

CHESHIRE EAST COUNCIL

Health and Adult Social Care Overview and Scrutiny Committee

Date of Meeting: 26 November 2015
Report of: Director of Adult Social Care and Independent Living
 Brenda Smith
Subject/Title: Implementing the Care Act
 Moving to a Local and Personalised System of Care and Support
Portfolio Holder: Cllr Janet Clowes – Care and Health in the Community

1 Report Summary

- 1.1 This Council is committed to full compliance with the Care Act and to providing a range of excellent local care and support services for the residents of Cheshire East. We are delivering on our commitment to ensure residents are supported to live well for longer and to remain as independent as possible. With this in mind we will be investing in our reablement services which support people to return to independence. The Council is fully aware of its responsibilities to its citizens and is committed to addressing both current and future needs in its planning to ensure sustainable adult care and support services.
- 1.2 The new Care Act 2014 requires the way Local Authorities provide adult social care to change working more closely with health care partners. The implementation of the new Care Act brings different pieces of historical legislation into one place and introduces new duties for Councils - including new rights for service users and carers. The new statutory principle of wellbeing underpins the Act and is the driving force behind care and support.
- 1.3 The legislation aims to build a care and support system based on people's wellbeing, needs and aspirations. Rather than being passive recipients of care, the aim is for people to take responsibility for their own wellbeing and health where they can do so but to have access to advice and information that assists them in this. Where people need additional support, it is intended that they are able to access this at as early a stage as is possible.
- 1.4 A key principle of the legislation is that people should be able to take charge of their own care and support system and be in the driving seat of identifying

their needs and how and when they will be met and in particular by whom. This is important whether the person is eligible for adult social care support from the Local Authority or they purchase their own care privately.

- 1.5 The Care Act specifically requires Local Authorities to develop greater diversity in the care market to ensure that there is a wide range of high-quality services from which residents can choose the care that best meets their needs. The intention is that the care market will be influenced and shaped by the Council and its health partners to have a vibrant and flexible range of services which can deliver personalised services, meeting increasing demand, increasing complexity of need and utilising new models of care and technology.
- 1.6 Most importantly, the personalisation policies on which much of the legislation is based intends that the customers of the care services are the most influential driver in shaping and developing services, to deliver services they want to use and which will support them to meet their needs in a way that they choose.
- 1.7 Whilst much of this is not new in national policy terms, the statutory footing on which it is now based gives us an added imperative to progress the final stages of implementation of the personalisation agenda. In order to progress this final stage of implementation it is necessary to review the current range of in house care services for adult social care provided by the Council.
- 1.8 The Council is committed to personalisation and greater choice for residents. The Care4CE service is commissioned on a block contract arrangement with a fixed budget and staffing resource. The services within Care4CE are not permitted to trade with the public by law. This means that only those individuals who are willing for their social worker to access services on their behalf can use these services. Changing this contracting arrangement will allow the flexibility required to adapt to a changing market and customer base. An enhanced range of localised services will be available to the whole population who will benefit from lifting the current restrictions of access.
- 1.9 The Council recognises the quality of care provided by Care4CE but need to ensure full compliance with the new legislative requirements. In addition to ensuring that people have access to the care and support they need we must also now ensure that people are able to exercise choice and control over the services they use. As a consequence we must review in-house provision and the policy of providing direct care provision from an in-house provider.

- 1.10 A key element of the changes is the proposal to provide care and support in a variety of ways utilising different models of provision. There is a large market for care and support provision that already responds effectively to the needs of the residents of Cheshire East. These proposals will further increase choice of provision in a range of locations across Cheshire East so that people can choose support in the location that works best for them and from a provider who can deliver to their personal requirements. This may result in new services being developed by all care providers including Care4CE staff.

2.0 Recommendations to Overview and Scrutiny Committee

2.1 That Scrutiny:

- (a) Note this report produced for consideration of Cabinet at the Cabinet meeting on 08 December 2015
- (b) Consider any advice that the Committee wishes to offer to Cabinet in respect of the recommendations being made
- (c) Advise the Director of Adult Social Care and Independent Living if any members of Scrutiny wish to be involved in the process of co design of the new service and delivery models of care detailed in this report

3 Recommendations to Cabinet

3.1 The report to cabinet is to recommend:

That Cabinet:

In order to be fully compliant with the Care Act 2014;

- (a) Cabinet approve a change in Council policy to commission all care services from the broader care sector. This will facilitate the move to a personalised system of care and support which facilitates the principle of choice and control for residents in the access and purchasing of care services.
- (b) Cabinet delegate the approval of alternate arrangements to provide care services in the independent sector to the Director of Adult Social Care and Independent Living, in consultation with the Portfolio Holder for Care and Health in the Community.
- (c) Cabinet approve a transitional arrangement with both the market and Care4CE to ensure the continuity of high quality service delivery whilst alternative care and support services are secured in the market.

