

# **CHESHIRE EAST COUNCIL**

## **REPORT TO: CABINET**

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**Date of Meeting:** 3 March 2015

**Report of:** Brenda Smith, Director of Adult Social Care and Independent Living

**Subject/Title:** The Care Act 2014 in Cheshire East

**Portfolio Holder:** Councillor Janet Clowes  
Care and Health in the Community

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### **1. Purpose of Report**

- 1.1 From April 2015 social care and support is changing for the better with the introduction of the Care Act 2014. The Care Act 2014 brings together in one single piece of statute the majority of legislation governing Adult Social Care.
- 1.2 The new Care Act aims to ensure that the care and support system is more consistent across the country. Cheshire East Council strongly supports the principles of fairness embedded within the legislation.
- 1.3 Cheshire East residents will benefit from the new legislation including the enhanced focus on the 'wellbeing' of its citizens, the new national eligibility criteria for services, the recognition of the role of carers by ensuring they have equal rights to access support and many other changes.
- 1.4 The Care Act introduces a number of new duties and powers for Local Authorities which require the Council to review its policies to ensure they are compliant with the new legislation.
- 1.5 This report provides an overview of the Care Act 2014, the Regulations and the Statutory Guidance in advance of the implementation of the Act from April 2015.
- 1.6 The report details the new policies which Cheshire East Council needs to introduce in order to be fully compliant with the legislation from 1st April 2015. Policies can be found at Appendices A-D.

## **2. Recommendations**

### **It is recommended that Cabinet:**

- 2.1 Note the implications of the new statutory framework for Adult Social Care services and the broader Council, including financial and other risks to the Council for 2015/16 and beyond.
- 2.2 Approve the proposal **not** to apply charges to care services for carers.
- 2.3 Approve the revised policies attached at Appendices A-D which are required for Cheshire East Council to be Care Act compliant. These are:

Pricing and Charging Policy  
Deferred Payment Scheme Policy  
Direct Payment Policy  
Care Top Up Policy

## **3. Reasons for Recommendations**

- 3.1 The Care Act 2014 is a major piece of legislation with a significant impact across the Council. Cabinet needs to be aware of and acknowledge the required duties and powers within the Care Act and the financial impact on the Council.
- 3.2 The Council has discretionary powers within the Care Act in respect of charging for care services. One area of discretion is to apply charges to carers for services they have been assessed to need. In recognition of the valuable contribution made by carers, it is recommended that charges are **not** applied for carers.
- 3.3 Cheshire East Council must have revised policies in place in accordance with the new legislation. In those areas where policy is set by Cabinet, the revised policies will require formal approval in advance of the April implementation date.

## **4. Background**

- 4.1 The Care Act is the biggest change to social policy for a generation. This legislation brings together and simplifies previous legislation, regulations and guidance relating to Adult Social Care.
- 4.2 The Care Act is divided into three main parts. Part One deals with the reform of Adult Social Care and supporting legislation. Part Two seeks to improve care standards by putting people and their carers in charge of their care and support. Part Three establishes Health Education England and the Health Research Authority.

- 4.3 The Care Act will be implemented in two phases. Phase One will be implemented from April 2015. The underlying principle of the Care Act is for Local Authorities to promote the wellbeing of the population and in doing so to ensure that people have access to advice and information to assist them to access the right help and to focus on prevention and early intervention services. Phase One implementation of the Act involves the key elements of the legislation. These are detailed at Appendix E.
- 4.4 Phase Two will be implemented from April 2016 and includes the elements of the new legislation which governs the financial contribution to care including the revised capital limits, the Care Cap and care accounts. These are listed in Appendix E.
- 4.5 The Care Act requires the revision of a number of policies in order that the Council is fully compliant with the new legislation. The Care Act also introduces discretionary powers in respect of charging for care and associated services. The Council will need to consider how it uses its discretionary powers. Many of the areas of discretion can be considered and introduced at a later date.
- 4.6 A new duty within the Care Act is for the Local Authority to introduce the national eligibility criteria for carers and a requirement to ensure care and support is made available to those carers with assessed eligible needs. The Council has discretion within the new legislation to charge for care services for carers. This is an area of discretion which requires a decision in advance of the April implementation date. **It is proposed that the Council does not apply charges for care services for carers, which the Council makes available to meet eligible needs.**
- 4.7 The Care Act is being implemented against a backdrop of policy changes across both health and social care. Nationally there is a drive to integrate health and social care. The implementation of the Care Act has taken account of the local and national plans for the future integration with health. Working closely with health services will be critical to implementing the requirements of the Care Act, for example in offering services that can prevent future care needs.
- 4.8 Cheshire East Council welcomes the opportunities for improvement in the provision of Adult Social Care and support that the Care Act presents. An improvement programme has been established under the leadership of the Director of Adult Social Care and Independent Living. A number of individual projects have been working to deliver on the wide ranging requirements of the new legislation.
- 4.9 There is a national publicity campaign about the Care Act led by Public Health England. The first phase of the campaign began in January and runs to March 2015. A toolkit has been provided to Councils comprising website copy, case studies, leaflets and posters. Some addresses

have been selected nationally for a letter drop. In Cheshire East this will be mainly the Crewe area.

- 4.10 The second phase of the national campaign will begin in Autumn 2015 and will be focused on how much people might pay for their care and support, information about the Care Cap and Care Accounts and a behavioural change campaign encouraging people to plan for care they might need in later life.
- 4.11 To supplement the national campaign Cheshire East Council has developed a short animation about the Care Act that is available on the Council website. The Council has arrangements in place for telephone and email enquiries. Further initiatives include the development of a Care Act 'app' to enable people to check if they have eligible needs.

