 million capital fund for older and disabled people's housing published.
Oct 12	2013/14 Adult Social Care Outcomes Framework published.
Winter 12	Publication of an integration plan, setting out how the modernisation of the NHS can be built upon to provide a more joined-up experience for people.
Winter 12	Chief Social Worker appointed.
Winter 12	2013/14 Health and Social Volunteering Fund (national scheme) invites bids to support community-based support, including time-banking schemes.
Mar 13	Working group established to develop and test options for a new assessment and eligibility framework for people who use services and for carers.
Mar 13	Launch of the Leadership Development Forum.

Spring 13	Social Impact Bond trailblazers launched, to encourage investment in innovative support to keep people independent at home.
Apr 13	NHS Commissioning Board, clinical commissioning groups, Public Health England, health and wellbeing boards, and local authorities take on their new statutory responsibilities as set out in the Health and Social Care Act 2012.
Apr 13	Additional funding for integrated care and support made available to local authorities through the NHS Commissioning Board.
Apr 13	Improved information added to the provider quality profile, and the data made available to organisations to develop a quality rating.
Apr 13	NICE begins the development of a library of quality standards for care and support, including standards for the quality of home care.
Apr 13	Residential care charging rules changed, so that the income that people earn in employment is exempt from charges.
Winter 13	Care and support sector compact published.
Apr 15	Introduction of new funding system for end-of-life care.
Apr 15	National minimum eligibility threshold for adult social care introduced

## 11.0 Analysis and Comment

- 11.1 Much of what the paper espouses in terms of principles and good practice is not new and is already being actively pursued and developed by CEC and other authorities
- 11.2 In view of the number and costs of recent legal challenges faced by the Council the legislative reform is to be welcomed. However the repeals proposed in the supporting bill do not entirely rescind all previous legislation but simply sections of some statutes. It is to be hoped that nothing is omitted from the repeals list that could conflict and confuse the new legislation leaving us in a no better position and potentially subject to the development of a whole new set of case law
- 11.3 The proposals to abolish 'contracting by the minute' will pose significant issues for our commissioning regime and provider relationships. It will also demand a revision of our current methods for calculating the nominal value of a Personal Budget
- 11.4 The proposal to outsource social care assessments, potentially to social enterprises established by social workers, could deplete the pool of staff employed by CEC. This will make it more difficult to embody the flexibility to respond to the increased safeguarding responsibilities that LAs are due to bear
- 11.5 The paper has been broadly welcomed by the sector (with the exception of the omission of a funding solution); ADASS and Age UK amongst those bodies responding positively (see appendices)
- 11.6 'Community Care' has published a range of comment and articles – extracts include:

“The biggest impact is likely to be felt from the proposal for councils to outsource assessments to multiple providers in each area, giving service users choice over who assesses their social care needs. The government has speculated this could include social workers setting up their own social enterprises to deliver this service, along the lines of the existing social work practice pilots. However, it could also mean private equity firms making profits out of assessment and a drop in quality and consistency, according to organisations representing social workers. Unison's national officer for social work, Helga Pile, says it is deeply concerned at the lack of an evidence base for such a move, given its potential to undermine other elements of the White Paper, such as the establishment of a national minimum eligibility threshold for care to promote consistency.”

Joe Godden, professional officer for the British Association of Social Workers (BASW) is not directly opposed to the idea of outsourcing assessments, pointing out that other countries operate a model of assessment that is not part of local government. But he is concerned about quality assurance, the qualifications of those doing assessments and levels of funding. Social workers should, the White Paper states, help to connect people to community networks, get them involved in local activities and create community groups where there are currently gaps...But Godden warns that a community development role may have to be independent of an assessment role. “There can be conflicts and the loss of credibility within your community if you are also doing assessments. You could have the one organisation providing both services but I’m not sure you can have the one social worker doing both.”

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“Social workers' ability to influence local authorities' direction could be helped by the third main change for social workers contained within the White Paper - the appointment of principal social workers for adult services within councils. While children's services are already grappling with what such a role entails in practice, Chris Russell of the College of Social Work believes an adult version should focus on forging partnerships between upper management and frontline staff and key people in partnership organisations. However, Dee Kemp, practitioner manager at Topaz, the social work practice pilot in Lambeth, believes the key role of a principal social worker should be about advising and supporting social workers to develop. “It is essential that social workers are encouraged to continue developing throughout their careers.”

## 12.0 Appendices

### Appendix 1 – Detailed extracts of White Paper proposals



Summary of White  
Paper proposals.doc

#### ADASS Statement:



Microsoft Office  
Word 97 - 2003 Docu

## Summary of Age UK response:



Microsoft Office  
Word 97 - 2003 Docu

## Government factsheets explaining key points from the Bill:



Care-and-Support-Bil Care-and-Support-Bil Care-and-Support-Bil Care-and-Support-Bil 2900021-Fact-sheet-  
I-Factsheet-1-Assessil-Factsheet-2-Chargirl-Factsheet-3-Who-is-I-Factsheet-4-Care-a 5-v1\_1W-21.pdf



Care-and-Support-Bil Care-and-Support-Bil Care-and-Support-Bil  
I-Factsheet-6-ProtectI-Factsheet-7-Health-I-Factsheet-8-Health-

### 13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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