4.0 Reasons for Recommendations

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4.1 The Council must be compliant with the new legislative requirements within the Care Act 2014 by:

- Ensuring the wellbeing of all its citizens is at the heart of all the activities within Adult Social Care.
- Ensuring robust advice and information services are available to support people in their self help and self management of their own care.
- Ensuring services are available which focus on prevention and early intervention.
- Ensuring that people have access to a range of services which focus on recovery and maximising independence wherever possible.
- Ensuring that people can purchase care and support from a range of providers and exercise choice over the type of service and control over how and when the service(s) will be delivered.
- Shaping and influence the care market to ensure the range of provision is available to meet local need and promote choice.
- Implementing the national eligibility criteria for access to a Council allocated personal budget with which people will be able to purchase services or ask the Council to do this on their behalf.
- Implementing the national eligibility for carers which also includes entitlement to a Council allocated Personal Budget with which people will be able to purchase services or ask the Council to do this on their behalf.
- Ensuring future models of service are co designed and co produced with the people who will use them.

4.2 The Care Act has introduced a requirement for Local Authorities to encourage a diverse range of high quality care providers. Local authorities therefore have a duty to stimulate the care provider markets so that individuals have a range of options to choose from. This proposal will assist the Council to meet this duty

4.3 The Council currently commissions a range of information and advice services across the borough to support and has a range of provision available to address the prevention and early intervention agenda. People can access the majority of these services without the need of a referral or a charge being applied.

4.4 The majority of the Adult Social Care services currently commissioned are focused on meeting eligible care needs utilising the national eligibility criteria. These services include domiciliary care services, day services, supported

tenancy schemes and residential care services. Services are provided across the public, private and voluntary care sectors. The social care services provided by the public sector are provided by the Council's in-house provider services, Care4CE.

- 4.5 This range of provision cannot be purchased by customers with an allocated Personal Budget who choose to have their budget paid to them as a Direct Payment, nor can the services be accessed by a private customer who wishes to purchase care and support without a formal social care assessment. It is critical therefore that the resources currently tied up in a relatively inaccessible service area are released to be utilised to make available a range of services which become part of the range of services which can be accessed by all residents who wish to access or purchase them.
- 4.6 As part of the Care Act Implementation process, Adult Social Care Strategic Commissioning have undertaken a review of the Council's in-house care provider service Care4CE. The review of Care4CE has taken into account the strategic case for change as outlined above, the Council's Adult Social Care commissioning strategy, anticipated increases in the demand for care services, accessibility of services and the challenging fiscal environment. In addition, the review has given full consideration to the future expected demands and service requirements of the local residents together with the current service utilisation and cost.
- 4.7 The review of Care4CE has concluded that reablement services (Physical, Mental Health and Dementia Reablement services) have a vital role in providing a comprehensive assessment of an individual's needs and restoring independent functioning. Continued investment in these services provides an effective means of supporting people to maintain their independence for as long as possible before considering long term support needs. This is both in the individual's interests and essential for the effective commissioning of long term support. These services will transfer to be a key component part of the new integrated community teams development.
- 4.8 Reablement services are seen as a critical component of the new integrated health and social care community teams whereby the assessment and interventions from the health and social care professionals can be further enhanced by the inclusion of the reablement teams specialist input. The service will be a dynamic and reactive element of the holistic assessment of need and will provide intensive support focused on recovery and regaining independence as quickly as possible.
- 4.9 The review of in-house services included a review of the care market as a whole and the commissioning priorities to meet local need. It was concluded that the remainder of the service areas provided by Care4CE need to be redesigned and commissioned from the independent sector. In keeping with the personalisation principles, the redesign of these services and the options

available to the Council, its partners and the public in terms of how these are commissioned and made available need to be further explored. The Care Act upholds the principle of people who use services as individuals or carers should co design and co produce the services they want to use.

- 4.10 It is planned that the Council commences a programme of transition together with service users and carers, to determine the future range of provision and how these services are to be commissioned. The key principles which will be applied in this process is that the programme will achieve a range a services which are accessible to all residents who wish to purchase them, provide a flexible and responsive service to customers, ensure customers can exercise choice and control over how they are delivered on an individual level. It is also essential that the new range of service provision provides value for money.
- 4.11 It is planned that the Council commence a process of co design and co production of all future care models and further to scope all potential delivery models as part of this process. The service options to be made available must be in keeping with the principles of the care Act and in particular the principles of personalisation whilst at the same time ensuring they offer value for money. This work will include commissioners from other directorates within the Council and with our health commissioning colleagues.
- 4.12 For the many residents in Cheshire East who purchase their own care independently of Adult Social Care services, this proposal will create a broader range of service options for them to access.
- 4.13 There are many excellent examples nationally where people who use services and those who care for them have been at the heart of designing new models of service which focus on a personalised and flexible service tailored to their needs.

5.0 Policy Implications

- 5.1 This proposal is in keeping with the requirements of the Care Act 2014.

