

Report to the Cabinet

Meeting to be held on Thursday, 13 June 2019

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

Part I

Electoral Division affected:
(All Divisions);

Choice of Accommodation, First and Third Party Top Ups and Discharge of Hospital Patients with Care and Support Needs – Implementation of the Care Act 2014 (Approval of Revised Adult Social Care Policies and Procedures) (Appendices 'A' - 'C' refer)

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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. The following three new policy, procedures and guidance documents are now presented to Cabinet for approval:

- Choice of Accommodation
- First and Third Party Top Ups
- Discharge of Hospital Patients with Care and Support Needs (excluding patients being discharged from mental health hospitals)

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 these policies as set out at Appendices 'A', 'B' and 'C'.

Background and Advice

The Care Act 2014 significantly altered the landscape of adult social care for local authorities. 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 the following three new policy, procedures and guidance documents:

- Choice of Accommodation
- First and Third Party Top Ups
- Discharge of Hospital Patients with Care and Support Needs (excluding patients being discharged from mental health hospitals)

Current arrangements

[A new framework was approved in March 2016 to ensure compliance with the Care Act](#) and to subject all new adult social care policies, procedures and practice guidance documents to robust governance arrangements.

Summary of Revised Policies and Procedures and Guidance documents

Three new documents are now ready for approval by Cabinet.

- Choice of Accommodation
- First and Third Party Top Ups
- Discharge of Hospital Patients with Care and Support Needs (excluding patients being discharged from mental health hospitals)

Choice of Accommodation

This document sets out the county council's duties under Section 30 of the Care Act and the Care and Support and After-care (Choice of Accommodation) Regulations 2014 to support people to make an informed choice when the care and support planning process determines that an individual requires a specific type of accommodation to meet their assessed needs.

This is a revised document which updates existing guidance to ensure compliance with the Care Act and attendant regulations. The revised document includes expanded definitions of 'choice', the availability, suitability and cost of accommodation and how the county council should ensure that individual choices can be effected within social care practice. As before, the county council remains committed to providing a genuine choice wherever practical. This means that people will have a say about where they wish to live, which will be responded to as far as reasonably possible within the context of the supply of suitable housing, affordability and their housing rights.

A copy of the Choice of Accommodation policy is set out at Appendix 'A'. It should be noted that some of the links in this Appendix are not publicly available.

First and Third Party Top Ups

This document sets out the county council's response to obligations placed on it under Section 30 of the Care Act 2014 to arrange for a person or a third party to meet the additional cost where the person chooses a more expensive setting than the county council would normally provide.

This is a revised policy to ensure compliance with the Care Act 2014 and addresses common issues around how top-ups work in practice. Key changes include:

- Greater emphasis on the importance of providing clearly understood information and advice to the public and of explaining the implications of signing a top-up agreement with the county council
- How the county council will address any changes in personal circumstances or fee increases.
- Details on the amount to be paid and who is responsible for making payments.

The document was developed in collaboration with the county council's Audit and Adult Social Care Complaints teams so that feedback from service reviews and the public could be included in the revised policy.

A copy of the First and Third Party Top Ups policy is set out at Appendix 'B'.

Discharge of Hospital Patients with Care and Support Needs (excluding patients being discharged from mental health Hospitals)

This document sets out the county councils relevant duties under Section 74 of, and Schedule 3 to, the Care Act 2014. These Regulations make provision for the details of the scheme for the discharge of hospital patients with care and support needs. This is a revised policy that replaces guidance related to previous provisions under the Community Care (delayed Discharge) Act 2003 and ensures compliance with the Care Act 2014.

A copy of the Discharge of Hospital Patients with Care and Support Needs (excluding patients being discharged from mental health hospitals) policy is set out at Appendix 'C'. Annex 1 sets out the Operational Process for Acute Discharge Teams and Annex 2 sets out the Hospital Discharge Pathway.

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 2014.

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 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 publicly 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, sex/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 policy, procedures and 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 policy, procedures and guidance document may impact on groups with protected characteristics and that this is a proportionate means of showing due regard in relation to each individual policy, procedures and 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. Information is provided during the assessment period 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 any 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 with the individual 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.

Risk management

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

List of Background Papers

	Date	Contact/Tel
Paper		
None		
Reason for inclusion in Part II, if appropriate		
N/A		