## **5. Wards Affected**

- 5.1 All Wards.

## **6 Policy Implications**

- 6.1 Much of the Act is already embedded in policy and practice but there are nevertheless a number of changes required by the Act.

The Policy implications and key dates identified are as follows:

<b>Key Requirements</b>	<b>Timescale</b>
New charging framework	April 2015
Universal deferred payments	April 2015
Care Accounts	April 2016
Cap on care costs	April 2016
Extended means test	April 2016

## **7 Implications for Rural Communities**

- 7.1 The Care Act requires the Local Authority to facilitate a vibrant, diverse and sustainable market of care services. This will apply to all areas of Cheshire East and will need to reflect the specific needs of all communities and ensure accessible services, which is of particular importance within the more rural areas.

## **8 Financial Implications**

- 8.1 The implementation of the Care Act involves a number of additional areas of responsibility being delivered by the Council with the main financial costs being associated with the increase in demand for assessments (for individuals and carers) during 2015/16 and 2016/17 together with changes in financial assessment thresholds and the introduction of the Care Cap from April 2016 onwards.

- 8.2 During 2014/15 the Council received a one-off allocation from central government of £125,000 to support the following:
- Preparations for implementation
  - Establishment of a change management programme
  - Capacity to lead and manage change
  - Participation in National Stocktake exercise
  - Identify an accountable Senior Responsible Officer as a single point of contact

A Care Act Programme Board and project team has been established and any balance of the above funds will be carried forwards into 2015/16 to assist with the ongoing implementation of the Care Act.

- 8.3 The Care Act duties outlined in section 4.3 and 4.4 are expected to be funded from a combination of funding flows from the Department of Health, DCLG and the Better Care Fund. The table below provides a summary of the funding:

<b>Revenue Funding Source</b>	<b>Amount 2015/16 £m</b>
Social Care Act Grant	£2.27m
Better Care Fund	£0.86m
Prison Grant	£0.07m
	£3.20m

- 8.4 In 2015/16 the Social Care Act grant is to fund additional assessments arising from the implementation of the Care Act and a Deferred Debt Payment scheme.
- 8.5 The Council has been using a modelling tool developed by Lincolnshire County Council to assist with understanding the potential cost implications of additional assessments.
- 8.6 It is difficult to estimate the impact and timing of potential numbers that will present for assessment, however based upon the assumptions that have currently been made the funding allocated to the Council is aligned with the expected demand in 2015/16. However, there are risks that more people than anticipated present for assessment and the timing of national information campaigns is likely to influence the level of demand.
- 8.7 The funding flows for 2016/17 relating to the impact of the changes in financial eligibility threshold and the introduction of the Care Cap have very recently been announced by central government and a national funding consultation is under way until the end of March 2015. The current funding assumptions for the Council's budget setting process

are cost neutral pending more detailed funding allocation information from Central Government.

- 8.8 From April 2016, there will be changes to the means tested eligibility threshold and the Care Cap will be introduced. The Care Cap is a restriction on the amount that a person will pay in eligible care costs over the course of their lifetime (this level will be set at £72,000 for people over 65 years old when the Care Cap is introduced in April 2016).
- 8.9 The Care Cap will be recorded in a Care Account. The Care Account will only capture the **eligible care costs** (at local authority rates) from April 2016 for those people who have been assessed by the Council and meet the eligible needs criteria. Costs incurred before a person is assessed, or before 1 April 2016, will not count towards the cap.
- 8.10 The cap does not include what are referred to as “living costs”, “accommodation costs” or “hotel costs”. This means that people in residential care would be expected to pay for costs such as utility bills and food. This is in place to maintain consistency between those receiving care in their own home and those in residential care. The government proposes that the contribution towards these “hotel costs” would be approximately £12,000 per year from April 2016 or £230 per week. Further guidance is expected in the 2016/17 funding reform consultation about this element.
- 8.11 The Care Account will only capture eligible care costs at local authority rates. This means that if a person is paying for a more expensive care home through choice, only the costs equivalent to the local authority rates will be included within the care account.
- 8.12 The Care Cap thresholds for working age adults and people receiving eligible care before turning 18 years old are yet to be confirmed, Further information is anticipated in the 2016/17 funding reform consultation.
- 8.13 Social Care is subject to means testing and people with eligible care needs are required to complete a financial assessment to evidence the need for financial support from the Council. From April 2016, there will be changes in the means tested eligibility thresholds (subject to 2016/17 funding reform consultation). The means tested threshold for people going into a care home is set to increase from £23,250 to £118,000 (if the need for residential care is included in the assessment). This means that the authority will not contribute towards their care until they are below the threshold of £118,000 or they have reached the Care Cap.
- 8.14 There are a number of finance models (e.g. Lincolnshire, Birmingham and Surrey) in existence to assist with quantifying the impact of the costs to the Council of individuals reaching the Care Cap and the impact of the changes in finance eligibility levels at an authority level.

- 8.15 The Lincolnshire finance model has been used to assist with understanding and quantifying the potential impact of the key Care Act changes within Cheshire East. A number of assumptions have been made as part of the modelling work and these will be reviewed alongside the information contained in the 2016/17 funding reform consultation which is due to be issued early during 2015.

## **9 Legal Implications**

- 9.1 Current social care legislation has evolved over a number of decades and the Care Act will consolidate or replace many pieces of legislation and guidance in one Act. Cheshire East Council has to develop new policies as outlined in Section 6 above. In addition, many existing policies have been reviewed and updated to ensure that they are Care Act compliant.

## **10 Risk Management**

- 10.1 The Care Act Project Board has identified issues and risk and agreed actions to mitigate the risks.

## **11 Access to Information**

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

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