

Report to the Cabinet

Meeting to be held on Thursday, 12 July 2018

Report of the Head of Service Policy, Information and Commissioning (Start Well)

Part I

Electoral Division affected:
(All Divisions);

Implementation of the Care Act 2014 – Approval of Adult Social Care Policies and Procedures: Managing Provider Failure (Appendix 'A' refers)

Contact for further information:

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Executive Summary

Following the introduction of the Care Act 2014, the county council has undertaken to review all adult social care policies, practice and guidance to ensure compliance.

A new policy is now presented for approval:

- Managing Provider Failure (Appendix 'A')

This is deemed to be a Key Decision and the provisions of Standing Order C19 have been complied with.

Recommendation

Cabinet is asked to approve the implementation of this policy as set out at Appendix 'A'.

Background and Advice

The Care Act 2014 significantly altered the landscape of adult social care for the county council. In response, a comprehensive review of the county council's adult social care policies, procedures and guidance has been undertaken and key policy documents have been identified for development and/or revision, as part of a phased programme to ensure compliance.

This phased programme continues with the submission of a new policy, procedures and guidance document:

- Managing Provider Failure

Current arrangements

[A new framework was approved in March 2016 to ensure compliance with the Care Act.](#) All new policy documents will also follow the requirements for decision making approved by Full Council in June 2017.

Summary of Revised Policies and Procedures and Guidance documents

A new document, Managing Provider Failure, is now ready for approval by Cabinet.

Managing Provider Failure

This document sets out the county council's response to the temporary duty placed on it to meet the care and support needs of an adult, and the support needs of a family/informal carer, when a registered care provider is unable to carry on a regulated activity because of business failure.

The document policy sets out the county council's responsibilities under the new temporary duty. In summary:

- The Care Act introduced a regime to oversee the financial stability of the most hard-to-replace care providers, and to ensure people's care is not interrupted if any of these providers financially fail and services stop. The policy now reflects this regime.
- Should a care provider fail financially and services cease, the county council **must** take steps to ensure that all people receiving care do not experience a gap in the services they need.
- The Act calls for active arrangement of care with a different provider for a period of time, to ensure continuity of care. The steps taken to assure this will depend on the circumstances of the provider failure and the nature of support the person wants from the county council. This duty applies temporarily, until the county council is satisfied that each person's needs will be met by a new provider or in a different way. The county council may make a charge for arranging care and support in these situations.

A copy of the policy is set out at Appendix 'A'.

Consultations

Wider public consultation has not been necessary as the documents in question reflect new duties and requirements placed on the county council under the Care Act.

Implications:

This item has the following implications, as indicated:

Workforce

Our support for Lancashire residents is guided by the county council's adult social care policies, procedures and practice guidance. The accuracy and relevance of these documents is essential to support practice and the delivery of high quality services.

The Care Act and supporting guidance place a series of new duties and responsibilities on the county council in regard to care and support for adults. All revised or new documents have been reviewed and cleared by the county council's legal team before being presented to Cabinet for final approval. All documents will be publically accessible as part of this process, with the aim of reducing legal challenge and complaints due to a lack of understanding or transparency.

Equality and Diversity

The Care Act itself was implemented following a period of consultation and its provisions were assessed for their equality impact. Policies and procedures guidance documents are primarily intended as a guide for social care employees in applying the Care Act 2014 and ensuring delivery of quality care and support. It is an intrinsic requirement that these are applied objectively and fairly to all people with protected characteristics (age, disability, gender identity, gender, race, religion or belief, sexual orientation, pregnancy and maternity and marriage or civil partnership status) and that, where necessary, reasonable adjustments are made to assist disabled people to participate in the process, or that other steps are taken to meet the requirements of the Equality Act 2010.

Furthermore, in line with the Public Sector Equality Duty, each policies and procedures guidance document has been considered by the Equality and Cohesion Manager and a short appendix added to highlight the aims of the Public Sector Equality Duty and protected characteristics in a proportionate manner. It is intended that this will provide staff with a bespoke summary of how each policies and procedures guidance may impact on protected characteristics groups and that this is a proportionate means of showing due regard in relation to each individual policies and procedures guidance document.

Financial

A person's eligibility for care and support provided by the county council will be determined, following a proportionate assessment. The person must have needs arising from a physical or mental impairment or illness and be unable to achieve two or more outcomes, as defined in the Care Act 2014. This is further explained in our Eligibility Criteria policy.

During the assessment period, information is provided as to the potential financial implications to the person receiving care and support when the outcome of the

assessment has been determined and agreed by both the assessor and the person being assessed and/or a suitable person e.g. family member, advocate and/or attorney. This will detail how a person's contribution to care is worked out and — where an assessment determines that future care needs would be best met in a residential setting – describes the implications to the person if they own a property and the deferred payment options offered by the council.

Following the assessment stage, the individual's estimated personal budget must be shared when the care and support plan is being drafted.

Any financial implications that result from a needs assessment or care and support plan are addressed via the specific commissioning, delegation and funding arrangements governing each individual social care service, if so required.

The policy outlined in this report will require action to ensure that costs are recovered from other Authorities (in the instance where the individual is not ordinarily resident in the county council area) and individuals (subject to financial assessment) in the event of provider failure.

Risk management

The Care Act Statutory Guidance sets out that the county council should develop and maintain policies in relation to a number of subject areas covered in the Act. If the recommendations are not taken forward, the county council may be at risk of future legal challenges.

List of Background Papers

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A