6.0 Financial Implications

- 6.1 The cost of care within the Council budget is increasing as a result of demographic changes. The increasing number of people who are living longer with multiple health conditions and frailty results in increased costs as the need for care increases. There are a significant number of young people moving into adult social care services with complex health needs and disability that wish and should be supported to live full and active lives. The

costs of care and support services for this group of people are also steadily increasing. This is within a context of considerable fiscal pressure.

- 6.2 The ongoing process of review of Council commissioned services in terms of quality, delivery on outcomes, satisfaction levels for the customer and value for money have been routine for many years in the independent sector. All services including in-house provision need to be subjected to the same process of review including value for money.
- 6.3 Service users deemed to have eligible care needs and allocated a Personal Budget from the Local Authority have the right to take the Personal Budget as a Direct Payment. In cases where the person chooses a Direct Payment to buy services to meet their needs from the independent sector and where a service provided by Care4CE could have met their needs, there is a clear risk of effectively duplication of allocation of resources.

7 Implications for Rural Communities

- 7.1 The proposal will create greater choice of type and location of support for those in rural communities to have a personalised response to their circumstances and needs.
- 7.2 Service users and carers living in rural communities will be engaged to design the services that will meet their specific needs.

8.0 Legal Implications

- 8.1 Where consultation is required the general principles that must be followed when consulting are well established:

The consultation must be at a time when proposals are still at a formative stage;

The proposer must give sufficient reasons for any proposal to enable intelligent consideration and response.

Those consulted should be aware of the criteria that will be applied when considering proposals and which factors will be considered decisive or of substantial importance at the end of the Consultation process;

Adequate time must be given for consideration and response;

The product of consultation must be conscientiously taken into account in finalising any statutory proposals.

8.2 Cabinet will need to satisfy itself that the consultation has been properly conducted in line with the principles above. In addition, Cabinet must ensure that it has clarity with the outcomes of that consultation and therefore, as decision maker, is able to take the results fully into account when making its decision on the proposals contained in this report.

8.3 In making its decision, Cabinet will have to have due regard to the Public Sector Equality Duty as set out at S149 of the Equality Act 2010, which states:

“(1) A public authority must, in the exercise of its functions, have due regard to the need to -

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it... “

8.4 To assist Cabinet in respect of the Public Sector Equality Duty, an Equality Impact Assessment will be carried out in respect of the proposals within this report.

8.5 The Council will need to comply with its requirements under Employment law to ensure that appropriate consultation with staff taken place.

9 **Risk Management**

9.1 The proposals if accepted will need to be in keeping with the delivery of the Medium Term Financial Strategy (MTFS).

9.2 Ensuring adequate services in the independent sector market to meet current and future needs of local residents is critical. Carefully planned work to secure quality care and support in the independent sector and a measured period of transition should mitigate this risk, both for the Council and residents. The Cheshire East Council Quality Assurance Team will ensure that residents can access quality care. This team provides the Council with additional assurance that residents' needs can be appropriately met.

- 9.3 A move to commissioning care and support services for customers who currently have services from Care4CE would take place in a managed way and with the service users and their carers actively engaged in this process. This will take account of individual needs and preferences. The existing services would not be withdrawn until appropriate services had been arranged in the independent sector.
- 9.4 The Council is aware of its responsibilities in relation to the Equality Act 2010. Our priority is to ensure that no groups are disadvantaged by changes in policy or new ways of delivering care. We are proud of what we do to ensure we uphold the rights of our citizens.

10 **Background and Options**

- 10.1 Supporting material to inform the Cabinet decision will include the Equality Impact Assessment and the Review of Care4CE Provider Services.
- 10.2 Co design and co production of alternate service models and provision will be developed through a variety of methods including design focus groups with service users, carers and providers of care being actively involved, individual engagement sessions to gather views, reviews of innovative practice and developments nationally and internationally. Use of advocacy services will be included to support people who may need additional assistance to express their views and wishes.
- 10.3 The options to provide care and support services in the independent sector will be assessed against criteria agreed by the Portfolio Holder and the Director of Adult Social Care and Independent Living.
- 10.4 The proposal will not change the offer of care and support to those people in Cheshire East who need it. Sourcing local services is integral to the proposal and will be part of the proposed changes. A move to commissioning care and support services for customers who currently have services from Care4CE would take place in a managed way. This will take account of individual needs and preferences. The existing services would not be withdrawn until appropriate services had been commissioned in the independent sector.
- 10.5 In Local Authorities across the North West, an average of 90% of social care is provided in the external market.

- 10.6 The quality of any of the care and support services commissioned from the independent sector will be monitored by the Council's Adult Social Care Quality Assurance Team.
- 10.7 The request for a change in policy in the commissioning activity for adult social care services is driven by the changes in legislation within the Care Act 2014.
- 10.8 The development of choice for users meets the personalisation agenda requirements. It is anticipated this will mean that the current type of care and support services currently available might not be the preferred option for some users in the future.

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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